

WEST VIRGINIA LEGISLATURE
2017 FIRST EXTRAORDINARY SESSION

Enrolled

Senate Bill 1006

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Passed June 16, 2017; in effect from passage]

1 AN ACT to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §11-15-3c and §11-15-18b of said code; to amend and reenact §17A-
3 2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact
4 §17A-4-1 of said code; to amend and reenact §17A-4-10 of said code as contained in
5 Chapter 152, Acts of the Legislature, Regular Session, 2017; to amend and reenact §17A-
6 4A-10 of said code; to amend and reenact §17A-7-2 of said code; to amend and reenact
7 §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend said code by adding
8 thereto a new section, designated §17A-10-3c; to amend and reenact §17B-2-1, §17B-2-
9 3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said code; to amend and reenact
10 §17C-5A-2a of said code; and to amend and reenact §17D-2-2 of said code, all relating
11 generally to increasing the funding for the State Road Fund; increasing the minimum
12 average wholesale price of motor fuels and minimum tax for purposes of the five percent
13 variable component of motor fuel excise tax as of specified date; increasing the rate of
14 consumers sales and service tax on sales of motor vehicles as of a specified date; deleting
15 superfluous language relating to floorstocks; increasing Division of Motor Vehicles
16 administrative fees, including increasing fees for various documents, records,
17 registrations, certificates, titles, liens, releases, transfers, cards, stickers, decals, licenses
18 and plates; requiring payment of certain fee for each attempt at the written and road skills
19 test; allowing the Division of Motor Vehicles to adjust fees every five years on September
20 1 based on the U. S. Department of Labor, Bureau of Labor Statistics most current
21 Consumer Price Index; limiting increase in fees to ten percent; imposing annual
22 registration fee for certain alternative fuel vehicles; correcting cross-references and
23 agency title; and specifying effective dates.

Be it enacted by the Legislature of West Virginia:

1 That §11-14C-5 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; that §11-15-3c and §11-15-18b of said code be amended and reenacted; that §17A-

3 2-13 of said code be amended and reenacted; that §17A-3-4 of said code be amended and
4 reenacted; that §17A-4-1 of said code be amended and reenacted; that §17A-4-10 of said code
5 as contained in Chapter 152, Acts of the Legislature, Regular Session, 2017, be amended and
6 reenacted; that §17A-4A-10 of said code be amended and reenacted; that §17A-7-2 of said code
7 be amended and reenacted; that §17A-10-3, §17A-10-10 and §17A-10-11 of said code be
8 amended and reenacted; that said code be amended by adding thereto a new section, designated
9 §17A-10-3c; that §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said
10 code be amended and reenacted; that §17C-5A-2a of said code be amended and reenacted; and
11 that §17D-2-2 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

§11-14C-5. Taxes levied; rate.

1 (a) There is hereby levied on all motor fuel an excise tax composed of a flat rate equal to
2 \$.205 per invoiced gallon and, on alternative fuel, on each gallon equivalent, plus a variable
3 component comprised of:

4 (1) On motor fuel other than alternative fuel, either the tax imposed by section eighteen-
5 b, article fifteen of this chapter or the tax imposed under section thirteen-a, article fifteen-a of this
6 chapter, as applicable. The variable component shall be equal to five percent of the average
7 wholesale price of the motor fuel: *Provided*, That on and after January 1, 2010, the average
8 wholesale price shall be no less than \$2.34 per invoiced gallon and is computed as hereinafter
9 prescribed in this section: *Provided, however*, That on and after July 1, 2017, the average
10 wholesale price of motor fuel may not be determined to be less than \$3.04 per invoiced gallon for
11 all gallons of motor fuel sold during the reporting period notwithstanding any provision of this code
12 to the contrary and on and after July 1, 2017, the tax per gallon may not be less than 15.2 cents
13 per gallon of motor fuel; and

14 (2) On alternative fuel, either the tax imposed by section eighteen-b, article fifteen of this
15 chapter or the tax imposed under section thirteen-a, article fifteen-a of this chapter, as applicable.
16 The variable component of the tax on alternative fuel shall be equal to five percent of the average
17 wholesale price of the alternative fuel.

18 (b) *Determination of average wholesale price.* —

19 (1) To simplify determining the average wholesale price of all motor fuel, the Tax
20 Commissioner shall, effective with the period beginning the first day of the month of the effective
21 date of the tax and each January 1 thereafter, determine the average wholesale price of motor
22 fuel for each annual period on the basis of sales data gathered for the preceding period of July 1
23 through October 31. Notification of the average wholesale price of motor fuel shall be given by
24 the Tax Commissioner at least thirty days in advance of each January 1 by filing notice of the
25 average wholesale price in the State Register and by other means as the Tax Commissioner
26 considers reasonable.

27 (2) The “average wholesale price” means the single, statewide average per gallon
28 wholesale price, rounded to the third decimal (thousandth of a cent), exclusive of state and federal
29 excise taxes on each gallon of motor fuel or on each gallon equivalent of alternative fuel as
30 determined by the Tax Commissioner from information furnished by suppliers, importers and
31 distributors of motor fuel and alternative-fuel providers, alternative-fuel bulk end users and
32 retailers of alternative fuel in this state, or other information regarding wholesale selling prices as
33 the Tax Commissioner may gather or a combination of information. On and after January 1, 2010,
34 in no event shall the average wholesale price be determined to be less than \$2.34 per gallon of
35 motor fuel: *Provided*, That on and after July 1, 2017, the average wholesale price may not be
36 determined to be less than \$3.04 per gallon of motor fuel. On and after January 1, 2011, the
37 average wholesale price shall not vary by more than ten percent from the average wholesale price
38 of motor fuel as determined by the Tax Commissioner for the previous calendar year: *Provided*,
39 *however*, That in no case shall the average wholesale price of motor fuel be determined to be

40 less than \$3.04 per invoiced gallon. Any limitation on the average wholesale price of motor fuel
41 contained in this subsection shall not be applicable to alternative fuel.

42 (3) All actions of the Tax Commissioner in acquiring data necessary to establish and
43 determine the average wholesale price of motor fuel, in providing notification of his or her
44 determination prior to the effective date of a change in rate, and in establishing and determining
45 the average wholesale price of motor fuel may be made by the Tax Commissioner without
46 compliance with the provisions of article three, chapter twenty-nine-a of this code.

47 (4) In an administrative or court proceeding brought to challenge the average wholesale
48 price of motor fuel as determined by the Tax Commissioner, his or her determination is presumed
49 to be correct and shall not be set aside unless it is clearly erroneous.

50 (c) Every licensee who, on the effective date of any rate change, has in inventory any
51 motor fuel upon which the tax or any portion thereof has been previously paid shall take a physical
52 inventory and file a report thereof with the commissioner, in the format as required by the
53 commissioner, within thirty days after the effective date of the rate change, and shall pay to the
54 commissioner at the time of filing the report any additional tax due under the increased rate.

55 (d) The Tax Commissioner shall determine by January 1, 2014, the gasoline gallon
56 equivalent for each alternative fuel by filing a notice of the gasoline gallon equivalent in the State
57 Register and by other means that the Tax Commissioner considers reasonable. The Tax
58 Commissioner may redetermine the gasoline gallon equivalent for each alternative fuel by filing a
59 notice of the gasoline gallon equivalent in the State Register at least thirty days in advance of
60 January 1 for the next succeeding tax year. For purposes of this notice, the Tax Commissioner
61 may adopt or incorporate by reference provisions of the National Institute of Standards and
62 Technology, United States Department of Commerce, the Internal Revenue Code, United States
63 Treasury Regulations, the Internal Revenue Service publications or guidelines or other
64 publications or guidelines which may be useful in determining, setting or describing the gasoline
65 gallon equivalent for each alternative fuel used as motor fuel.

66 (e) *Effective date.* — The amendments to this section enacted during the first extraordinary
67 session of 2017 shall take effect on July 1, 2017.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

**§11-15-3c. Imposition of consumers sales tax on motor vehicle sales; rate of tax; use of
motor vehicle purchased out of state; definition of sale; definition of motor vehicle;
exemptions; collection of tax by Division of Motor Vehicles; dedication of tax to
highways; legislative and emergency rules.**

1 (a) Notwithstanding any provision of this article or article fifteen-a of this chapter to the
2 contrary, beginning on July 1, 2008, all motor vehicle sales to West Virginia residents shall be
3 subject to the consumers sales tax imposed by this article.

4 (b) *Rate of tax on motor vehicles.* — Notwithstanding any provision of this article or article
5 fifteen-a of this chapter to the contrary, the rate of tax on the sale and use of a motor vehicle shall
6 be five percent of its sale price, as defined in section two, article fifteen-b of this chapter: *Provided,*
7 That so much of the sale price or consideration as is represented by the exchange of other
8 vehicles on which the tax imposed by this section or section four, article three, chapter seventeen-
9 a of this code has been paid by the purchaser shall be deducted from the total actual sale price
10 paid for the motor vehicle, whether the motor vehicle be new or used. However, beginning July 1,
11 2017, the rate of tax imposed by this section shall increase to six percent of the sales price for
12 purchases of motor vehicles made on and after that date.

13 (c) *Motor vehicles purchased out of state.* — Notwithstanding this article or article fifteen-
14 a to the contrary, the tax imposed by this section shall apply to all motor vehicles, used as defined
15 by section one, article fifteen-a of this chapter, within this state, regardless of whether the vehicle
16 was purchased in a state other than West Virginia.

17 (d) *Definition of sale.* — Notwithstanding any provision of this article or article fifteen-a of
18 this chapter to the contrary, for purposes of this section, “sale”, “sales” or “selling” means any
19 transfer or lease of the possession or ownership of a motor vehicle for consideration, including

20 isolated transactions between individuals not being made in the ordinary course of repeated and
21 successive business and also including casual and occasional sales between individuals not
22 conducted in a repeated manner or in the ordinary course of repetitive and successive
23 transactions.

