

ENGROSSED

Senate Bill No. 608

(By Senators Beach, Klempa, Plymale, Tucker and Williams)

[Originating in the Committee on Transportation
and Infrastructure; reported February 23, 2011.]

A BILL to amend and reenact §17A-2-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said code; and to amend and reenact §17D-2-2 of said code, all relating to increasing Division of Motor Vehicles fees, veteran designation on licenses, notification to division of scrapped, compressed, dismantled or destroyed vehicles and vehicle brands; increasing the fee for vehicle records and the certified record fee;

increasing the registration fee for Class A motor vehicles and creating two weight classes within Class A; increasing the fee for the issuance and duplication of various documents by the division including titles, registrations, plates and decals; increasing the fee for recording liens and releases; increasing the vehicle transfer fees; increasing the fee for issuance, duplication and renewal of a driver's license, identification card and motorcycle license; requiring the payment of the fee for each attempt at the written and road skills test; increasing the fee for driving records; providing that licenses issued by the division may contain information designating the licensee as a person who is an honorably discharged veteran of any branch of the armed forces of the United States in accordance with criteria established by the division if the licensee requests this information on the license; providing an additional means to notify the division regarding vehicles scrapped, compressed, dismantled or destroyed and prescribing form; and providing for the use of additional vehicle brands used by other jurisdictions that are consistent with the National Motor Vehicle Title Information System.

Be it enacted by the Legislature of West Virginia:

That §17A-2-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §17A-3-4 of said code be amended and reenacted; that §17A-4-1 and §17A-4-10 of said code be amended and reenacted; that §17A-4A-10 of said code be amended and reenacted; that §17A-10-3, §17A-10-10 and §17A-10-11 of said code be amended and reenacted; that §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said code be amended and reenacted; and that §17D-2-2 of said code be amended and reenacted, all to read as follows:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE,
AND ANTITHEFT PROVISIONS.**

ARTICLE 2. DIVISION OF MOTOR VEHICLES.

§17A-2-13. Authority to administer oaths and certify copies of records; information as to registration.

1 (a) Officers and employees of the division designated by the
2 commissioner are, for the purpose of administering the motor
3 vehicle laws, authorized to administer oaths and acknowl-
4 edge signatures, and shall do so without fee.

5 (b) The commissioner and such officers of the division as he
6 or she may designate are hereby authorized to prepare under
7 the seal of the division and deliver upon request in confor-

8 mance with article two-a of this chapter a certified copy of
9 any record of the division, charging ~~a~~ an additional fee of ~~one~~
10 ~~dollar~~ \$3 for each document so authenticated, and every such
11 certified copy is admissible in any proceeding in any court in
12 like manner as the original thereof.

13 (c) Subject to the provisions of article two-a of this
14 chapter, the commissioner and such officers of the division
15 as he or she may designate may furnish the requested
16 information to any person making a written request for
17 information regarding the registration of any vehicle at a fee
18 of ~~one dollar~~ \$7 for each registration about which informa-
19 tion is furnished.

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSU-
ANCE OF CERTIFICATES OF TITLE.**

**§17A-3-4. Application for certificate of title; fees; abolishing
privilege tax; prohibition of issuance of certificate
of title without compliance with consumer sales
and service tax provisions; exceptions.**

1 (a) Certificates of registration of any vehicle or registration
2 plates for the vehicle, whether original issues or duplicates,
3 may not be issued or furnished by the Division of Motor
4 Vehicles or any other officer or agent charged with the duty,

5 unless the applicant already has received, or at the same time
6 makes application for and is granted, an official certificate
7 of title of the vehicle in either an electronic or paper format.
8 The application shall be upon a blank form to be furnished
9 by the Division of Motor Vehicles and shall contain a full
10 description of the vehicle, which description shall contain a
11 manufacturer's serial or identification number or other
12 number as determined by the commissioner and any distin-
13 guishing marks, together with a statement of the applicant's
14 title and of any liens or encumbrances upon the vehicle, the
15 names and addresses of the holders of the liens and any other
16 information as the Division of Motor Vehicles may require.
17 The application shall be signed and sworn to by the appli-
18 cant. A duly certified copy of the division's electronic record
19 of a certificate of title is admissible in any civil, criminal or
20 administrative proceeding in this state as evidence of
21 ownership.

22 (b) A tax is imposed upon the privilege of effecting the
23 certification of title of each vehicle in the amount equal to
24 five percent of the value of the motor vehicle at the time of
25 the certification, to be assessed as follows:

26 (1) If the vehicle is new, the actual purchase price or
27 consideration to the purchaser of the vehicle is the value of
28 the vehicle. If the vehicle is a used or secondhand vehicle, the
29 present market value at time of transfer or purchase is the
30 value of the vehicle for the purposes of this section: Provided,
31 That so much of the purchase price or consideration as is
32 represented by the exchange of other vehicles on which the
33 tax imposed by this section has been paid by the purchaser
34 shall be deducted from the total actual price or consideration
35 paid for the vehicle, whether the vehicle be new or second-
36 hand. If the vehicle is acquired through gift or by any
37 manner whatsoever, unless specifically exempted in this
38 section, the present market value of the vehicle at the time of
39 the gift or transfer is the value of the vehicle for the purposes
40 of this section.

41 (2) No certificate of title for any vehicle may be issued to
42 any applicant unless the applicant has paid to the Division
43 of Motor Vehicles the tax imposed by this section which is
44 five percent of the true and actual value of the vehicle
45 whether the vehicle is acquired through purchase, by gift or
46 by any other manner whatsoever, except gifts between
47 husband and wife or between parents and children: Pro-

48 vided, That the husband or wife, or the parents or children,
49 previously have paid the tax on the vehicles transferred to
50 the State of West Virginia.

51 (3) The Division of Motor Vehicles may issue a certificate
52 of registration and title to an applicant if the applicant
53 provides sufficient proof to the Division of Motor Vehicles
54 that the applicant has paid the taxes and fees required by
55 this section to a motor vehicle dealership that has gone out
56 of business or has filed bankruptcy proceedings in the
57 United States bankruptcy court and the taxes and fees so
58 required to be paid by the applicant have not been sent to
59 the division by the motor vehicle dealership or have been
60 impounded due to the bankruptcy proceedings: Provided,
61 That the applicant makes an affidavit of the same and
62 assigns all rights to claims for money the applicant may have
63 against the motor vehicle dealership to the Division of Motor
64 Vehicles.

65 (4) The Division of Motor Vehicles shall issue a certificate
66 of registration and title to an applicant without payment of
67 the tax imposed by this section if the applicant is a corpora-
68 tion, partnership or limited liability company transferring
69 the vehicle to another corporation, partnership or limited

70 liability company when the entities involved in the transfer
71 are members of the same controlled group and the transfer-
72 ring entity has previously paid the tax on the vehicle trans-
73 ferred. For the purposes of this section, control means
74 ownership, directly or indirectly, of stock or equity interests
75 possessing fifty percent or more of the total combined voting
76 power of all classes of the stock of a corporation or equity
77 interests of a partnership or limited liability company
78 entitled to vote or ownership, directly or indirectly, of stock
79 or equity interests possessing fifty percent or more of the
80 value of the corporation, partnership or limited liability
81 company.

82 (5) The tax imposed by this section does not apply to
83 vehicles to be registered as Class H vehicles or Class M
84 vehicles, as defined in section one, article ten of this chapter,
85 which are used or to be used in interstate commerce. Nor
86 does the tax imposed by this section apply to the titling of
87 Class B vehicles registered at a gross weight of fifty-five
88 thousand pounds or more, or to the titling of Class C
89 semitrailers, full trailers, pole trailers and converter gear:
90 Provided, That if an owner of a vehicle has previously titled
91 the vehicle at a declared gross weight of fifty-five thousand

92 pounds or more and the title was issued without the payment
93 of the tax imposed by this section, then before the owner
94 may obtain registration for the vehicle at a gross weight less
95 than fifty-five thousand pounds, the owner shall surrender
96 to the commissioner the exempted registration, the exempted
97 certificate of title and pay the tax imposed by this section
98 based upon the current market value of the vehicle: Pro-
99 vided, however, That notwithstanding the provisions of
100 section nine, article fifteen, chapter eleven of this code, the
101 exemption from tax under this section for Class B vehicles in
102 excess of fifty-five thousand pounds and Class C
103 semitrailers, full trailers, pole trailers and converter gear
104 does not subject the sale or purchase of the vehicles to the
105 consumers sales and service tax.

106 (6) The tax imposed by this section does not apply to titling
107 of vehicles leased by residents of West Virginia. A tax is
108 imposed upon the monthly payments for the lease of any
109 motor vehicle leased by a resident of West Virginia, which
110 tax is equal to five percent of the amount of the monthly
111 payment, applied to each payment, and continuing for the
112 entire term of the initial lease period. The tax shall be

113 remitted to the Division of Motor Vehicles on a monthly
114 basis by the lessor of the vehicle.

115 (7) The tax imposed by this section does not apply to titling
116 of vehicles by a registered dealer of this state for resale only,
117 nor does the tax imposed by this section apply to titling of
118 vehicles by this state or any political subdivision thereof, or
119 by any volunteer fire department or duly chartered rescue or
120 ambulance squad organized and incorporated under the laws
121 of this state as a nonprofit corporation for protection of life
122 or property. The total amount of revenue collected by reason
123 of this tax shall be paid into the State Road Fund and
124 expended by the Commissioner of Highways for matching
125 federal funds allocated for West Virginia. In addition to the
126 tax, there is a charge of ~~five dollars~~ \$21 for each original
127 certificate of title or duplicate certificate of title so issued:
128 Provided, That this state or any political subdivision of this
129 state or any volunteer fire department or duly chartered
130 rescue squad is exempt from payment of the charge.

131 (8) The certificate is good for the life of the vehicle, so long
132 as the vehicle is owned or held by the original holder of the
133 certificate and need not be renewed annually, or any other
134 time, except as provided in this section.

135 (9) If, by will or direct inheritance, a person becomes the
136 owner of a motor vehicle and the tax imposed by this section
137 previously has been paid to the Division of Motor Vehicles on
138 that vehicle, he or she is not required to pay the tax.

139 (10) A person who has paid the tax imposed by this section
140 is not required to pay the tax a second time for the same
141 motor vehicle, but is required to pay a charge of ~~five dollars~~
142 \$21 for the certificate of retitle of that motor vehicle, except
143 that the tax shall be paid by the person when the title to the
144 vehicle has been transferred either in this or another state
145 from the person to another person and transferred back to
146 the person.

147 (11) The tax imposed by this section does not apply to any
148 passenger vehicle offered for rent in the normal course of
149 business by a daily passenger rental car business as licensed
150 under the provisions of article six-d of this chapter. For
151 purposes of this section, a daily passenger car means a Class
152 A motor vehicle having a gross weight of eight thousand
153 pounds or less and is registered in this state or any other
154 state. In lieu of the tax imposed by this section, there is
155 hereby imposed a tax of not less than ~~one dollar~~ \$1 nor more
156 than ~~one dollar and fifty cents~~ \$1.50 for each day or part of

157 the rental period. The commissioner shall propose an
158 emergency rule in accordance with the provisions of article
159 three, chapter twenty-nine-a of this code to establish this
160 tax.

161 (12) The tax imposed by this article does not apply to the
162 titling of any vehicle purchased by a senior citizen service
163 organization which is exempt from the payment of income
164 taxes under the United States Internal Revenue Code, § Title
165 26 U.S.C. § 501(c)(3) and which is recognized to be a bona
166 fide senior citizen service organization by the senior services
167 bureau existing under the provisions of article five, chapter
168 sixteen of this code.

169 (13) The tax imposed by this section does not apply to the
170 titling of any vehicle operated by an urban mass transit
171 authority as defined in article twenty-seven, chapter eight of
172 this code or a nonprofit entity exempt from federal and state
173 income tax under the Internal Revenue Code and whose
174 purpose is to provide mass transportation to the public at
175 large designed for the transportation of persons and being
176 operated for the transportation of persons in the public
177 interest.

178 (14) The tax imposed by this section does not apply to the
179 transfer of a title to a vehicle owned and titled in the name
180 of a resident of this state if the applicant:

181 (A) Was not a resident of this state at the time the appli-
182 cant purchased or otherwise acquired ownership of the
183 vehicle;

184 (B) Presents evidence as the commissioner may require of
185 having titled the vehicle in the applicant's previous state of
186 residence;

187 (C) Has relocated to this state and can present such
188 evidence as the commissioner may require to show bona-fide
189 residency in this state, and

190 ~~(D) Presents an affidavit, completed by the assessor of the~~
191 ~~applicant's county of residence, establishing that the vehicle~~
192 ~~has been properly reported and is on record in the office of~~
193 ~~the assessor as personal property; and~~

194 ~~(E)~~ (D) Makes application to the division for a title and
195 registration, and pays all other fees required by this chapter
196 within thirty days of establishing residency in this state as
197 prescribed in subsection (a), section one-a of this article:
198 Provided, That a period of amnesty of three months be
199 established by the commissioner during the calendar year

200 two thousand seven, during which time any resident of this
201 state, having titled his or her vehicle in a previous state of
202 residence, may pay without penalty any fees required by this
203 chapter and transfer the title of his or her vehicle in accor-
204 dance with the provisions of this section.

205 (c) Notwithstanding any provisions of this code to the
206 contrary, the owners of trailers, semitrailers, recreational
207 vehicles and other vehicles not subject to the certificate of
208 title tax prior to the enactment of this chapter are subject to
209 the privilege tax imposed by this section: Provided, That the
210 certification of title of any recreational vehicle owned by the
211 applicant on the thirtieth day of June, one thousand nine
212 hundred eighty-nine, is not subject to the tax imposed by
213 this section: Provided, however, That mobile homes, manu-
214 factured homes, modular homes and similar nonmotive
215 propelled vehicles, except recreational vehicles and house
216 trailers, susceptible of being moved upon the highways but
217 primarily designed for habitation and occupancy, rather than
218 for transporting persons or property, or any vehicle operated
219 on a nonprofit basis and used exclusively for the transporta-
220 tion of mentally retarded or physically handicapped children
221 when the application for certificate of registration for the

222 vehicle is accompanied by an affidavit stating that the
223 vehicle will be operated on a nonprofit basis and used
224 exclusively for the transportation of mentally retarded and
225 physically handicapped children, are not subject to the tax
226 imposed by this section, but are taxable under the provisions
227 of articles fifteen and fifteen-a, chapter eleven of this code.

228 (d) Beginning on the first of July, two thousand and eight,
229 the tax imposed under this subsection (b) of this section is
230 abolished and after that date no certificate of title for any
231 motor vehicle may be issued to any applicant unless the
232 applicant provides sufficient proof to the Division of Motor
233 Vehicles that the applicant has paid the fees required by this
234 article and the tax imposed under section three-b, article
235 fifteen, chapter eleven of this code.

236 (e) Any person making any affidavit required under any
237 provision of this section who knowingly swears falsely, or
238 any person who counsels, advises, aids or abets another in
239 the commission of false swearing, or any person, while acting
240 as an agent of the Division of Motor Vehicles, issues a vehicle
241 registration without first collecting the fees and taxes or fails
242 to perform any other duty required by this chapter or
243 chapter eleven of this code to be performed before a vehicle

244 registration is issued is, on the first offense, guilty of a
245 misdemeanor and, upon conviction thereof, shall be fined not
246 more than ~~five hundred dollars~~ \$500 or be confined in jail for
247 a period not to exceed six months or, in the discretion of the
248 court, both fined and confined. For a second or any subse-
249 quent conviction within five years, that person is guilty of a
250 felony and, upon conviction thereof, shall be fined not more
251 than ~~five thousand dollars~~ \$5,000 or be imprisoned in a state
252 correctional facility for not less than one year nor more than
253 five years or, in the discretion of the court, both fined and
254 imprisoned.

255 (f) Notwithstanding any other provisions of this section,
256 any person in the military stationed outside West Virginia or
257 his or her dependents who possess a motor vehicle with valid
258 registration are exempt from the provisions of this article for
259 a period of nine months from the date the person returns to
260 this state or the date his or her dependent returns to this
261 state, whichever is later.