24 (e) *Definition of motor vehicle.* — For purposes of this section, “motor vehicle” means
25 every propellable device in or upon which any person or property is or may be transported or
26 drawn upon a highway including, but not limited to: Automobiles; buses; motor homes;
27 motorcycles; motorboats; all-terrain vehicles; snowmobiles; low-speed vehicles; trucks, truck
28 tractors and road tractors having a weight of less than fifty-five thousand pounds; trailers,
29 semitrailers, full trailers, pole trailers and converter gear having a gross weight of less than two
30 thousand pounds; and motorboat trailers, fold-down camping trailers, traveling trailers, house
31 trailers and motor homes; except that the term “motor vehicle” does not include: Modular homes,
32 manufactured homes, mobile homes, similar nonmotive propelled vehicles susceptible of being
33 moved upon the highways but primarily designed for habitation and occupancy; devices operated
34 regularly for the transportation of persons for compensation under a certificate of convenience
35 and necessity or contract carrier permit issued by the Public Service Commission; mobile
36 equipment as defined in section one, article one, chapter seventeen-a of this code; special mobile
37 equipment as defined in section one, article one, chapter seventeen-a of this code; trucks, truck
38 tractors and road tractors having a gross weight of fifty-five thousand pounds or more; trailers,
39 semitrailers, full trailers, pole trailers and converter gear having weight of two thousand pounds
40 or greater: *Provided*, That notwithstanding the provisions of section nine, article fifteen, chapter
41 eleven of this code, the exemption from tax under this section for mobile equipment as defined in
42 section one, article one, chapter seventeen-a of this code; special mobile equipment defined in
43 section one, article one, chapter seventeen-a of this code; Class B trucks, truck tractors and road
44 tractors registered at a gross weight of fifty-five thousand pounds or more; and Class C trailers,
45 semitrailers, full trailers, pole trailers and converter gear having weight of two thousand pounds

46 or greater does not subject the sale or purchase of the vehicle to the consumers sales and service
47 tax imposed by section three of this article.

48 (f) *Exemptions.* — Notwithstanding any other provision of this code to the contrary, the tax
49 imposed by this section shall not be subject to any exemption in this code other than the following:

50 (1) The tax imposed by this section does not apply to any passenger vehicle offered for
51 rent in the normal course of business by a daily passenger rental car business as licensed under
52 the provisions of article six-d, chapter seventeen-a of this code. For purposes of this section, a
53 daily passenger car means a motor vehicle having a gross weight of eight thousand pounds or
54 less and is registered in this state or any other state. In lieu of the tax imposed by this section,
55 there is hereby imposed a tax of not less than \$1 nor more than \$1.50 for each day or part of the
56 rental period. The Commissioner of the Division of Motor Vehicles shall propose an emergency
57 rule in accordance with the provisions of article three, chapter twenty-nine-a of this code to
58 establish this tax.

59 (2) The tax imposed by this section does not apply where the motor vehicle has been
60 acquired by a corporation, partnership or limited liability company from another corporation,
61 partnership or limited liability company that is a member of the same controlled group and the
62 entity transferring the motor vehicle has previously paid the tax on that motor vehicle imposed by
63 this section. For the purposes of this section, control means ownership, directly or indirectly, of
64 stock or equity interests possessing fifty percent or more of the total combined voting power of all
65 classes of the stock of a corporation or equity interests of a partnership or limited liability company
66 entitled to vote or ownership, directly or indirectly, of stock or equity interests possessing fifty
67 percent or more of the value of the corporation, partnership or limited liability company.

68 (3) The tax imposed by this section does not apply where motor vehicle has been acquired
69 by a senior citizen service organization which is exempt from the payment of income taxes under
70 the United States Internal Revenue Code, Title 26 U. S. C. §501(c)(3) and which is recognized to
71 be a bona fide senior citizen service organization by the Bureau of Senior Services existing under
72 the provisions of article five-p, chapter sixteen of this code.

73 (4) The tax imposed by this section does not apply to any active duty military personnel
74 stationed outside of West Virginia who acquires a motor vehicle by sale within nine months from
75 the date the person returns to this state.

76 (5) The tax imposed by this section does not apply to motor vehicles acquired by registered
77 dealers of this state for resale only.

78 (6) The tax imposed by this section does not apply to motor vehicles acquired by this state
79 or any political subdivision thereof or by any volunteer fire department or duly chartered rescue
80 or ambulance squad organized and incorporated under the laws of this state as a nonprofit
81 corporation for protection of life or property.

82 (7) The tax imposed by this section does not apply to motor vehicles acquired by an urban
83 mass transit authority, as defined in article twenty-seven, chapter eight of this code, or a nonprofit
84 entity exempt from federal and state income tax under the Internal Revenue Code for the purpose
85 of providing mass transportation to the public at large or designed for the transportation of persons
86 and being operated for the transportation of persons in the public interest.

87 (8) The tax imposed by this section does not apply to the registration of a vehicle owned
88 and titled in the name of a resident of this state if the applicant:

89 (A) Was not a resident of this state at the time the applicant purchased or otherwise
90 acquired ownership of the vehicle;

91 (B) Presents evidence as the Commissioner of the Division of Motor Vehicles may require
92 of having titled the vehicle in the applicant's previous state of residence;

93 (C) Has relocated to this state and can present such evidence as the Commissioner of the
94 Division of Motor Vehicles may require to show bona fide residency in this state; and

95 (D) Makes application to the Division of Motor Vehicles for a title and registration and pays
96 all other fees required by chapter seventeen-a of this code within thirty days of establishing
97 residency in this state as prescribed in subsection (a), section one-a of this article.

98 (9) On and after January 1, 2009, the tax imposed by this section does not apply to Class
99 B trucks, truck tractors and road tractors registered at a gross weight of fifty-five thousand pounds

100 or more or to Class C trailers, semitrailers, full trailers, pole trailers and converter gear having a
101 weight of two thousand pounds or greater. If an owner of a vehicle has previously titled the vehicle
102 at a declared gross weight of fifty-five thousand pounds or more and the title was issued without
103 the payment of the tax imposed by this section, then before the owner may obtain registration for
104 the vehicle at a gross weight less than fifty-five thousand pounds, the owner shall surrender to
105 the commissioner the exempted registration, the exempted certificate of title and pay the tax
106 imposed by this section based upon the current market value of the vehicle.

107 (10) The tax imposed by this section does not apply to vehicles leased by residents of
108 West Virginia. On or after January 1, 2009, a tax is imposed upon the monthly payments for the
109 lease of any motor vehicle leased under a written contract of lease by a resident of West Virginia
110 for a contractually specified continuous period of more than thirty days, which tax is equal to five
111 percent of the amount of the monthly payment, applied to each payment, and continuing for the
112 entire term of the initial lease period. The tax shall be remitted to the Division of Motor Vehicles
113 on a monthly basis by the lessor of the vehicle. Leases of thirty days or less are taxable under
114 the provisions of this article and article fifteen-a of this chapter without reference to this section.

115 (g) *Division of Motor Vehicles to collect.* — Notwithstanding any provision of this article,
116 article fifteen-a and article ten of this chapter to the contrary, the Division of Motor Vehicles shall
117 collect the tax imposed by this section: *Provided*, That such tax is imposed upon the monthly
118 payments for the lease of any motor vehicle leased by a resident of West Virginia, which tax is
119 equal to five percent of the amount of the monthly payment, applied to each payment, and
120 continuing for the entire term of the initial lease period. The tax shall be remitted to the Division
121 of Motor Vehicles on a monthly basis by the lessor of the vehicle.

122 (h) *Dedication of tax to highways.* — Notwithstanding any provision of this article or article
123 fifteen-a of this chapter to the contrary, all taxes collected pursuant to this section, after deducting
124 the amount of any refunds lawfully paid, shall be deposited in the State Road Fund in the State
125 Treasury and expended by the Commissioner of Highways for design, maintenance and
126 construction of roads in the state highway system.

127 (i) *Legislative rules; emergency rules.* — Notwithstanding any provision of this article,
128 article fifteen-a and article ten of this chapter to the contrary, the Commissioner of the Division of
129 Motor Vehicles shall promulgate legislative rules explaining and implementing this section, which
130 rules shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-
131 a of this code and should include a minimum taxable value and set forth instances when a vehicle
132 is to be taxed at fair market value rather than its purchase price. The authority to promulgate rules
133 includes authority to amend or repeal those rules. If proposed legislative rules for this section are
134 filed in the State Register before June 15, 2008, those rules may be promulgated as emergency
135 legislative rules as provided in article three, chapter twenty-nine-a of this code.

136 (j) Notwithstanding any other provision of this code, effective January 1, 2009, no
137 municipal sales or use tax or local sales or use tax or special downtown redevelopment district
138 excise tax or special district excise tax shall be imposed under article twenty-two, chapter seven
139 of this code or article thirteen, chapter eight of this code or article thirteen-b of said chapter or
140 article thirty-eight of said chapter or any other provision of this code, except this section, on sales
141 of motor vehicles as defined in this article or on any tangible personal property excepted or
142 exempted from tax under this section. Nothing in this subsection shall be construed to prevent
143 the application of the municipal business and occupation tax on motor vehicle retailers and leasing
144 companies.

§11-15-18b. Tax on motor fuel.

1 (a) *General.* — All sales of motor fuel and alternative fuel subject to the flat rate of the tax
2 imposed by section five, article fourteen-c of this chapter, are subject to the tax imposed by this
3 article and comprises the variable component of the tax imposed by section five, article fourteen-
4 c of this chapter and is collected and remitted at the time the tax imposed by said section is
5 remitted. Sales of motor fuel and alternative fuel upon which the tax imposed by this article has
6 been paid is not again taxed under the provisions of this article. This section means that all gallons
7 of motor fuel and equivalent gallons of alternative fuel sold and delivered or delivered in this state
8 are taxed one time.