262 (g) No person may transfer, purchase or sell a factory-built
263 home without a certificate of title issued by the commis-
264 sioner in accordance with the provisions of this article:

265 (1) Any person who fails to provide a certificate of title
266 upon the transfer, purchase or sale of a factory-built home is
267 guilty of a misdemeanor and, upon conviction thereof, shall
268 for the first offense be fined not less than ~~one hundred~~
269 ~~dollars~~ \$100 nor more than ~~one thousand dollars~~ \$1,000, or
270 be confined in jail for not more than one year, or both fined
271 and confined. For each subsequent offense, the fine may be
272 increased to not more than ~~two thousand dollars~~ \$2,000, with
273 confinement in jail not more than one year, or both fined and
274 confined.

275 (2) Failure of the seller to transfer a certificate of title upon
276 sale or transfer of the factory-built home gives rise to a cause
277 of action, upon prosecution thereof, and allows for the
278 recovery of damages, costs and reasonable attorney fees.

279 (3) This subsection does not apply to a mobile or manufac-
280 tured home for which a certificate of title has been canceled
281 pursuant to section twelve-b of this article.

282 (h) Notwithstanding any other provision to the contrary,
283 whenever reference is made to the application for or issuance
284 of any title or the recordation or release of any lien, it
285 includes the application, transmission, recordation, transfer

286 of ownership and storage of information in an electronic
287 format.

288 (i) Notwithstanding any other provision contained in this
289 section, nothing herein shall be considered to include
290 modular homes as defined in subsection (i), section two,
291 article fifteen, chapter thirty-seven of this code and built to
292 the State Building Code as established by legislative rules
293 promulgated by the State Fire Commission pursuant to
294 section five-b, article three, chapter twenty-nine of this code.

ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.

§17A-4-1. Registration expires on transfer by owner; transfer, surrender or retention of plates.

1 Whenever the owner of a registered vehicle transfers or
2 assigns his title, or interest thereto, the registration of such
3 vehicle shall expire: Provided, That such owner, if he has
4 made application to the department within sixty days from
5 the date of purchase to have said registration plates trans-
6 ferred to be used on another vehicle owned by said owner,
7 may then operate the other vehicle for a period of sixty days,
8 but in no event longer than sixty days from the date of
9 original transfer. Upon such transfer, it shall be the duty of
10 the original owner to retain the registration plates issued

11 therefor and to immediately notify the commissioner of such
12 transfer upon such form as may be provided therefor and to
13 deliver to him the certificate of registration, whereupon the
14 commissioner shall, upon the payment of a fee of ~~five dollars~~
15 \$6, issue a new certificate showing the use to be made of such
16 plates. Such plates may then be used by such owner on
17 another vehicle of the same class as the vehicle for which
18 they were originally issued if such other vehicle does not
19 require a greater license fee than was required for such
20 original vehicle. If such other vehicle requires a greater
21 license fee than such original vehicle, then such plates may
22 be used by paying such difference to the commissioner. When
23 such transfer of ownership is made to a licensed dealer in
24 motor vehicles it shall be the duty of such dealer to immedi-
25 ately execute notification of transfer, in triplicate, and to
26 have this notification properly signed by the owner making
27 the transfer. The dealer shall immediately forward to the
28 department the original copy of the notification of transfer.
29 One copy of the notification of transfer shall be given to the
30 owner and one shall be retained by the dealer. The owner
31 shall immediately send to the ~~department~~ division the
32 transfer fee of ~~five dollars~~ \$6 with any additional fee that

33 may be required under the terms of this chapter. The owner's
34 copy, properly signed by the dealer, will be the owner's
35 identification until he receives a new registration card from
36 the ~~department~~ division.

37 The owner of a set of registration plates may surrender
38 them to the commissioner together with the registration card
39 and, upon the payment of ~~five dollars~~ \$6 as an exchange fee
40 and upon the payment of such additional fees as are neces-
41 sary to equalize the value of the plates surrendered with the
42 value of registration plates desired, receive in exchange a set
43 of plates and registration card for a vehicle of a different
44 class.

**§17A-4-10. Salvage certificates for certain wrecked or damaged
vehicles; fee; penalty.**

1 (a) In the event a motor vehicle is determined to be a total
2 loss or otherwise designated as "totaled" by ~~any~~ an insur-
3 ance company or insurer, and upon payment of a total loss
4 claim to ~~any~~ an insured or claimant owner for the purchase
5 of the vehicle, the insurance company or the insurer, as a
6 condition of the payment, shall require the owner to surren-
7 der the certificate of title: *Provided*, That an insured or
8 claimant owner may choose to retain physical possession and

9 ownership of a total loss vehicle. If the vehicle owner chooses
10 to retain the vehicle and the vehicle has not been determined
11 to be a cosmetic total loss in accordance with subsection (d)
12 of this section, the insurance company or insurer shall also
13 require the owner to surrender the vehicle registration
14 certificate. The term “total loss” means a motor vehicle
15 which has sustained damages equivalent to seventy-five
16 percent or more of the market value as determined by a
17 nationally accepted used car value guide or meets the
18 definition of a flood-damaged vehicle as defined in this
19 section.

20 (b) The insurance company or insurer shall, prior to the
21 payment of the total loss claim, determine if the vehicle is
22 repairable, cosmetically damaged or nonrepairable. Within
23 ten days of payment of the total loss claim, the insurance
24 company or insurer shall surrender the certificate of title, a
25 copy of the claim settlement, a completed application on a
26 form prescribed by the commissioner and the registration
27 certificate if the owner has chosen to keep the vehicle to the
28 Division of Motor Vehicles.

29 (c) If the insurance company or insurer determines that the
30 vehicle is repairable, the division shall issue a “salvage

31 certificate”, on a form prescribed by the commissioner, in the
32 name of the insurance company, ~~or~~ the insurer or the vehicle
33 owner if the owner has chosen to retain the vehicle. The
34 certificate shall contain, on the reverse, ~~thereof~~ spaces for
35 one successive assignment before a new certificate at an
36 additional fee is required. Upon the sale of the vehicle, the
37 insurance company, ~~or~~ insurer or ~~the~~ vehicle owner if the
38 owner has chosen to retain the vehicle, shall complete the
39 assignment of ownership on the salvage certificate and
40 deliver it to the purchaser. The vehicle ~~shall~~ may not be
41 titled or registered for operation on the streets or highways
42 of this state unless there is compliance with subsection (g) of
43 this section. The division shall charge a fee of ~~fifteen dollars~~
44 \$21 for each salvage title issued.

45 (d) If the insurance company or insurer determines the
46 damage to a totaled vehicle is exclusively cosmetic and no
47 repair is necessary in order to legally and safely operate the
48 motor vehicle on the roads and highways of this state, the
49 insurance company or insurer shall, upon payment of the
50 claim, submit the certificate of title to the division. Neither
51 the insurance company nor the division may require the

52 vehicle owner to surrender the registration certificate in the
53 event of a cosmetic total loss settlement.

54 (1) The division shall, without further inspection, issue a
55 title branded “cosmetic total loss” to the insured or claimant
56 owner if the insured or claimant owner wishes to retain
57 possession of the vehicle, in lieu of a “salvage certificate”.
58 The division shall charge a fee of ~~five dollars~~ \$21 for each
59 “cosmetic total loss” title issued. The terms “cosmetically
60 damaged” and “cosmetic total loss” do not include any
61 vehicle which has been damaged by flood or fire. The
62 designation “cosmetic total loss” on a title may not be
63 removed.

64 (2) If the insured or claimant owner elects not to take
65 possession of the vehicle and the insurance company or
66 insurer retains possession, the division shall issue a cosmetic
67 total loss salvage certificate to the insurance company or
68 insurer. The division shall charge a fee of ~~fifteen dollars~~ \$21
69 for each cosmetic total loss salvage certificate issued. The
70 division shall, upon surrender of the cosmetic total loss
71 salvage certificate issued under the provisions of this
72 paragraph and payment of the five percent ~~privilege tax~~
73 consumers sales tax on the fair market value of the vehicle as

74 determined by the commissioner, issue a title branded
75 “cosmetic total loss” without further inspection.

76 (e) If the insurance company or insurer determines that the
77 damage to a totaled vehicle renders it nonrepairable,
78 incapable of safe operation for use on roads and highways
79 and ~~which has~~ as having no resale value except as a source
80 of parts or scrap, the insurance company or vehicle owner
81 shall, in the manner prescribed by the commissioner, request
82 that the division issue a nonrepairable motor vehicle certifi-
83 cate in lieu of a salvage certificate. The division shall issue
84 a nonrepairable motor vehicle certificate without charge.

85 (f) Any owner who scraps, compresses, dismantles or
86 destroys a vehicle without further transfer or sale for which
87 a certificate of title, nonrepairable motor vehicle certificate
88 or salvage certificate has been issued shall, within ~~twenty~~
89 forty-five days, surrender the certificate of title,
90 nonrepairable motor vehicle certificate, or salvage certificate
91 to the division for cancellation.

92 (g) Any person who purchases or acquires a vehicle as
93 salvage or scrap, to be dismantled, compressed or destroyed,
94 shall, within ~~twenty~~ forty-five days, surrender ~~the certificate~~
95 ~~to the division.~~ to the division the certificate of title,

96 nonrepairable motor vehicle certificate, salvage certificate or
97 a statement of cancellation signed by the seller, on a form
98 prescribed by the commissioner. Subsequent purchasers of
99 salvage or scrap are not required to comply with the notifi-
100 cation requirement.

101 ~~(g)~~ (h) If the motor vehicle is a “reconstructed vehicle” as
102 defined in this section or section one, article one of this
103 chapter, it may not be titled or registered for operation until
104 it has been inspected by an official state inspection station
105 and by the Division of Motor Vehicles. Following an ap-
106 proved inspection, an application for a new certificate of title
107 may be submitted to the division. ~~however,~~ The applicant
108 ~~shall be~~ is required to retain all receipts for component parts,
109 equipment and materials used in the reconstruction. The
110 salvage certificate shall also be surrendered to the division
111 before a certificate of title may be issued with the appropri-
112 ate brand.

113 ~~(h)~~ (i) The owner or title holder of ~~any~~ a motor vehicle
114 titled in this state which has previously been branded in this
115 state or another state as “salvage”, “reconstructed”, “cos-
116 metic total loss”, “cosmetic total loss salvage”, “flood” or
117 “fire”, ~~or~~ an equivalent term under another state’s laws or a

118 term consistent with the intent of the National Motor Vehicle
119 Title Information System established pursuant to 49 U.S.C.
120 §30502 shall, upon becoming aware of the brand, apply for
121 and receive a title from the Division of Motor Vehicles on
122 which the brand “reconstructed”, “salvage”, “cosmetic total
123 loss”, “cosmetic total loss salvage”, “flood”, ~~or~~ “fire” or
124 other brand is shown. The division shall charge a fee of ~~five~~
125 ~~dollars~~ \$21 for each title so issued.

126 (†) (j) If application is made for title to a motor vehicle, the
127 title to which has previously been branded “reconstructed”,
128 “salvage”, “cosmetic total loss”, “cosmetic total loss
129 salvage”, “flood”, ~~or~~ “fire” or other brand by the Division of
130 Motor Vehicles under this section and said application is
131 accompanied by a title from another state which does not
132 carry the brand, the division shall, before issuing the title,
133 affix the brand “reconstructed”, “cosmetic total loss”,
134 “cosmetic total loss salvage”, “flood”, ~~or~~ “fire” or other
135 brand to the title. The ~~privilege~~ consumers sales tax paid on
136 a motor vehicle titled as “reconstructed”, “cosmetic total
137 loss”, “flood”, ~~or~~ “fire” or other brand under the provisions
138 of this section shall be based on fifty percent of the fair
139 market value of the vehicle as determined by a nationally

140 accepted used car value guide to be used by the commis-
141 sioner.

142 (j) ~~(k)~~ The division shall charge a fee of ~~fifteen dollars~~ \$21
143 for the issuance of each salvage certificate or cosmetic total
144 loss salvage certificate but shall not require the payment of
145 the five percent ~~privilege tax~~ consumers sales tax. However,
146 upon application for a certificate of title for a reconstructed,
147 cosmetic total loss, flood or fire damaged vehicle or other
148 brand, the division shall collect the five percent privilege tax
149 on the fair market value of the vehicle as determined by the
150 commissioner unless the applicant is otherwise exempt from
151 the payment of such privilege tax. A wrecker/dismantler/
152 rebuilder, licensed by the division, is exempt from the
153 payment of the five percent ~~privilege tax~~ consumers sales tax
154 upon titling a reconstructed vehicle. The division shall
155 collect a fee of ~~thirty-five dollars~~ \$35 per vehicle for inspec-
156 tions of reconstructed vehicles. These fees shall be deposited
157 in a special fund created in the State Treasurer's Office and
158 may be expended by the division to carry out the provisions
159 of this article: *Provided*, That on and after the first day of
160 July, 2007, any balance in the special fund and all fees
161 collected pursuant to this section shall be deposited in the

162 State Road Fund. Licensed wreckers/dismantlers/rebuilders
163 may charge a fee not to exceed ~~twenty-five dollars~~ \$25 for all
164 vehicles owned by private rebuilders which are inspected at
165 the place of business of a wrecker/dismantler/rebuilder.

166 ~~(k)~~(l) As used in this section:

167 (1) "Reconstructed vehicle" means the vehicle was totaled
168 under the provisions of this section or by the provisions of
169 another state or jurisdiction and has been rebuilt in accor-
170 dance with the provisions of this section or in accordance
171 with the provisions of another state or jurisdiction or meets
172 the provisions of subsection (m), section one, article one of
173 this chapter.

174 (2) "Flood-damaged vehicle" means that the vehicle was
175 submerged in water to the extent that water entered the
176 passenger or trunk compartment.

177 (3) "Other brand" means a brand consistent with the intent
178 of the National Motor Vehicle Title Information System
179 established pursuant to 49 U.S.C. §30502 and rules promul-
180 gated by the United States Department of Justice to alert
181 consumers, motor vehicle dealers or the insurance industry
182 of the history of a vehicle.

183 (†) (m) Every vehicle owner shall comply with the branding
184 requirements for a totaled vehicle whether or not the owner
185 receives an insurance claim settlement for a totaled vehicle.

186 ~~(m)~~ (n) A certificate of title issued by the division for a
187 reconstructed vehicle shall contain markings in bold print on
188 the face of the title that it is for a reconstructed, flood or fire
189 damaged vehicle.

190 ~~(n)~~ (o) Any person who knowingly provides false or
191 fraudulent information to the division that is required by
192 this section in an application for a title, a cosmetic total loss
193 title, a reconstructed vehicle title or a salvage certificate or
194 who knowingly fails to disclose to the division information
195 required by this section to be included in the application or
196 who otherwise violates the provisions of this section ~~shall be~~
197 is guilty of a misdemeanor and, upon conviction thereof,
198 shall for each incident be fined not less than ~~one thousand~~
199 ~~dollars~~ \$1000 nor more than ~~two thousand five hundred~~
200 ~~dollars~~ \$2500, or imprisoned in jail for not more than one
201 year, or both fined and imprisoned.

**ARTICLE 4A. LIENS AND ENCUMBRANCES ON VEHICLES TO BE
SHOWN ON CERTIFICATE OF TITLE; NOTICE TO
CREDITORS AND PURCHASERS.**

§17A-4A-10. Fee for recording and release of lien.

1 The Division of Motor Vehicles ~~is hereby authorized to~~
2 shall charge a fee of ~~five dollars~~ \$13 for the recording of any
3 lien either in an electronic or paper format created by the
4 voluntary act of the owner and endorsing it upon the title
5 certificate issued pursuant to this article, and the Division of
6 Motor Vehicles ~~is hereby authorized to~~ shall charge a fee of
7 ~~fifty cents~~ \$13 for recordation of any release of a lien created
8 by the voluntary act of the owner: Provided, That no charge
9 shall be made for the endorsement and recordation of liens
10 or releases thereof as provided under section nine of this
11 article. No charge shall be made for the issuance of a title to
12 the owner of a vehicle upon the receipt of an electronic
13 release of the final lien.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.**§17A-10-3. Registration fees for vehicles equipped with pneumatic tires.**

1 The following registration fees for the classes indicated
2 shall be paid to the division for the registration of vehicles
3 subject to registration under this chapter when equipped
4 with pneumatic tires:

5 (a) Registration fees for the following classes shall be paid
6 to the division annually:

7 (1) Class A.—The registration fee for all motor vehicles of
8 this class ~~are is \$28.50~~:

9 (A) \$38.50 for declared gross weights less than 4001
10 pounds; and

11 (B) \$58.50 for declared gross weights of 4001 pounds to
12 8000 pounds.