9 (b) *Measure of tax.* — The measure of tax imposed by this article is as follows:

10 (1) On sales of motor fuel, the average wholesale price as defined and determined in
11 section five, article fourteen-c of this chapter. For purposes of maintaining revenue for highways,
12 and recognizing that the tax imposed by this article is generally imposed on gross proceeds from
13 sales to ultimate consumers, whereas the tax on motor fuel herein is imposed on the average
14 wholesale price of the motor fuel; in no case, for the purposes of taxation under this article, may
15 the average wholesale price be determined to be less than 97 cents per gallon of motor fuel for
16 all gallons of motor fuel sold during the reporting period, notwithstanding any provision of this
17 article to the contrary. On and after January 1, 2010, for the purpose of taxation under this article,
18 in no case may the average wholesale price be determined to be less than \$2.34 per gallon of
19 motor fuel for all gallons of motor fuel sold during the reporting period notwithstanding any
20 provision of this article to the contrary: *Provided*, That on and after July 1, 2017, in no case may
21 the average wholesale price be determined to be less than \$3.04 per gallon of motor fuel for all
22 gallons of motor fuel sold during the reporting period notwithstanding any provision of this article
23 to the contrary and on and after July 1, 2017, the tax per gallon may not be less than 15.2 cents
24 per gallon of motor fuel. Any limitation on the average wholesale price of motor fuel contained in
25 this subsection shall not be applicable to alternative fuel.

26 (2) On sales of alternative fuel, the average wholesale price as defined and determined in
27 section five, article fourteen-c of this chapter.

28 (c) *Definitions.* — For purposes of this article, the terms “gasoline” and “special fuel” and
29 “alternative fuel” are defined as provided in section two, article fourteen-c of this chapter. Other
30 terms used in this section have the same meaning as when used in a similar context in said article.

31 (d) *Tax return and tax due.* —

32 (1) The tax imposed by this article on sales of motor fuel shall be paid by each taxpayer
33 on or before the last day of the calendar month by check, bank draft, certified check or money
34 order payable to the Tax Commissioner for the amount of tax due for the preceding month

35 notwithstanding any provision of this article to the contrary. The commissioner may require all or
36 certain taxpayers to file tax returns and payments electronically. The return required by the
37 commissioner shall accompany the payment of tax. If no tax is due, the return required by the
38 commissioner shall be completed and filed on or before the last day of the month.

39 (2) The tax due under this article comprising the variable component of the tax due under
40 article fourteen-c of this chapter on alternative fuel, is due and shall be collected and remitted at
41 the time the tax imposed by section five, article fourteen-c of this chapter is due, collected and
42 remitted.

43 (e) *Compliance.* — To facilitate ease of administration and compliance by taxpayers, the
44 Tax Commissioner shall require persons liable for the tax imposed by this article on sales of motor
45 fuel to file a combined return and make a combined payment of the tax due under this article on
46 sales of motor fuel and the tax due under article fourteen-c of this chapter on motor fuel. In order
47 to encourage use of a combined return each month and the making of a single payment each
48 month for both taxes, the due date of the return and tax due under article fourteen-c of this chapter
49 is the last day of each month notwithstanding any provision in said article to the contrary. The Tax
50 Commissioner may prescribe reporting and payment requirements for tax due under this article
51 on alternative fuel which accommodate the due dates and requirements prescribed in this article
52 and article fourteen-c of this chapter, either under a separate return and payment or a combined
53 return and payment, within the discretion of the Tax Commissioner.

54 (f) *Dedication of tax.* — All tax collected under the provisions of this section, after deducting
55 the amount of refunds lawfully paid, shall be deposited in the road fund in the State Treasurer's
56 office and used only for the purpose of construction, reconstruction, maintenance and repair of
57 highways and payment of principal and interest on state bonds issued for highway purposes.
58 Notwithstanding any provision to the contrary, tax collected on the sale of aviation fuel after
59 deducting the amount of refunds lawfully paid shall be deposited in the State Treasurer's office
60 and transferred to the state Aeronautical Commission to be used for the purpose of matching

61 federal funds available for the reconstruction, maintenance and repair of public airports and airport
62 runways.

63 (g) *Construction.* — This section does not tax a sale of motor fuel which this state is
64 prohibited from taxing under the Constitution of this state or the Constitution or laws of the United
65 States.

66 (h) *Effective date.* — The provisions of this section take effect on January 1, 2004. The
67 provisions of this section enacted during the 2007 legislative session take effect on January 1,
68 2008. The provisions of this section enacted during the 2013 regular legislative session take effect
69 on January 1, 2014. The amendments of this section enacted during the first extraordinary
70 session of 2017 take effect on July 1, 2017.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE AND ANTI-THEFT 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 commissioner are, for the
2 purpose of administering the motor vehicle laws, authorized to administer oaths and acknowledge
3 signatures, and shall do so without fee.

4 (b) The commissioner and such officers of the division as he or she may designate are
5 hereby authorized to prepare under the seal of the division and deliver upon request in
6 conformance with article two-a of this chapter a certified copy of any record of the division,
7 charging a fee of \$1.50 for each document so authenticated, and every such certified copy is
8 admissible in any proceeding in any court in like manner as the original thereof. The Division of
9 Motor Vehicles may adjust this fee every five years on September 1, based on the U. S.
10 Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided,*
11 That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

12 (c) Subject to the provisions of article two-a of this chapter, the commissioner and such
13 officers of the division as he or she may designate may furnish the requested information to any
14 person making a written request for information regarding the registration of any vehicle at a fee
15 of \$1.50 for each registration about which information is furnished. The Division of Motor Vehicles
16 may adjust this fee every five years on September 1, based on the U. S. Department of Labor,
17 Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in
18 such fee may not exceed ten percent of the total fee amount in a single year.

19 (d) The provisions of this section enacted in 2017 take effect on July 1, 2017.

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE 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 consumers sales and service
tax provisions; exceptions.**

1 (a) Certificates of registration of any vehicle or registration plates for the vehicle, whether
2 original issues or duplicates, may not be issued or furnished by the Division of Motor Vehicles or
3 any other officer or agent charged with the duty, unless the applicant already has received, or at
4 the same time makes application for and is granted, an official certificate of title of the vehicle in
5 either an electronic or paper format. The application shall be upon a blank form to be furnished
6 by the Division of Motor Vehicles and shall contain a full description of the vehicle, which
7 description shall contain a manufacturer's serial or identification number or other number as
8 determined by the commissioner and any distinguishing marks, together with a statement of the
9 applicant's title and of any liens or encumbrances upon the vehicle, the names and addresses of
10 the holders of the liens and any other information as the Division of Motor Vehicles may require.
11 The application shall be signed and sworn to by the applicant. A duly certified copy of the division's
12 electronic record of a certificate of title is admissible in any civil, criminal or administrative
13 proceeding in this state as evidence of ownership.

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

17 (1) If the vehicle is new, the actual purchase price or consideration to the purchaser of the
18 vehicle is the value of the vehicle. If the vehicle is a used or secondhand vehicle, the present
19 market value at time of transfer or purchase is the value of the vehicle for the purposes of this
20 section: *Provided*, That so much of the purchase price or consideration as is represented by the
21 exchange of other vehicles on which the tax imposed by this section has been paid by the
22 purchaser shall be deducted from the total actual price or consideration paid for the vehicle,
23 whether the vehicle be new or secondhand. If the vehicle is acquired through gift or by any manner
24 whatsoever, unless specifically exempted in this section, the present market value of the vehicle
25 at the time of the gift or transfer is the value of the vehicle for the purposes of this section.

26 (2) No certificate of title for any vehicle may be issued to any applicant unless the applicant
27 has paid to the Division of Motor Vehicles the tax imposed by this section which is five percent of
28 the true and actual value of the vehicle whether the vehicle is acquired through purchase, by gift
29 or by any other manner whatsoever, except gifts between husband and wife or between parents
30 and children: *Provided*, That the husband or wife, or the parents or children, previously have paid
31 the tax on the vehicles transferred to the State of West Virginia.

32 (3) The Division of Motor Vehicles may issue a certificate of registration and title to an
33 applicant if the applicant provides sufficient proof to the Division of Motor Vehicles that the
34 applicant has paid the taxes and fees required by this section to a motor vehicle dealership that
35 has gone out of business or has filed bankruptcy proceedings in the United States bankruptcy
36 court and the taxes and fees so required to be paid by the applicant have not been sent to the
37 division by the motor vehicle dealership or have been impounded due to the bankruptcy
38 proceedings: *Provided*, That the applicant makes an affidavit of the same and assigns all rights
39 to claims for money the applicant may have against the motor vehicle dealership to the Division
40 of Motor Vehicles.

41 (4) The Division of Motor Vehicles shall issue a certificate of registration and title to an
42 applicant without payment of the tax imposed by this section if the applicant is a corporation,
43 partnership or limited liability company transferring the vehicle to another corporation, partnership
44 or limited liability company when the entities involved in the transfer are members of the same
45 controlled group and the transferring entity has previously paid the tax on the vehicle transferred.
46 For the purposes of this section, control means ownership, directly or indirectly, of stock or equity
47 interests possessing fifty percent or more of the total combined voting power of all classes of the
48 stock of a corporation or equity interests of a partnership or limited liability company entitled to
49 vote or ownership, directly or indirectly, of stock or equity interests possessing fifty percent or
50 more of the value of the corporation, partnership or limited liability company.

51 (5) The tax imposed by this section does not apply to vehicles to be registered as Class
52 H vehicles or Class M vehicles, as defined in section one, article ten of this chapter, which are
53 used or to be used in interstate commerce. Nor does the tax imposed by this section apply to the
54 titling of Class B vehicles registered at a gross weight of fifty-five thousand pounds or more, or to
55 the titling of Class C semitrailers, full trailers, pole trailers and converter gear: *Provided*, That if an
56 owner of a vehicle has previously titled the vehicle at a declared gross weight of fifty-five thousand
57 pounds or more and the title was issued without the payment of the tax imposed by this section,
58 then before the owner may obtain registration for the vehicle at a gross weight less than fifty-five
59 thousand pounds, the owner shall surrender to the commissioner the exempted registration, the
60 exempted certificate of title and pay the tax imposed by this section based upon the current market
61 value of the vehicle: *Provided, however*, That notwithstanding the provisions of section nine,
62 article fifteen, chapter eleven of this code, the exemption from tax under this section for Class B
63 vehicles in excess of fifty-five thousand pounds and Class C semitrailers, full trailers, pole trailers
64 and converter gear does not subject the sale or purchase of the vehicles to the consumers sales
65 and service tax.