13 ~~Provided, That~~—The registration fees and any other fees
14 required by this chapter for Class A vehicles under the
15 optional biennial staggered registration system shall be
16 multiplied by two and paid biennially to the division.

17 No license fee may be charged for vehicles owned by
18 churches, or by trustees for churches, which are regularly
19 used for transporting parishioners to and from church
20 services. Notwithstanding the exemption, the certificate of
21 registration and license plates shall be obtained the same as
22 other cards and plates under this article.

23 (2) Class B.—The registration fee for all motor vehicles of
24 this class is as follows:

25 (A) For declared gross weights of eight thousand one
26 pounds to sixteen thousand pounds—\$28 plus \$5 for each one

27 thousand pounds or fraction of one thousand pounds that the
28 gross weight of the vehicle or combination of vehicles
29 exceeds eight thousand pounds.

30 (B) For declared gross weights greater than sixteen
31 thousand pounds, but less than fifty-five thousand
32 pounds—\$78.50 plus \$10 for each one thousand or fraction of
33 one thousand pounds that the gross weight of the vehicle or
34 combination of vehicles exceeds sixteen thousand pounds.

35 (C) For declared gross weights of fifty-five thousand
36 pounds or more—\$737.50 plus \$15.75 for each one thousand
37 pounds or fraction of one thousand pounds that the gross
38 weight of the vehicle or combination of vehicles exceeds
39 fifty-five thousand pounds.

40 (3) Class G.—The registration fee for each motorcycle or
41 parking enforcement vehicle is \$8: Provided, That the
42 registration fee and any other fees required by this chapter
43 for Class G vehicles shall be for at least one year and under
44 an optional biennial registration system the annual fee shall
45 be multiplied by two and paid biennially to the division.

46 (4) Class H.—The registration fee for all vehicles for this
47 class operating entirely within the state is \$5; and for
48 vehicles engaged in interstate transportation of persons, the

49 registration fee is the amount of the fees provided by this
50 section for Class B, reduced by the amount that the mileage
51 of the vehicles operated in states other than West Virginia
52 bears to the total mileage operated by the vehicles in all
53 states under a formula to be established by the Division of
54 Motor Vehicles.

55 (5) Class J.—The registration fee for all motor vehicles of
56 this class is \$85. Ambulances and hearses used exclusively as
57 ambulances and hearses are exempt from the special fees set
58 forth in this section.

59 (6) Class M.—The registration fee for all vehicles of this
60 class is \$17.50.

61 (7) Class X farm truck.—The registration fee for all motor
62 vehicles of this class is as follows:

63 (A) For farm trucks of declared gross weights of eight
64 thousand one pounds to sixteen thousand pounds—\$30.

65 (B) For farm trucks of declared gross weights of sixteen
66 thousand one pounds to twenty-two thousand pounds—\$60.

67 (C) For farm trucks of declared gross weights of
68 twenty-two thousand one pounds to twenty-eight thousand
69 pounds—\$90.

70 (D) For farm trucks of declared gross weights of
71 twenty-eight thousand one pounds to thirty-four thousand
72 pounds—\$115.

73 (E) For farm trucks of declared gross weights of thirty-four
74 thousand one pounds to forty-four thousand pounds—\$160.

75 (F) For farm trucks of declared gross weights of forty-four
76 thousand one pounds to fifty-four thousand pounds—\$205.

77 (G) For farm trucks of declared gross weights of fifty-four
78 thousand one pounds to eighty thousand pounds—\$250:

79 Provided, That the provisions of subsection (a), section
80 eight, article one, chapter seventeen-e of this code do not
81 apply if the vehicle exceeds sixty-four thousand pounds and
82 is a truck tractor or road tractor.

83 (b) Registration fees for the following classes shall be paid
84 to the division for a maximum period of three years, or
85 portion of a year based on the number of years remaining in
86 the three-year period designated by the commissioner:

87 (1) Class R.—The annual registration fee for all vehicles of
88 this class is \$12.

89 (2) Class T.—The annual registration fee for all vehicles of
90 this class is \$8.

91 (c) The fees paid to the division for a multiyear registration
92 provided by this chapter shall be the same as the annual
93 registration fee established by this section and any other fee
94 required by this chapter multiplied by the number of years
95 for which the registration is issued.

96 (d) The registration fee for all Class C vehicles is \$50. On or
97 before July 1, 2000, all Class C trailers shall be registered for
98 the duration of the owner's interest in the trailer and do not
99 expire until either sold or otherwise permanently removed
100 from the service of the owner: Provided, That a registrant
101 may transfer a Class C registration plate from a trailer
102 owned less than thirty days to another Class C trailer titled
103 in the name of the registrant upon payment of the transfer
104 fee prescribed in section ten of this article.

**§17A-10-10. Fees upon transfer of registration and issuance of
certificates of title.**

1 A fee of ~~five dollars~~ \$6 shall be paid for a transfer of
2 registration by an owner from one vehicle to another vehicle
3 of the same class or for surrender of registration of one
4 vehicle in exchange for registration of a vehicle of a different
5 class in addition to the payment of any difference in fees as
6 provided in section one, article four of this chapter.

7 A fee of ~~five dollars~~ \$6 shall be paid for the transfer of
8 registration from a deceased person to his legal heir or
9 legatee as provided in section five, article four of this
10 chapter.

11 A fee of ~~five dollars~~ \$21 shall be paid for the issuance of a
12 certificate of title.

**§17A-10-11. Fees for duplicate registration plates, registration
cards and certificates of title.**

1 A fee of ~~five dollars~~ \$5 shall be paid for the issuance of
2 duplicate or substitute ~~registration plates,~~ registration cards.
3 A fee of \$15 shall be paid for the issuance of duplicate or
4 substitute registration plates or decals. or certificates of title.
5 A fee of \$21 shall be paid for the issuance of duplicate
6 certificates of title.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

**§17B-2-1. Drivers must be licensed; types of licenses; licensees
need not obtain local government license; motorcy-
cle driver license; identification cards.**

1 (a)(1) No person, except those hereinafter expressly
2 exempted, may drive any motor vehicle upon a street or
3 highway in this state or upon any subdivision street used by
4 the public generally unless the person has a valid driver's

5 license issued pursuant to this code for the type or class of
6 vehicle being driven.

7 (2) Any person licensed to operate a motor vehicle pursuant
8 to this code may exercise the privilege thereby granted in the
9 manner provided in this code and, except as otherwise
10 provided by law, is not required to obtain any other license
11 to exercise the privilege by any county, municipality or local
12 board or body having authority to adopt local police regula-
13 tions.

14 (b) The division, upon issuing a driver's license, shall
15 indicate on the license the type or general class or classes of
16 vehicles the licensee may operate in accordance with this
17 code, federal law or rule. Licenses shall be issued in different
18 colors for those drivers under age eighteen, those drivers age
19 eighteen to twenty-one and adult drivers. The commissioner
20 is authorized to select and assign colors to the licenses of the
21 various age groups.

22 (c) Driver's licenses issued by the division shall be classi-
23 fied in the following manner:

24 (1) A Class A, B or C license shall be issued to those
25 persons eighteen years of age or older with two years of
26 driving experience who have qualified for the commercial

27 driver's license established by chapter seventeen-e of this
28 code and the federal Motor Carrier Safety and Improvement
29 Act of 1999 and subsequent rules, and have paid the required
30 fee.