66 (6) The tax imposed by this section does not apply to titling of vehicles leased by residents
67 of West Virginia. A tax is imposed upon the monthly payments for the lease of any motor vehicle
68 leased by a resident of West Virginia, which tax is equal to five percent of the amount of the
69 monthly payment, applied to each payment, and continuing for the entire term of the initial lease
70 period. The tax shall be remitted to the Division of Motor Vehicles on a monthly basis by the lessor
71 of the vehicle.

72 (7) The tax imposed by this section does not apply to titling of vehicles by a registered
73 dealer of this state for resale only, nor does the tax imposed by this section apply to titling of
74 vehicles by this state or any political subdivision thereof, or by any volunteer fire department or
75 duly chartered rescue or ambulance squad organized and incorporated under the laws of this
76 state as a nonprofit corporation for protection of life or property. The total amount of revenue
77 collected by reason of this tax shall be paid into the State Road Fund and expended by the
78 Commissioner of Highways for matching federal funds allocated for West Virginia. In addition to
79 the tax, there is a charge of \$10 for each original certificate of title or duplicate certificate of title
80 so issued: *Provided*, That this state or any political subdivision of this state or any volunteer fire
81 department or duly chartered rescue squad is exempt from payment of the charge. The Division
82 of Motor Vehicles may adjust the fee for each original certificate or duplicate certificate of title
83 every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor
84 Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not
85 exceed ten percent of the total fee amount in a single year.

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

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

92 (10) A person who has paid the tax imposed by this section is not required to pay the tax
93 a second time for the same motor vehicle, but is required to pay a charge of \$10 for the certificate
94 of retitle of that motor vehicle, except that the tax shall be paid by the person when the title to the
95 vehicle has been transferred either in this or another state from the person to another person and
96 transferred back to the person. The Division of Motor Vehicles may adjust the fee for each original
97 certificate of title every five years on September 1, based on the U. S. Department of Labor,
98 Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in
99 such fee may not exceed ten percent of the total fee amount in a single year.

100 (11) The tax imposed by this section does not apply to any passenger vehicle offered for
101 rent in the normal course of business by a daily passenger rental car business as licensed under
102 the provisions of article six-d of this chapter. For purposes of this section, a daily passenger car
103 means a Class A motor vehicle having a gross weight of eight thousand pounds or less and is
104 registered in this state or any other state. In lieu of the tax imposed by this section, there is hereby
105 imposed a tax of not less than \$1 nor more than \$1.50 for each day or part of the rental period.
106 The commissioner shall propose an emergency rule in accordance with the provisions of article
107 three, chapter twenty-nine-a of this code to establish this tax.

108 (12) The tax imposed by this article does not apply to the titling of any vehicle purchased
109 by a senior citizen service organization which is exempt from the payment of income taxes under
110 the United States Internal Revenue Code, Title 26 U. S. C. §501(c)(3) and which is recognized to
111 be a bona fide senior citizen service organization by the Bureau of Senior Services existing under
112 the provisions of article five-p, chapter sixteen of this code.

113 (13) The tax imposed by this section does not apply to the titling of any vehicle operated
114 by an urban mass transit authority as defined in article twenty-seven, chapter eight of this code
115 or a nonprofit entity exempt from federal and state income tax under the Internal Revenue Code
116 and whose purpose is to provide mass transportation to the public at large designed for the

117 transportation of persons and being operated for the transportation of persons in the public
118 interest.

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

121 (A) Was not a resident of this state at the time the applicant purchased or otherwise
122 acquired ownership of the vehicle;

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

125 (C) Has relocated to this state and can present such evidence as the commissioner may
126 require to show bona-fide residency in this state;

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

130 (E) Makes application to the division for a title and registration, and pays all other fees
131 required by this chapter within thirty days of establishing residency in this state as prescribed in
132 subsection (a), section one-a of this article: *Provided*, That a period of amnesty of three months
133 be established by the commissioner during the calendar year 2007, during which time any
134 resident of this state, having titled his or her vehicle in a previous state of residence, may pay
135 without penalty any fees required by this chapter and transfer the title of his or her vehicle in
136 accordance with the provisions of this section.

137 (c) Notwithstanding any provisions of this code to the contrary, the owners of trailers,
138 semitrailers, recreational vehicles and other vehicles not subject to the certificate of title tax prior
139 to the enactment of this chapter are subject to the privilege tax imposed by this section: *Provided*,
140 That the certification of title of any recreational vehicle owned by the applicant on June 30, 1989,
141 is not subject to the tax imposed by this section: *Provided, however*, That mobile homes,
142 manufactured homes, modular homes and similar nonmotive propelled vehicles, except

143 recreational vehicles and house trailers, susceptible of being moved upon the highways but
144 primarily designed for habitation and occupancy, rather than for transporting persons or property,
145 or any vehicle operated on a nonprofit basis and used exclusively for the transportation of
146 intellectually disabled or physically disabled children when the application for certificate of
147 registration for the vehicle is accompanied by an affidavit stating that the vehicle will be operated
148 on a nonprofit basis and used exclusively for the transportation of intellectually disabled and
149 physically disabled children, are not subject to the tax imposed by this section, but are taxable
150 under the provisions of articles fifteen and fifteen-a, chapter eleven of this code.

151 (d) Beginning on July 1, 2008, the tax imposed under this subsection (b) of this section is
152 abolished and after that date no certificate of title for any motor vehicle may be issued to any
153 applicant unless the applicant provides sufficient proof to the Division of Motor Vehicles that the
154 applicant has paid the fees required by this article and the tax imposed under section three-c,
155 article fifteen, chapter eleven of this code.

156 (e) Any person making any affidavit required under any provision of this section who
157 knowingly swears falsely, or any person who counsels, advises, aids or abets another in the
158 commission of false swearing, or any person, while acting as an agent of the Division of Motor
159 Vehicles, issues a vehicle registration without first collecting the fees and taxes or fails to perform
160 any other duty required by this chapter or chapter eleven of this code to be performed before a
161 vehicle registration is issued is, on the first offense, guilty of a misdemeanor and, upon conviction
162 thereof, shall be fined not more than \$500 or be confined in jail for a period not to exceed six
163 months or, in the discretion of the court, both fined and confined. For a second or any subsequent
164 conviction within five years, that person is guilty of a felony and, upon conviction thereof, shall be
165 fined not more than \$5,000 or be imprisoned in a state correctional facility for not less than one
166 year nor more than five years or, in the discretion of the court, both fined and imprisoned.

167 (f) Notwithstanding any other provisions of this section, any person in the military stationed
168 outside West Virginia or his or her dependents who possess a motor vehicle with valid registration

169 are exempt from the provisions of this article for a period of nine months from the date the person
170 returns to this state or the date his or her dependent returns to this state, whichever is later.

171 (g) No person may transfer, purchase or sell a factory-built home without a certificate of
172 title issued by the commissioner in accordance with the provisions of this article:

173 (1) Any person who fails to provide a certificate of title upon the transfer, purchase or sale
174 of a factory-built home is guilty of a misdemeanor and, upon conviction thereof, shall for the first
175 offense be fined not less than \$100 nor more than \$1,000, or be confined in jail for not more than
176 one year, or both fined and confined. For each subsequent offense, the fine may be increased to
177 not more than \$2,000, with confinement in jail not more than one year, or both fined and confined.

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

181 (3) This subsection does not apply to a mobile or manufactured home for which a
182 certificate of title has been canceled pursuant to section twelve-b of this article.

183 (h) Notwithstanding any other provision to the contrary, whenever reference is made to
184 the application for or issuance of any title or the recordation or release of any lien, it includes the
185 application, transmission, recordation, transfer of ownership and storage of information in an
186 electronic format.

187 (i) Notwithstanding any other provision contained in this section, nothing herein shall be
188 considered to include modular homes as defined in subsection (i), section two, article fifteen,
189 chapter thirty-seven of this code and built to the state building code as established by legislative
190 rules promulgated by the State Fire Commission pursuant to section five-b, article three, chapter
191 twenty-nine of this code.

192 (j) The provisions of this section enacted in 2017 take effect on July 1, 2017.

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 assigns his or her title, or interest
2 thereto, the registration of such vehicle shall expire: *Provided*, That such owner, if he or she has
3 made application to the department within sixty days from the date of purchase to have said
4 registration plates transferred to be used on another vehicle owned by said owner, may then
5 operate the other vehicle for a period of sixty days, but in no event longer than sixty days from
6 the date of original transfer. Upon such transfer, it shall be the duty of the original owner to retain
7 the registration plates issued therefor and to immediately notify the commissioner of such transfer
8 upon such form as may be provided therefor and to deliver to him or her the certificate of
9 registration, whereupon the commissioner shall, upon the payment of a fee of \$10, issue a new
10 certificate showing the use to be made of such plates. The Division of Motor Vehicles may adjust
11 the fee for each new certificate every five years on September 1, based on the U. S. Department
12 of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an
13 increase in such fee may not exceed ten percent of the total fee amount in a single year. Such
14 plates may then be used by such owner on another vehicle of the same class as the vehicle for
15 which they were originally issued if such other vehicle does not require a greater license fee than
16 was required for such original vehicle. If such other vehicle requires a greater license fee than
17 such original vehicle, then such plates may be used by paying such difference to the
18 commissioner. When such transfer of ownership is made to a licensed dealer in motor vehicles it
19 shall be the duty of such dealer to immediately execute notification of transfer, in triplicate, and to
20 have this notification properly signed by the owner making the transfer. The dealer shall
21 immediately forward to the department the original copy of the notification of transfer. One copy
22 of the notification of transfer shall be given to the owner and one shall be retained by the dealer.
23 The owner shall immediately send to the department the transfer fee of \$10 with any additional

24 fee that may be required under the terms of this chapter. The owner's copy, properly signed by
25 the dealer, will be the owner's identification until he or she receives a new registration card from
26 the department.