31 (2) A Class D license shall be issued to those persons
32 eighteen years and older with one year of driving experience
33 who operate motor vehicles other than those types of vehicles
34 which require the operator to be licensed under the provi-
35 sions of chapter seventeen-e of this code and federal law and
36 rule and whose primary function or employment is the
37 transportation of persons or property for compensation or
38 wages and have paid the required fee. For the purpose of
39 regulating the operation of motor vehicles, wherever the
40 term "chauffeur's license" is used in this code, it shall be
41 construed to mean the Class A, B, C or D license described in
42 this section or chapter seventeen-e of this code or federal law
43 or rule: *Provided*, That anyone not required to be licensed
44 under the provisions of chapter seventeen-e of this code and
45 federal law or rule and who operates a motor vehicle regis-
46 tered or required to be registered as a Class A motor vehicle,
47 as that term is defined in section one, article ten, chapter
48 seventeen-a of this code, with a gross vehicle weight rating

49 of less than eight thousand one pounds, is not required to
50 obtain a Class D license.

51 (3) A Class E license shall be issued to those persons who
52 have qualified for a driver's license under the provisions of
53 this chapter and who are not required to obtain a Class A, B,
54 C or D license and who have paid the required fee. The Class
55 E license may be endorsed under the provisions of section
56 seven-b of this article for motorcycle operation. The Class E
57 or (G) license for any person under the age of eighteen may
58 also be endorsed with the appropriate graduated driver
59 license level in accordance with the provisions of section
60 three-a of this article.

61 (4) A Class F license shall be issued to those persons who
62 successfully complete the motorcycle examination procedure
63 provided by this chapter and have paid the required fee, but
64 who do not possess a Class A, B, C, D or E driver's license.

65 (5) A Class G driver's license or instruction permit shall be
66 issued to a person using bioptic telescopic lenses who has
67 successfully completed an approved driver training program
68 and complied with all other requirements of article two-b of
69 this chapter.

70 (d) All licenses issued under this section may contain
71 information designating the licensee as a diabetic, organ
72 donor, as deaf or hard-of-hearing or as having any other
73 handicap or disability or a person who is an honorably
74 discharged veteran of any branch of the armed forces of the
75 United States, according to criteria established by the
76 division, if the licensee requests this information on the
77 license.

78 (e) No person, except those hereinafter expressly ex-
79 empted, may drive any motorcycle upon a street or highway
80 in this state or upon any subdivision street used by the
81 public generally unless the person has a valid motorcycle
82 license, a valid license which has been endorsed under
83 section seven-b of this article for motorcycle operation or a
84 valid motorcycle instruction permit.

85 (f) (1) An identification card may be issued to any person
86 who:

87 (A) Is a resident of this state in accordance with the
88 provisions of section one-a, article three, chapter seven-
89 teen-a of this code;

90 (B) Has reached the age of two years. The division may also
91 issue an identification card to a person under the age of two
92 years for good cause shown;

93 (C) Has paid the required fee of ~~two dollars and fifty cents~~

94 \$6.50 per year: *Provided*, That the fee is not required if the

95 applicant is sixty-five years or older or is legally blind; and

96 (D) Presents a birth certificate or other proof of age and

97 identity acceptable to the division with a completed applica-

98 tion on a form furnished by the division.

99 (2) The identification card shall contain the same informa-

100 tion as a driver's license except that the identification card

101 shall be clearly marked as an identification card. However,

102 the division may issue an identification card with less

103 information to persons under the age of sixteen. An identifi-

104 cation card may be renewed annually on application and

105 payment of the fee required by this section.

106 (A) Every identification card issued to a person who has

107 attained his or her twenty-first birthday shall expire on the

108 licensee's birthday in those years in which the licensee's age

109 is evenly divisible by five. Except as provided in paragraph

110 (B) of this subdivision, no identification card may be issued

111 for less than three years or for more than seven years and

112 expires on the licensee's birthday in those years in which the

113 licensee's age is evenly divisible by five.

114 (B) Every identification card issued to a person who has
115 not attained his or her twenty-first birthday shall expire
116 thirty days after the licensee's twenty-first birthday.

117 ~~(C) Every identification card issued to persons under the~~
118 ~~age of sixteen shall be issued for a period of two years and~~
119 ~~shall expire on the last day of the month in which the~~
120 ~~applicant's birthday occurs.~~

121 (3) The division may issue an identification card to an
122 applicant whose privilege to operate a motor vehicle has
123 been refused, canceled, suspended or revoked under the
124 provisions of this code.

125 (g) Any person violating the provisions of this section is
126 guilty of a misdemeanor and, upon conviction, shall be fined
127 not more than ~~five hundred dollars~~ \$500; and upon a second
128 or subsequent conviction, shall be fined not more than ~~five~~
129 ~~hundred dollars~~ \$500 or confined in jail not more than six
130 months, or both.

§17B-2-3a. Graduated driver's license.

1 (a) Any person under the age of eighteen may not operate
2 a motor vehicle unless he or she has obtained a graduated
3 driver's license in accordance with the three-level graduated
4 driver's license system described in the following provisions.

5 (b) Any person under the age of twenty-one, regardless of
6 class or level of licensure, who operates a motor vehicle with
7 any measurable alcohol in his or her system is subject to the
8 provisions of section two, article five, chapter seventeen-c of
9 this code and section two, article five-a of said chapter. Any
10 person under the age of eighteen, regardless of class or
11 licensure level, is subject to the mandatory school attendance
12 and satisfactory academic progress provisions of section
13 eleven, article eight, chapter eighteen of this code.

14 (c) Level one instruction permit.—An applicant who is
15 fifteen years or older meeting all other requirements pre-
16 scribed in this code may be issued a level one instruction
17 permit.

18 (1) Eligibility.—The division shall not issue a level one
19 instruction permit unless the applicant:

20 (A) Presents a completed application, as prescribed by the
21 provisions of section six of this article, and which is accom-
22 panied by a writing, duly acknowledged, consenting to the
23 issuance of the graduated driver's license and executed by a
24 parent or guardian entitled to custody of the applicant;

25 (B) Presents a certified copy of a birth certificate issued by
26 a state or other governmental entity responsible for vital

27 records unexpired, or a valid passport issued by the United
28 States government evidencing that the applicant meets the
29 minimum age requirement and is of verifiable identity;

30 (C) Passes the vision and written knowledge examination
31 and completes the driving under the influence awareness
32 program, as prescribed in section seven of this article;

33 (D) Presents a driver's eligibility certificate or otherwise
34 shows compliance with the provisions of section eleven,
35 article eight, chapter eighteen of this code; and

36 (E) Pays a fee of \$5 which shall permit the applicant ~~two~~
37 ~~attempts~~ one attempt at the written knowledge test.

38 (2) Terms and conditions of instruction permit.—A level
39 one instruction permit issued under the provisions of this
40 section is valid until thirty days after the date the applicant
41 attains the age of eighteen and is not renewable. However,
42 any permit holder who allows his or her permit to expire
43 prior to successfully passing the road skills portion of the
44 driver examination, and who has not committed any offense
45 which requires the suspension, revocation or cancellation of
46 the instruction permit, may reapply for a new instruction
47 permit under the provisions of section six of this article. The
48 division shall immediately revoke the permit upon receipt of

49 a second conviction for a moving violation of traffic regula-
50 tions and laws of the road or violation of the terms and
51 conditions of a level one instruction permit, which convic-
52 tions have become final unless a greater penalty is required
53 by this section or any other provision of this code. Any
54 person whose instruction permit has been revoked is disqual-
55 ified from retesting for a period of ninety days. However,
56 after the expiration of ninety days, the person may retest if
57 otherwise eligible. In addition to all other provisions of this
58 code for which a driver's license may be restricted, sus-
59 pended, revoked or canceled, the holder of a level one
60 instruction permit may only operate a motor vehicle under
61 the following conditions:

62 (A) Under the direct supervision of a licensed driver,
63 twenty-one years of age or older, or a driver's education or
64 driving school instructor who is acting in an official capacity
65 as an instructor, who is fully alert and unimpaired, and the
66 only other occupant of the front seat. The vehicle may be
67 operated with no more than two additional passengers,
68 unless the passengers are family members;

69 (B) Between the hours of five a.m. and ten p.m.;

70 (C) All occupants must use safety belts in accordance with
71 the provisions of section forty-nine, article fifteen, chapter
72 seventeen-c of this code;

73 (D) Without any measurable blood alcohol content, in
74 accordance with the provisions of subsection (h), section two,
75 article five, chapter seventeen-c of this code; and

76 (E) Maintains current school enrollment and is making
77 satisfactory academic progress or otherwise shows compli-
78 ance with the provisions of section eleven, article eight,
79 chapter eighteen of this code.