27 The owner of a set of registration plates may surrender them to the commissioner together
28 with the registration card and, upon the payment of \$10 as an exchange fee and upon the payment
29 of such additional fees as are necessary to equalize the value of the plates surrendered with the
30 value of registration plates desired, receive in exchange a set of plates and registration card for
31 a vehicle of a different 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 loss or otherwise designated
2 as totaled by an insurance company or insurer, and upon payment of a total loss claim to an
3 insured or claimant owner for the purchase of the vehicle, the insurance company or the insurer,
4 as a condition of the payment, shall require the owner to surrender the certificate of title: *Provided,*
5 That an insured or claimant owner may choose to retain physical possession and ownership of a
6 total loss vehicle. If the vehicle owner chooses to retain the vehicle and the vehicle has not been
7 determined to be a cosmetic total loss in accordance with subsection (d) of this section, the
8 insurance company or insurer shall also require the owner to surrender the vehicle registration
9 certificate. The term "total loss" means a motor vehicle which has sustained damages equivalent
10 to seventy-five percent or more of the market value as determined by a nationally accepted used
11 car value guide or meets the definition of a flood-damaged vehicle as defined in this section.

12 (b) The insurance company or insurer shall, prior to the payment of the total loss claim,
13 determine if the vehicle is repairable, cosmetically damaged or nonrepairable. Except as provided
14 in subsection (p) of this section, within ten days of payment of the total loss claim, the insurance
15 company or insurer shall surrender the certificate of title, a copy of the claim settlement, a
16 completed application on a form prescribed by the commissioner and the registration certificate if
17 the owner has chosen to keep the vehicle to the Division of Motor Vehicles.

18 (c) If the insurance company or insurer determines that the vehicle is repairable, the
19 division shall issue a salvage certificate, on a form prescribed by the commissioner, in the name
20 of the insurance company, the insurer or the vehicle owner if the owner has chosen to retain the
21 vehicle. The certificate shall contain, on the reverse, spaces for one successive assignment
22 before a new certificate at an additional fee is required. Upon the sale of the vehicle, the insurance
23 company, insurer or vehicle owner if the owner has chosen to retain the vehicle, shall complete
24 the assignment of ownership on the salvage certificate and deliver it to the purchaser. The vehicle
25 may not be titled or registered for operation on the streets or highways of this state unless there
26 is compliance with subsection (h) of this section. The division shall charge a fee of \$22.50 for
27 each salvage title issued. The Division of Motor Vehicles may adjust the fee for each salvage title
28 every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor
29 Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not
30 exceed ten percent of the total fee amount in a single year.

31 (d) If the insurance company or insurer determines the damage to a totaled vehicle is
32 exclusively cosmetic and no repair is necessary in order to legally and safely operate the motor
33 vehicle on the roads and highways of this state, the insurance company or insurer shall, upon
34 payment of the claim, submit the certificate of title to the division. Neither the insurance company
35 nor the division may require the vehicle owner to surrender the registration certificate in the event
36 of a cosmetic total loss settlement.

37 (1) The division shall, without further inspection, issue a title branded "cosmetic total loss"
38 to the insured or claimant owner if the insured or claimant owner wishes to retain possession of
39 the vehicle, in lieu of a salvage certificate. The division shall charge a fee of \$22.50 for each
40 cosmetic total loss title issued. The terms "cosmetically damaged" and "cosmetic total loss" do
41 not include any vehicle which has been damaged by flood or fire. The designation "cosmetic total
42 loss" on a title may not be removed. The Division of Motor Vehicles may adjust the fee for each
43 cosmetic total loss title every five years on September 1, based on the U. S. Department of Labor,

44 Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in
45 such fee may not exceed ten percent of the total fee amount in a single year.

46 (2) If the insured or claimant owner elects not to take possession of the vehicle and the
47 insurance company or insurer retains possession, the division shall issue a cosmetic total loss
48 salvage certificate to the insurance company or insurer. The division shall charge a fee of \$22.50
49 for each cosmetic total loss salvage certificate issued. The Division of Motor Vehicles may adjust
50 the fee for each cosmetic total loss salvage certificate every five years on September 1, based on
51 the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index:
52 *Provided*, That an increase in such fee may not exceed ten percent of the total fee amount in a
53 single year. The division shall, upon surrender of the cosmetic total loss salvage certificate issued
54 under the provisions of this paragraph and payment of the five percent motor vehicle sales tax on
55 the fair market value of the vehicle as determined by the commissioner, issue a title branded
56 "cosmetic total loss" without further inspection.

57 (e) If the insurance company or insurer determines that the damage to a totaled vehicle
58 renders it nonrepairable, incapable of safe operation for use on roads and highways and as having
59 no resale value except as a source of parts or scrap, the insurance company or vehicle owner
60 shall, in the manner prescribed by the commissioner, request that the division issue a
61 nonrepairable motor vehicle certificate in lieu of a salvage certificate. The division shall issue a
62 nonrepairable motor vehicle certificate without charge.

63 (f) Any owner who scraps, compresses, dismantles or destroys a vehicle without further
64 transfer or sale for which a certificate of title, nonrepairable motor vehicle certificate or salvage
65 certificate has been issued shall, within forty-five days, surrender the certificate of title,
66 nonrepairable motor vehicle certificate or salvage certificate to the division for cancellation.

67 (g) Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled,
68 compressed or destroyed, shall, within forty-five days, surrender to the division the certificate of
69 title, nonrepairable motor vehicle certificate, salvage certificate or a statement of cancellation

70 signed by the seller, on a form prescribed by the commissioner. Subsequent purchasers of
71 salvage or scrap are not required to comply with the notification requirement.

72 (h) If the motor vehicle is a "reconstructed vehicle" as defined in this section or section
73 one, article one of this chapter, it may not be titled or registered for operation until it has been
74 inspected by an official state inspection station and by the Division of Motor Vehicles. Following
75 an approved inspection, an application for a new certificate of title may be submitted to the
76 division. The applicant is required to retain all receipts for component parts, equipment and
77 materials used in the reconstruction. The salvage certificate shall also be surrendered to the
78 division before a certificate of title may be issued with the appropriate brand.

79 (i) The owner or title holder of a motor vehicle titled in this state which has previously been
80 branded in this state or another state as salvage, reconstructed, cosmetic total loss, cosmetic
81 total loss salvage, flood, fire, an equivalent term under another state's laws or a term consistent
82 with the intent of the National Motor Vehicle Title Information System established pursuant to
83 49 U. S. C. §30502 shall, upon becoming aware of the brand, apply for and receive a title from
84 the Division of Motor Vehicles on which the brand "reconstructed", "salvage", "cosmetic total loss",
85 "cosmetic total loss salvage", "flood", "fire" or other brand is shown. The division shall charge a
86 fee of \$10 for each title so issued. The Division of Motor Vehicles may adjust the fee for each
87 reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or other brand
88 title issued every five years on September 1, based on the U. S. Department of Labor, Bureau of
89 Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may
90 not exceed ten percent of the total fee amount in a single year.

91 (j) If application is made for title to a motor vehicle, the title to which has previously been
92 branded reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or
93 other brand by the Division of Motor Vehicles under this section and said application is
94 accompanied by a title from another state which does not carry the brand, the division shall, before
95 issuing the title, affix the brand "reconstructed", "cosmetic total loss", "cosmetic total loss salvage",

96 “flood”, “fire” or other brand to the title. The motor vehicle sales tax paid on a motor vehicle titled
97 as reconstructed, cosmetic total loss, flood, fire or other brand under the provisions of this section
98 shall be based on fifty percent of the fair market value of the vehicle as determined by a nationally
99 accepted used car value guide to be used by the commissioner.

100 (k) The division shall charge a fee of \$22.50 for the issuance of each salvage certificate
101 or cosmetic total loss salvage certificate but shall not require the payment of the five percent motor
102 vehicle sales tax. The Division of Motor Vehicles may adjust the fee for each salvage certificate
103 or cosmetic total loss salvage certificate every five years on September 1, based on the U. S.
104 Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided,*
105 That an increase in such fee may not exceed ten percent of the total fee amount in a single year.
106 However, upon application for a certificate of title for a reconstructed, cosmetic total loss, flood or
107 fire damaged vehicle or other brand, the division shall collect the five percent privilege tax on the
108 fair market value of the vehicle as determined by the commissioner unless the applicant is
109 otherwise exempt from the payment of such privilege tax. A wrecker/dismantler/rebuilder, licensed
110 by the division, is exempt from the payment of the five percent privilege tax upon titling a
111 reconstructed vehicle. The division shall collect a fee of \$35 per vehicle for inspections of
112 reconstructed vehicles. These fees shall be deposited in a special fund created in the State
113 Treasurer’s office and may be expended by the division to carry out the provisions of this article:
114 *Provided,* That on and after July 1, 2007, any balance in the special fund and all fees collected
115 pursuant to this section shall be deposited in the State Road Fund. Licensed
116 wreckers/dismantlers/rebuilders may charge a fee not to exceed \$25 for all vehicles owned by
117 private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

118 (l) As used in this section:

119 (1) “Reconstructed vehicle” means the vehicle was totaled under the provisions of this
120 section or by the provisions of another state or jurisdiction and has been rebuilt in accordance

121 with the provisions of this section or in accordance with the provisions of another state or
122 jurisdiction or meets the provisions of subsection (n), section one, article one of this chapter.

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

125 (3) "Other brand" means a brand consistent with the intent of the National Motor Vehicle
126 Title Information System established pursuant to 49 U. S. C. §30502 and rules promulgated by
127 the United States Department of Justice to alert consumers, motor vehicle dealers or the
128 insurance industry of the history of a vehicle.

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

131 (n) A certificate of title issued by the division for a reconstructed vehicle shall contain
132 markings in bold print on the face of the title that it is for a reconstructed, flood- or fire- damaged
133 vehicle.

134 (o) Any person who knowingly provides false or fraudulent information to the division that
135 is required by this section in an application for a title, a cosmetic total loss title, a reconstructed
136 vehicle title or a salvage certificate or who knowingly fails to disclose to the division information
137 required by this section to be included in the application or who otherwise violates the provisions
138 of this section is guilty of a misdemeanor and, upon conviction thereof, shall for each incident be
139 fined not less than \$1,000 nor more than \$2,500, or imprisoned in jail for not more than one year,
140 or both fined and imprisoned.

141 (p) Notwithstanding any other provision of law and with respect to a vehicle which the
142 vehicle owner has not chosen to retain, if an insurance company or insurer is unable to obtain the
143 properly endorsed certificate of title for a motor vehicle within thirty days of the payment of a total
144 loss claim, the insurance company or insurer, at any time thereafter, may apply to the Division of
145 Motor Vehicles for a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable
146 motor vehicle certificate as applicable. The application shall be accompanied by evidence that

147 the insurance company or insurer has paid a total loss claim on the vehicle, a copy of a written
148 request for the certificate of title sent to the vehicle owner and any known lienholder by the
149 insurance company or insurer or a designee of the insurance company or insurer, proof that the
150 request was sent by certified mail, return receipt requested, to the last known address of the
151 vehicle owner and any known lienholder, service to be complete upon the mailing thereof, and
152 the required fee, if applicable. Upon receipt of a properly completed application, the division shall
153 issue a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable motor
154 vehicle certificate, as applicable, in the name of the insurance company or insurer. Such salvage
155 certificate, cosmetic total loss salvage certificate or nonrepairable motor vehicle certificate shall
156 be issued free and clear of all liens and claims of ownership.

157 (q) If an insurance company or insurer requests that an automobile auction take
158 possession of a motor vehicle that is the subject of an insurance claim, and subsequently the
159 insurance company denies coverage with respect to the motor vehicle or otherwise does not take
160 ownership of the motor vehicle, the automobile auction may proceed as follows. At any time after
161 the automobile auction has had possession of the motor vehicle for forty-five days, it may apply
162 to the division for a salvage certificate or a nonrepairable motor vehicle certificate without
163 surrendering the certificate of title for the motor vehicle. The application shall be accompanied
164 by a copy of a written request, on the automobile auction's letterhead, requesting that, upon
165 payment of applicable charges, the vehicle be removed from the automobile auction's facility,
166 proof that the request was delivered by a nationally-recognized courier service or by certified mail
167 to the vehicle owner and any known lienholder at least fifteen days before the date of the
168 application, and the required fee, if applicable. Upon receipt of a properly completed application,
169 the division shall issue a salvage certificate or a nonrepairable motor vehicle certificate, as
170 applicable, in the name of the automobile auction. Such salvage certificate or nonrepairable
171 motor vehicle certificate shall be issued free and clear of all liens and claims of ownership.

172 (r) An applicant pursuant to subsection (p) or (q) of this section shall indemnify and hold
173 harmless the Division of Motor Vehicles from any liability arising from an error or
174 misrepresentation made by such applicant in a submission to the division pursuant to subsection
175 (p) or (q) of this section.

176 (s) The provisions of this article enacted in 2017 take effect on July 1, 2017.

**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 charge a fee of \$10 for the recording
2 of any lien either in an electronic or paper format created by the voluntary act of the owner and
3 endorsing it upon the title certificate issued pursuant to this article. The Division of Motor Vehicles
4 may adjust the fee for each lien recording every five years on September 1, based on the U. S.
5 Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided,*
6 That an increase in such fee may not exceed ten percent of the total fee amount in a single year.
7 The Division of Motor Vehicles is hereby authorized to charge a fee of \$10 for recordation of any
8 release of a lien created by the voluntary act of the owner. The Division of Motor Vehicles may
9 adjust the fee for each recording of a lien release every five years on September 1, based on the
10 U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index:
11 *Provided,* That an increase in the fee may not exceed ten percent of the total fee amount in a
12 single year: *Provided, however,* That no charge shall be made for the endorsement and
13 recordation of liens or releases thereof as provided under section nine of this article. No charge
14 shall be made for the issuance of a title to the owner of a vehicle upon the receipt of an electronic
15 release of the final lien.

16 The provisions of this section enacted in 2017 take effect on July 1, 2017.

ARTICLE 7. SPECIAL STICKERS.

§17A-7-2. Operation of motor vehicles by dealers or other persons under special stickers; application and fees; expiration.

1 (a) A member of the West Virginia State Police may at any detachment office, upon
2 application therefor on a form prescribed by the commissioner, issue to a licensed dealer or any
3 other person other than those specified in section one of this article, a paper sticker or decal to
4 be affixed to the left side of the rear window of a motor vehicle or to the left rear of a vehicle which
5 is not self-propelled. Such sticker or decal shall be of a size to be designated by the commissioner
6 and shall be serially numbered and shall have provision thereon to indicate the date of issuance
7 thereof.

8 (b) A fee of \$10 per sticker shall be collected. The Division of Motor Vehicles may adjust
9 the fee for each sticker every five years on September 1, based on the U. S. Department of Labor,
10 Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in
11 such fee may not exceed ten percent of the total fee amount in a single year. The fees will be
12 dispersed as follows: Half shall be deposited in the State Road Fund and half shall be deposited
13 in the special revenue account within the Division of Highways for the maintenance of the West
14 Virginia welcome centers and rest areas along interstate highways in this state.

15 (c) Such sticker or decal shall be valid for forty-eight hours after its issuance for the
16 operation of a vehicle, whether under its own power or while being towed, one time only over the
17 streets or highways, and upon being once affixed to a vehicle shall become invalid for subsequent
18 use on that or any other vehicle.

19 (d) The provisions of this section enacted in 2017 take effect on July 1, 2017.

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 shall be paid to the division for the
2 registration of vehicles subject to registration under this chapter when equipped with pneumatic
3 tires:

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

5 (1) *Class A.* — The registration fee for motor vehicles of this class is \$50. The Division of
6 Motor Vehicles may adjust this fee every five years on September 1, based on the U. S.
7 Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided,*
8 That an increase in such fee may not exceed ten percent of the total fee amount in a single year:
9 *Provided, however,* That the registration fees and any other fees required by this chapter for Class
10 A vehicles under the optional biennial staggered registration system shall be multiplied by two
11 and paid biennially to the division.

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

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

17 (A) For declared gross weights of ten thousand one pounds to sixteen thousand pounds
18 — \$28 plus \$5 for each one thousand pounds or fraction of one thousand pounds that the gross
19 weight of the vehicle or combination of vehicles exceeds ten thousand pounds.

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

24 (C) For declared gross weights of fifty-five thousand pounds or more — \$737.50 plus
25 \$15.75 for each one thousand pounds or fraction of one thousand pounds that the gross weight
26 of the vehicle or combination of vehicles exceeds fifty-five thousand pounds.

27 (3) *Class G.* — The registration fee for each motorcycle or parking enforcement vehicle is
28 \$8: *Provided,* That the registration fee and any other fees required by this chapter for Class G

29 vehicles shall be for at least one year from the date of registration and under an optional biennial
30 registration system the annual fee shall be multiplied by two and paid biennially to the division.

31 (4) *Class H.* — The registration fee for all vehicles for this class operating entirely within
32 the state is \$5; and for vehicles engaged in interstate transportation of persons, the registration
33 fee is the amount of the fees provided by this section for Class B, reduced by the amount that the
34 mileage of the vehicles operated in states other than West Virginia bears to the total mileage
35 operated by the vehicles in all states under a formula to be established by the Division of Motor
36 Vehicles.

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

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

41 (7) *Class X.* — The registration fee for all motor vehicles of this class is as follows:

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

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

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

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

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

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

54 (G) For farm trucks of declared gross weights of fifty-four thousand one pounds to eighty
55 thousand pounds — \$250: *Provided*, That the provisions of subsection (a), section eight, article
56 one, chapter seventeen-e of this code do not apply if the vehicle exceeds sixty-four thousand
57 pounds and is a truck tractor or road tractor.

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

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

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

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

66 (d) The registration fee for all Class C vehicles is \$50. All Class C trailers shall be
67 registered for the duration of the owner's interest in the trailer and do not expire until either sold
68 or otherwise permanently removed from the service of the owner: *Provided*, That a registrant may
69 transfer a Class C registration plate from a trailer owned less than thirty days to another Class C
70 trailer titled in the name of the registrant upon payment of the transfer fee prescribed in section
71 ten of this article.

§17A-10-3c. Additional registration fees for alternative fuel vehicles.

1 (a) The annual registration fee for a vehicle fueled with hydrogen or natural gas is \$200.

2 (b) The annual registration fee for a vehicle operating on a combination of electricity and
3 petrochemical fuels is \$100.

4 (c) The annual registration fee for a vehicle operating exclusively on electricity is \$200.

5 (d) The fees imposed by this section are in addition to any other fee set forth in this article.

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

1 A fee of \$10 shall be paid for a transfer of registration by an owner from one vehicle to
2 another vehicle of the same class or for surrender of registration of one vehicle in exchange for
3 registration of a vehicle of a different class in addition to the payment of any difference in fees as
4 provided in section one, article four of this chapter. The Division of Motor Vehicles may adjust this
5 fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor
6 Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not
7 exceed ten percent of the total fee amount in a single year.

8 A fee of \$10 shall be paid for the transfer of registration from a deceased person to his or
9 her legal heir or legatee as provided in section five, article four of this chapter. The Division of
10 Motor Vehicles may adjust this fee every five years on September 1, based on the U. S.
11 Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*,
12 That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

13 A fee of \$10 shall be paid for the issuance of a certificate of title. The Division of Motor
14 Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of
15 Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase
16 in such fee may not exceed ten percent of the total fee amount in a single year.

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

1 A fee of \$10 shall be paid for the issuance of duplicate or substitute registration plates,
2 registration cards or certificates of title. The Division of Motor Vehicles may adjust this fee every
3 five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics
4 most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten
5 percent of the total fee amount in a single year. The provisions of this article enacted in 2017 take
6 effect on July 1, 2017.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

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

1 (a) (1) No person, except those hereinafter expressly exempted, may drive a motor vehicle
2 upon a street or highway in this state or upon a subdivision street used by the public generally
3 unless the person has a valid driver's license issued pursuant to this code for the type or class of
4 vehicle being driven.