80 (F) A holder of a level one instruction permit who is under
81 the age of eighteen years shall be prohibited from using a
82 wireless communication device while operating a motor
83 vehicle, unless the use of the wireless communication device
84 is for contacting a 9-1-1 system. A person violating the
85 provisions of this paragraph is guilty of a misdemeanor and,
86 upon conviction thereof, shall for the first offense be fined
87 \$25; for a second offense be fined \$50; and for a third or
88 subsequent offense be fined \$75.

89 (d) Level two intermediate driver's license. — An applicant
90 sixteen years of age or older, meeting all other requirements

91 of the code, may be issued a level two intermediate driver's
92 license.

93 (1) Eligibility.—The division shall not issue a level two
94 intermediate driver's license unless the applicant:

95 (A) Presents a completed application as prescribed in
96 section six of this article;

97 (B) Has held the level one instruction permit convic-
98 tion-free for the one hundred eighty days immediately
99 preceding the date of application for a level two intermediate
100 license;

101 (C) Has completed either a driver's education course
102 approved by the State Department of Education or fifty
103 hours of behind-the-wheel driving experience, including a
104 minimum of ten hours of nighttime driving, certified by a
105 parent or legal guardian or other responsible adult over the
106 age of twenty-one as indicated on the form prescribed by the
107 division: Provided, That nothing in this paragraph shall be
108 construed to require any school or any county board of
109 education to provide any particular number of driver's
110 education courses or to provide driver's education training
111 to any student;

112 (D) Presents a driver's eligibility certificate or otherwise
113 shows compliance with the provisions of section eleven,
114 article eight, chapter eighteen of this code;

115 (E) Passes the road skills examination as prescribed by
116 section seven of this article; and

117 (F) Pays a fee of \$5 which shall permit the holder one
118 attempt at the road skills examination.

119 (2) Terms and conditions of a level two intermediate
120 driver's license.—A level two intermediate driver's license
121 issued under the provisions of this section shall expire thirty
122 days after the applicant attains the age of eighteen, or until
123 the licensee qualifies for a level three full Class E license,
124 whichever comes first. In addition to all other provisions of
125 this code for which a driver's license may be restricted,
126 suspended, revoked or canceled, the holder of a level two
127 intermediate driver's license may only operate a motor
128 vehicle under the following conditions:

129 (A) Unsupervised between the hours of five a. m. and ten p.
130 m.;

131 (B) Only under the direct supervision of a licensed driver,
132 age twenty-one years or older, between the hours of ten p. m.

133 and five a. m. except when the licensee is going to or return-
134 ing from:

135 (i) Lawful employment;

136 (ii) A school-sanctioned activity;

137 (iii) A religious event; or

138 (iv) An emergency situation that requires the licensee to
139 operate a motor vehicle to prevent bodily injury or death of
140 another;

141 (C) All occupants shall use safety belts in accordance with
142 the provisions of section forty-nine, article fifteen, chapter
143 seventeen-c of this code;

144 (D) For the first six months after issuance of a level two
145 intermediate driver's license, the licensee may not operate a
146 motor vehicle carrying any passengers less than twenty years
147 old, unless these passengers are family members of the
148 licensee; for the second six months after issuance of a level
149 two intermediate driver's license, the licensee may not
150 operate a motor vehicle carrying more than one passenger
151 less than twenty years old, unless these passengers are family
152 members of the licensee;

153 (E) Without any measurable blood alcohol content in
154 accordance with the provisions of subsection (h), section two,
155 article five, chapter seventeen-c of this code;

156 (F) Maintains current school enrollment and is making
157 satisfactory academic progress or otherwise shows compli-
158 ance with the provisions of section eleven, article eight,
159 chapter eighteen of this code;

160 (G) A holder of a level two intermediate driver's license
161 who is under the age of eighteen years shall be prohibited
162 from using a wireless communication device while operating
163 a motor vehicle, unless the use of the wireless communica-
164 tion device is for contacting a 9-1-1 system. A person
165 violating the provisions of this paragraph is guilty of a
166 misdemeanor and, upon conviction thereof, shall for the first
167 offense be fined \$25; for a second offense be fined \$50; and
168 for a third or subsequent offense be fined \$75.

169 (H) Upon the first conviction for a moving traffic violation
170 or a violation of paragraph (A), (B), (C), (D) or (G), subdivi-
171 sion (1), subsection (d) of this section of the terms and
172 conditions of a level two intermediate driver's license, the
173 licensee shall enroll in an approved driver improvement

174 program unless a greater penalty is required by this section
175 or by any other provision of this code; and

176 At the discretion of the commissioner, completion of an
177 approved driver improvement program may be used to
178 negate the effect of a minor traffic violation as defined by the
179 commissioner against the one year conviction-free driving
180 criteria for early eligibility for a level three driver's license
181 and may also negate the effect of one minor traffic violation
182 for purposes of avoiding a second conviction under para-
183 graph (I) of this subdivision; and

184 (I) Upon the second conviction for a moving traffic viola-
185 tion or a violation of the terms and conditions of the level
186 two intermediate driver's license, the licensee's privilege to
187 operate a motor vehicle shall be revoked or suspended for the
188 applicable statutory period or until the licensee's eighteenth
189 birthday, whichever is longer unless a greater penalty is
190 required by this section or any other provision of this code.
191 Any person whose driver's license has been revoked as a
192 level two intermediate driver, upon reaching the age of
193 eighteen years and if otherwise eligible may reapply for an
194 instruction permit, then a driver's license in accordance with
195 the provisions of sections five, six and seven of this article.

196 (e) Level three, full Class E license. — The level three license
197 is valid until thirty days after the date the licensee attains
198 his or her twenty-first birthday. Unless otherwise provided
199 in this section or any other section of this code, the holder of
200 a level three full Class E license is subject to the same terms
201 and conditions as the holder of a regular Class E driver's
202 license.

203 A level two intermediate licensee whose privilege to
204 operate a motor vehicle has not been suspended, revoked or
205 otherwise canceled and who meets all other requirements of
206 the code may be issued a level three full Class E license
207 without further examination or road skills testing if the
208 licensee:

209 (1) Has reached the age of seventeen years; and

210 (A) Presents a completed application as prescribed by the
211 provisions of section six of this article;

212 (B) Has held the level two intermediate license conviction
213 free for the twelve-month period immediately preceding the
214 date of the application;

215 (C) Has completed any driver improvement program
216 required under paragraph (G), subdivision (2), subsection (d)
217 of this section; and

218 (D) Pays a fee of ~~\$2.50~~ \$6.50 for each year the license is
219 valid. An additional fee of \$.50 shall be collected to be
220 deposited in the Combined Voter Registration and Driver's
221 Licensing Fund established in section twelve, article two,
222 chapter three of this code;

223 (E) Presents a driver's eligibility certificate or otherwise
224 shows compliance with the provisions of section eleven,
225 article eight, chapter eighteen of this code; or

226 (2) Reaches the age of eighteen years; and

227 (A) Presents a completed application as prescribed by the
228 provisions of section six of this article; and

229 (B) Pays a fee of ~~\$2.50~~ \$6.50 for each year the license is
230 valid. An additional fee of \$.50 shall be collected to be
231 deposited in the Combined Voter Registration and Driver's
232 Licensing Fund established in section twelve, article two,
233 chapter three of this code.

234 (f) A person violating the provisions of the terms and
235 conditions of a level one or level two intermediate driver's
236 license is guilty of a misdemeanor and, upon conviction
237 thereof, shall for the first offense be fined \$25; for a second
238 offense be fined \$50; and for a third or subsequent offense be
239 fined \$75.

§17B-2-5. Qualifications, issuance and fee for instruction permits.

1 (a) Any person who is at least fifteen years of age may
2 apply to the division for an instruction permit. However, any
3 person who has not attained the age of eighteen shall comply
4 with the provisions of section three-a of this article. The
5 division may, in its discretion, after the applicant has
6 successfully passed all parts of the examination other than
7 the road skills test, issue to the applicant an instruction
8 permit which entitles the applicant while having the permit
9 in his or her immediate possession to drive a motor vehicle
10 upon the public highways when accompanied by a licensed
11 driver of at least twenty-one years of age, a driver's educa-
12 tion or driving school instructor that is acting in an official
13 capacity as an instructor, who is alert and unimpaired or a
14 certified division license examiner acting in an official
15 capacity as an examiner, who is occupying a seat beside the
16 driver.

17 (1) Any instruction permit issued to a person under the age
18 of eighteen years shall be issued in accordance with the
19 provisions of section three-a of this article.

20 (2) Any permit issued to a person who has reached the age
21 of eighteen years is valid for a period of ninety days. The fee
22 for the instruction permit is ~~five dollars~~ \$5.

23 (b) Any person sixteen years of age or older may apply to
24 the division for a motorcycle instruction permit. Any person
25 under the age of eighteen must have first completed the
26 requirements for a level two intermediate driver's license or
27 a Class E driver's license before being eligible for a motorcy-
28 cle instruction permit.

29 The division may, in its discretion, after the applicant has
30 successfully passed all parts of the motorcycle examination
31 other than the driving test, and presented documentation of
32 compliance with the provisions of section eleven, article
33 eight, chapter eighteen of this code, if applicable, issue to the
34 applicant an instruction permit which entitles the applicant
35 while having the permit in his or her immediate possession
36 to drive a motorcycle upon the public streets or highways for
37 a period of ninety days, during the daylight hours between
38 sunrise and sunset only. No holder of a motorcycle instruc-
39 tion permit shall operate a motorcycle while carrying any
40 passenger on the vehicle.

41 A motorcycle instruction permit is not renewable, but a
42 qualified applicant may apply for a new permit. The fee for
43 a motorcycle instruction permit is ~~five dollars~~ \$5, which shall

44 be paid into a special fund in the state treasury known as the
45 motor vehicle fees fund.

**§17B-2-6. Application for license or instruction permit; fee to
accompany application.**

1 (a) Every application for an instruction permit or for a
2 driver's license shall be made upon a form furnished by the
3 division. Every application shall be accompanied by the
4 proper fee and payment of the fee shall entitle an applicant
5 under the age of eighteen to ~~not more than two attempts~~ one
6 attempt at the written test or ~~not more than three attempts~~
7 ~~to pass~~ one attempt at the road skills test. An applicant age
8 eighteen years or older is entitled to ~~not more than two~~
9 ~~attempts~~ one attempt at the written test or ~~not more than~~
10 ~~three attempts to pass~~ one attempt at the road skills test
11 ~~within a period of ninety days from the date of issuance of~~
12 ~~the instruction permit.~~ per payment of the proper fee. An
13 applicant who fails either the written test or the road skills
14 test may not be tested twice within a period of one week. An
15 instruction permit holder is eligible for additional attempts
16 at passing the written test or road skills test upon payment
17 of a fee of \$5 for each attempt.

18 (b) Any applicant who has not been previously licensed
19 must hold an instruction permit for a minimum of thirty
20 days. For the purposes of this section, the term “previously
21 licensed” means an applicant who has obtained at least a
22 level one graduated license or junior driver’s license issued
23 under the provisions of this article or has obtained an equal
24 or greater level of licensure if previously licensed in another
25 state.

26 (c) Every said application shall state the full legal name,
27 date of birth, sex, and residence address of the applicant and
28 briefly describe the applicant and shall state whether the
29 applicant has theretofore been a licensed driver and, if so,
30 when, and by what state or country and whether any such
31 license has ever been suspended or revoked within the five
32 years next preceding the date of application, or whether an
33 application has ever been refused and, if so, the date of and
34 reason for the suspension, revocation or refusal, whether the
35 applicant desires a notation on the driver’s license indicating
36 that the applicant is an organ donor, in accordance with
37 article one-b of this chapter, a diabetic, deaf, or hard of
38 hearing, or has any other handicap or disability or is an
39 honorably discharged veteran of any branch of the armed

40 forces of the United States and such other pertinent informa-
41 tion as the commissioner may require.

§17B-2-8. Issuance and contents of licenses; fees.

1 (a) The division shall, upon payment of the required fee,
2 issue to every applicant qualifying therefor a driver's license,
3 which shall indicate the type or general class or classes of
4 vehicle or vehicles the licensee may operate in accordance
5 with this chapter or chapter seventeen-e of this code, or
6 motorcycle-only license. Each license shall contain a coded
7 number assigned to the licensee, the full legal name, date of
8 birth, residence address, a brief description and a color
9 photograph of the licensee and either a facsimile of the
10 signature of the licensee or a space upon which the signature
11 of the licensee shall be written with pen and ink immediately
12 upon receipt of the license. No license is valid until it has
13 been so signed by the licensee.

14 (b) A driver's license which is valid for operation of a
15 motorcycle shall contain a motorcycle endorsement.

16 (c) The division shall use such process or processes in the
17 issuance of licenses that will, insofar as possible, prevent any
18 alteration, counterfeiting, duplication, reproduction, forging

19 or modification of, or the superimposition of a photograph
20 on, the license.

21 (d) The fee for the issuance of a Class E driver's license is
22 ~~two dollars and fifty cents~~ \$6.50 per year for each year the
23 license is issued to be valid. The fee for issuance of a Class D
24 driver's license is six dollars and twenty-five cents per year
25 for each year the license is issued to be valid. An additional
26 fee of fifty cents shall be collected from the applicant at the
27 time of original issuance or each renewal and the additional
28 fee shall be deposited in the "combined voter registration
29 and driver's licensing fund," established pursuant to the
30 provisions of section twelve, article two, chapter three of this
31 code. The additional fee for adding a motorcycle endorse-
32 ment to a driver's license is one dollar per year for each year
33 the license is issued.

34 (e) The fee for issuance of a motorcycle-only license is ~~two~~
35 ~~dollars and fifty cents~~ \$6.50 for each year for which the
36 motorcycle license is to be valid. The fees for the motorcycle
37 endorsement or motorcycle-only license shall be paid into a
38 special fund in the State Treasury known as the Motorcycle
39 Safety Fund as established in section seven, article one-d of
40 this chapter.

41 (f) The fee for the issuance of either the level one or level
42 two graduated driver's license as prescribed in section
43 three-a of this article is ~~five dollars~~ \$5.

44 (g) The division may use an address on the face of the
45 license other than the applicant's address of residence if:

46 (1) The applicant has a physical address or location that is
47 not recognized by the post office for the purpose of receiving
48 mail;

49 (2) The applicant is enrolled in a state address confidenti-
50 ality program or the alcohol test and lock program;

51 (3) The applicant's address is entitled to be suppressed
52 under a state or federal law or suppressed by a court order;
53 or

54 (4) At the discretion of the commissioner, the applicant's
55 address may be suppressed to provide security for classes of
56 applicants such as law-enforcement officials, protected
57 witnesses and members of the state and federal judicial
58 systems.

§17B-2-11. Duplicate permits and licenses.

1 In the event that an instruction permit or driver's license
2 issued under the provisions of this chapter is lost or de-
3 stroyed, or if the information contained on the license has

4 changed, the person to whom the permit or license was
5 issued may upon making proper application and upon
6 payment of a fee of ~~five dollars~~ \$15 obtain a duplicate thereof
7 upon furnishing proof satisfactory to the division that the
8 permit or license has been lost or destroyed.

**CHAPTER 17D. MOTOR VEHICLE SAFETY
RESPONSIBILITY LAW.**

ARTICLE 2. ADMINISTRATION OF LAW.

**§17D-2-2. Commissioner to furnish abstract of operating record;
fee for abstract.**

1 The commissioner shall upon request and subject to the
2 provisions of article two-a, chapter seventeen-a of this code,
3 furnish any person a certified abstract of the operating
4 record of any person subject to the provisions of this chapter,
5 and if there is no record of any conviction of the person of a
6 violation of any law relating to the operation of a motor
7 vehicle or of any injury or damage caused by the person, the
8 commissioner shall so certify. The commissioner shall collect
9 ~~five dollars~~ \$10 for each abstract.