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

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

14 (c) The following drivers' licenses classifications are hereby established:

15 (1) A Class A, B or C license shall be issued to those persons eighteen years of age or
16 older with two years of driving experience who have qualified for the commercial driver's license
17 established by chapter seventeen-e of this code and the federal Motor Carrier Safety and
18 Improvement Act of 1999 and subsequent rules and have paid the required fee.

19 (2) A Class D license shall be issued to those persons eighteen years and older with one
20 year of driving experience who operate motor vehicles other than those types of vehicles which
21 require the operator to be licensed under the provisions of chapter seventeen-e of this code and

22 federal law and rule and whose primary function or employment is the transportation of persons
23 or property for compensation or wages and have paid the required fee. For the purpose of
24 regulating the operation of motor vehicles, wherever the term “chauffeur’s license” is used in this
25 code, it means the Class A, B, C or D license described in this section or chapter seventeen-e of
26 this code or federal law or rule: Provided, That anyone not required to be licensed under the
27 provisions of chapter seventeen-e of this code and federal law or rule and who operates a motor
28 vehicle registered or required to be registered as a Class A motor vehicle, as that term is defined
29 in section one, article ten, chapter seventeen-a of this code, with a gross vehicle weight rating of
30 less than eight thousand one pounds, is not required to obtain a Class D license.

31 (3) A Class E license shall be issued to persons who have qualified for a driver’s license
32 under the provisions of this chapter and who are not required to obtain a Class A, B, C or D license
33 and who have paid the required fee. The Class E license may be endorsed under the provisions
34 of section seven-b of this article for motorcycle operation. The Class E or G license for a person
35 under the age of eighteen may also be endorsed with the appropriate graduated driver license
36 level in accordance with the provisions of section three-a of this article.

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

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

43 (d) All licenses issued under this section may contain information designating the licensee
44 as a diabetic, organ donor, as deaf or hard-of-hearing, as having any other handicap or disability
45 or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the
46 United States, according to criteria established by the division, if the licensee requests this
47 information on the license. An honorably discharged veteran may be issued a replacement license

48 without charge if the request is made before the expiration date of the current license and the only
49 purpose for receiving the replacement license is to get the veterans designation placed on the
50 license.

51 (e) No person, except those hereinafter expressly exempted, may drive a motorcycle on
52 a street or highway in this state or on a subdivision street used by the public generally unless the
53 person has a valid motorcycle license, a valid license which has been endorsed under section
54 seven-b of this article for motorcycle operation or a valid motorcycle instruction permit.

55 (f) (1) An identification card may be issued to a person who:

56 (A) Is a resident of this state in accordance with the provisions of section one-a, article
57 three, chapter seventeen-a of this code;

58 (B) Has reached the age of two years or, for good cause shown, under the age of two.

59 (C) Has paid the required fee of \$5 per year. The Division of Motor Vehicles may adjust
60 this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of
61 Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may
62 not exceed ten percent of the total fee amount in a single year: *Provided, however*, That no fees
63 or charges, including renewal fees, are required if the applicant:

64 (i) Is sixty-five years or older;

65 (ii) Is legally blind; or

66 (iii) Will be at least eighteen years of age at the next general, municipal or special election
67 and intends to use this identification card as a form of identification for voting; and

68 (D) Presents a birth certificate or other proof of age and identity acceptable to the division
69 with a completed application on a form furnished by the division.

70 (2) The identification card shall contain the same information as a driver's license except
71 that the identification card shall be clearly marked as an identification card. The division may
72 issue an identification card with less information to persons under the age of sixteen. An

73 identification card may be renewed annually on application and payment of the fee required by
74 this section.

75 (A) Every identification card issued to a person who has attained his or her twenty-first
76 birthday expires on the licensee's birthday in those years in which the licensee's age is evenly
77 divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card
78 may be issued for less than three years or for more than seven years and expires on the licensee's
79 birthday in those years in which the licensee's age is evenly divisible by five.

80 (B) Every identification card issued to a person who has not attained his or her twenty-first
81 birthday expires thirty days after the licensee's twenty-first birthday.

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

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

88 (g) For any person over the age of fifty years who wishes to obtain a driver's license or
89 identification card under the provisions of this section:

90 (1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is
91 not required if the issuing jurisdiction does not require one; and

92 (2) If documents are lacking to prove all changes of name in the history of any such
93 applicant, applicants renewing a driver's license or identification card under the provisions of this
94 section may complete a Name Variance Approval Document as instituted by the division, so long
95 as they can provide:

96 (A) Proof of identity;

97 (B) Proof of residency; and

98 (C) A valid Social Security number.

99 (3) The division may waive any documents necessary to prove a match between names,
100 so long as the division determines the person is not attempting to:

101 (A) Change his or her identity;

102 (B) Assume another person's identity; or

103 (C) Commit a fraud.

104 (h) A person over the age of seventy years, or who is on Social Security disability, who
105 wishes to obtain or renew a driver's license or identification card under the provisions of this
106 section, may not be required to furnish a copy of a birth certificate if they can provide:

107 (1) Proof of identity;

108 (2) Proof of residency;

109 (3) A valid Social Security number; and

110 (4) One of the following identifying items:

111 (A) A form of military identification, including a DD214 or equivalent;

112 (B) A U. S. passport, whether valid or expired;

113 (C) School records, including a yearbook;

114 (D) A religious document, that in the judgment of the Division is sufficient and authentic to
115 reflect that the person was born in the United States; or

116 (E) An expired driver's license, employment identification card, or other reliable
117 identification card with a recognizable photograph of the person.

118 (i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon
119 conviction, shall be fined not more than \$500 and, upon a second or subsequent conviction, shall
120 be fined not more than \$500 or confined in jail not more than six months, or both fined and
121 confined.

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

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

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

10 (c) *Level one instruction permit.* — An applicant who is fifteen years or older meeting all
11 other requirements prescribed in this code may be issued a level one instruction permit.

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

14 (A) Presents a completed application, as prescribed by the provisions of section six of this
15 article, and which is accompanied by a writing, duly acknowledged, consenting to the issuance of
16 the graduated driver's license and executed by a parent or guardian entitled to custody of the
17 applicant;

18 (B) Presents a certified copy of a birth certificate issued by a state or other governmental
19 entity responsible for vital records unexpired, or a valid passport issued by the United States
20 government evidencing that the applicant meets the minimum age requirement and is of verifiable
21 identity;

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

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

26 (E) Pays a fee of \$7.50, which shall permit the applicant one attempt at the written
27 knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September
28 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer

29 Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee
30 amount in a single year.

31 (2) *Terms and conditions of instruction permit.* — A level one instruction permit issued
32 under the provisions of this section is valid until thirty days after the date the applicant attains the
33 age of eighteen and is not renewable. However, any permit holder who allows his or her permit
34 to expire prior to successfully passing the road skills portion of the driver examination, and who
35 has not committed any offense which requires the suspension, revocation or cancellation of the
36 instruction permit, may reapply for a new instruction permit under the provisions of section six of
37 this article. The division shall immediately revoke the permit upon receipt of a second conviction
38 for a moving violation of traffic regulations and laws of the road or violation of the terms and
39 conditions of a level one instruction permit, which convictions have become final unless a greater
40 penalty is required by this section or any other provision of this code. Any person whose
41 instruction permit has been revoked is disqualified from retesting for a period of ninety days.
42 However, after the expiration of ninety days, the person may retest if otherwise eligible. In addition
43 to all other provisions of this code for which a driver's license may be restricted, suspended,
44 revoked or canceled, the holder of a level one instruction permit may only operate a motor vehicle
45 under the following conditions:

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

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

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

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

56 (E) Maintains current school enrollment and is making satisfactory academic progress or
57 otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen
58 of this code.

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

65 (d) *Level two intermediate driver's license.* — An applicant sixteen years of age or older,
66 meeting all other requirements of the code, may be issued a level two intermediate driver's
67 license.

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

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

71 (B) Has held the level one instruction permit conviction-free for the one hundred eighty
72 days immediately preceding the date of application for a level two intermediate license;

73 (C) Has completed either a driver's education course approved by the state Department
74 of Education or fifty hours of behind-the-wheel driving experience, including a minimum of ten
75 hours of nighttime driving, certified by a parent or legal guardian or other responsible adult over
76 the age of twenty-one as indicated on the form prescribed by the division: *Provided*, That nothing
77 in this paragraph shall be construed to require any school or any county board of education to
78 provide any particular number of driver's education courses or to provide driver's education
79 training to any student;

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

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

83 (F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this
84 fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor
85 Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not
86 exceed ten percent of the total fee amount in a single year.

87 (2) *Terms and conditions of a level two intermediate driver's license.* — A level two
88 intermediate driver's license issued under the provisions of this section shall expire thirty days
89 after the applicant attains the age of eighteen, or until the licensee qualifies for a level three full
90 Class E license, whichever comes first. In addition to all other provisions of this code for which a
91 driver's license may be restricted, suspended, revoked or canceled, the holder of a level two
92 intermediate driver's license may only operate a motor vehicle under the following conditions:

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

94 (B) Only under the direct supervision of a licensed driver, age twenty-one years or older,
95 between the hours of ten p.m. and five a.m. except when the licensee is going to or returning
96 from:

97 (i) Lawful employment;

98 (ii) A school-sanctioned activity;

99 (iii) A religious event; or

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

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

104 (D) For the first six months after issuance of a level two intermediate driver's license, the
105 licensee may not operate a motor vehicle carrying any passengers less than twenty years old,

106 unless these passengers are family members of the licensee; for the second six months after
107 issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle
108 carrying more than one passenger less than twenty years old, unless these passengers are family
109 members of the licensee;

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

112 (F) Maintains current school enrollment and is making satisfactory academic progress or
113 otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen
114 of this code;

115 (G) A holder of a level two intermediate driver's license who is under the age of eighteen
116 years shall be prohibited from using a wireless communication device while operating a motor
117 vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. A
118 person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction
119 thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third
120 or subsequent offense be fined \$75.

121 (H) Upon the first conviction for a moving traffic violation or a violation of paragraph (A),
122 (B), (C), (D) or (G), subdivision (1), subsection (d) of this section of the terms and conditions of a
123 level two intermediate driver's license, the licensee shall enroll in an approved driver improvement
124 program unless a greater penalty is required by this section or by any other provision of this code;
125 and

126 At the discretion of the commissioner, completion of an approved driver improvement
127 program may be used to negate the effect of a minor traffic violation as defined by the
128 commissioner against the one year conviction-free driving criteria for early eligibility for a level
129 three driver's license and may also negate the effect of one minor traffic violation for purposes of
130 avoiding a second conviction under paragraph (I) of this subdivision; and

131 (l) Upon the second conviction for a moving traffic violation or a violation of the terms and
132 conditions of the level two intermediate driver's license, the licensee's privilege to operate a motor
133 vehicle shall be revoked or suspended for the applicable statutory period or until the licensee's
134 eighteenth birthday, whichever is longer unless a greater penalty is required by this section or any
135 other provision of this code. Any person whose driver's license has been revoked as a level two
136 intermediate driver, upon reaching the age of eighteen years and if otherwise eligible may reapply
137 for an instruction permit, then a driver's license in accordance with the provisions of sections five,
138 six and seven of this article.

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

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

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

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

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

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

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

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

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

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

162 (B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may
163 adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau
164 of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee
165 may not exceed ten percent of the total fee amount in a single year. An additional fee of \$.50 shall
166 be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund
167 established in section twelve, article two, chapter three of this code.

168 (f) A person violating the provisions of the terms and conditions of a level one or level two
169 intermediate driver's license is guilty of a misdemeanor and, upon conviction thereof, shall for the
170 first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense
171 be 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 apply to the division for an
2 instruction permit. However, any person who has not attained the age of eighteen shall comply
3 with the provisions of section three-a of this article. The division may, in its discretion, after the
4 applicant has successfully passed all parts of the examination other than the road skills test, issue
5 to the applicant an instruction permit which entitles the applicant while having the permit in his or
6 her immediate possession to drive a motor vehicle upon the public highways when accompanied
7 by a licensed driver of at least twenty-one years of age, a driver's education or driving school
8 instructor that is acting in an official capacity as an instructor, who is alert and unimpaired or a
9 certified division license examiner acting in an official capacity as an examiner, who is occupying
10 a seat beside the driver.

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

13 (2) Any permit issued to a person who has reached the age of eighteen years is valid for
14 a period of ninety days. The fee for the instruction permit is \$7.50 for one attempt. The Division
15 of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S.
16 Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*,
17 That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

18 (b) Any person sixteen years of age or older may apply to the division for a motorcycle
19 instruction permit. Any person under the age of eighteen must have first completed the
20 requirements for a level two intermediate driver's license or a Class E driver's license before being
21 eligible for a motorcycle instruction permit.

22 The division may, in its discretion, after the applicant has successfully passed all parts of
23 the motorcycle examination other than the driving test, and presented documentation of
24 compliance with the provisions of section eleven, article eight, chapter eighteen of this code, if
25 applicable, issue to the applicant an instruction permit which entitles the applicant while having
26 the permit in his or her immediate possession to drive a motorcycle upon the public streets or
27 highways for a period of ninety days, during the daylight hours between sunrise and sunset only.
28 No holder of a motorcycle instruction permit shall operate a motorcycle while carrying any
29 passenger on the vehicle.

30 A motorcycle instruction permit is not renewable, but a qualified applicant may apply for a
31 new permit. The fee for a motorcycle instruction permit is \$5, which shall be paid into a special
32 fund in the State Treasury known as the 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 driver's license shall be made upon
2 a form furnished by the division. Every application shall be accompanied by the proper fee and
3 payment of the fee entitles an applicant under the age of eighteen to not more than two attempts

4 at the written test or not more than one attempt to pass the road skills test. An applicant age
5 eighteen years or older is entitled to not more than two attempts at the written test or not more
6 than three attempts to pass the road skills test within a period of ninety days from the date of
7 issuance of the instruction permit. An applicant who fails either the written test or the road skills
8 test may not be tested twice within a period of one week.

9 (b) Any applicant who has not been previously licensed must hold an instruction permit for
10 a minimum of thirty days. For the purposes of this section, the term “previously licensed” means
11 an applicant who has obtained at least a level two graduated license or junior driver’s license
12 issued under the provisions of this article or has obtained an equal or greater level of licensure if
13 previously licensed in another state.

14 (c) Every application for an instruction permit shall state the full legal name, date of birth,
15 sex, and residence address of the applicant and briefly describe the applicant. the application
16 shall state whether the applicant has theretofore been a licensed driver and, if so, when, and by
17 what state or country and whether his or her license has ever been suspended or revoked within
18 five years of the date of application, or whether an application has ever been refused and, if so,
19 the date of and reason for the suspension, revocation or refusal. The application will indicate
20 whether the applicant desires a notation on the driver’s license indicating that the applicant is an
21 organ donor, in accordance with article one-b of this chapter, is diabetic, deaf, or hard of hearing,
22 has any other handicap or disability, or is an honorably discharged veteran of any branch of the
23 Armed Forces of the United States, and such other pertinent information as the commissioner
24 may require.

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

1 (a) The division shall, upon payment of the required fee, issue to every applicant qualifying
2 therefor a driver’s license, which shall indicate the type or general class or classes of vehicle or
3 vehicles the licensee may operate in accordance with this chapter or chapter seventeen-e of this
4 code, or motorcycle-only license. Each license shall contain a coded number assigned to the

5 licensee, the full legal name, date of birth, residence address, a brief description and a color
6 photograph of the licensee and either a facsimile of the signature of the licensee or a space upon
7 which the signature of the licensee is written with pen and ink immediately upon receipt of the
8 license. No license is valid until it has been so signed by the licensee.

9 (b) A driver's license which is valid for operation of a motorcycle shall contain a motorcycle
10 endorsement. A driver's license which is valid for the operation of a commercial motor vehicle
11 shall be issued in accordance with chapter seventeen-e of this code.

12 (c) The division shall use such process or processes in the issuance of licenses that will,
13 insofar as possible, prevent any identity theft, alteration, counterfeiting, duplication, reproduction,
14 forging or modification of, or the superimposition of a photograph on, the license.

15 (d) The fee for the issuance of a Class E driver's license is \$5 per year for each year the
16 license is valid. The Division of Motor Vehicles may adjust this fee every five years on September
17 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer
18 Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee
19 amount in a single year. The fee for issuance of a Class D driver's license is \$6.25 per year for
20 each year the license is valid. An additional fee of 50 cents shall be collected from the applicant
21 at the time of original issuance or each renewal and the additional fee shall be deposited in the
22 Combined Voter Registration and Driver's Licensing Fund established pursuant to the provisions
23 of section twelve, article two, chapter three of this code. The additional fee for adding a motorcycle
24 endorsement to a driver's license is \$1 per year for each year the license is issued.

25 (e) The fee for issuance of a motorcycle-only license is \$2.50 for each year for which the
26 motorcycle license is valid. The fees for the motorcycle endorsement or motorcycle-only license
27 shall be paid into a special fund in the State Treasury known as the Motorcycle Safety Fund as
28 established in section seven, article one-d of this chapter.

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

31 (g) The fee for issuance of a federally compliant driver's license or identification card for
32 federal use is \$10 in addition to any other fee required by this chapter. Any fees collected under
33 the provisions of this subsection shall be deposited into the Motor Vehicle Fees Fund established
34 in accordance with section twenty-one, article two, chapter seventeen-a of this code.

35 (h) The division may use an address on the face of the license other than the applicant's
36 address of residence if:

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

39 (2) The applicant is enrolled in a state address confidentiality program or the alcohol test
40 and lock program;

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

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

46 (i) Notwithstanding any provision in this article to the contrary, a valid military identification
47 card with an expiration date issued by the United States Department of Defense for active duty,
48 reserve or retired military personnel containing a digitized photo and the holder's full legal name
49 may be used to establish current full legal name and legal presence. The commissioner may at
50 his or her discretion expand the use of military identification cards for other uses as permitted
51 under this code or federal rule.

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

1 In the event that an instruction permit or driver's license issued under the provisions of this
2 chapter is lost or destroyed, or if the information contained on the license has changed, the person
3 to whom the permit or license was issued may upon making proper application and upon payment
4 of a fee of \$7.50 obtain a duplicate thereof upon furnishing proof satisfactory to the division that

5 the permit or license has been lost or destroyed. The Division of Motor Vehicles may adjust this
6 fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor
7 Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not
8 exceed ten percent of the total fee amount in a single year.

9 The provisions of this article enacted in 2017 take effect on July 1, 2017.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR DRUGS.

§17C-5A-2a. Assessment of costs; special account created.

1 The Division of Motor Vehicles is hereby authorized and required to assess witness costs
2 at the same rate as witness fees in circuit court and a docket fee of \$15 for each hearing request
3 against any person filing a request for a hearing under section two of this article who fails to
4 appear, fails to have said order rescinded or fails to have said order modified to a lesser period
5 of revocation. The Division of Motor Vehicles may adjust this fee every five years on September
6 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer
7 Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the total fee
8 amount in a single year.

9 All fees and costs collected hereunder shall be paid into a special revenue account in the
10 State Treasury: *Provided*, That on and after July 1, 2007, any unexpended balance remaining in
11 the special revolving fund shall be transferred to the Motor Vehicle Fees Fund created under the
12 provisions of section twenty-one, article two, chapter seventeen-a of this code and all further fees
13 and costs collected shall be deposited in that fund. A portion of the funds in the Motor Vehicle
14 Fees Fund may be used to pay or reimburse the various law-enforcement agencies at the same
15 rate as witnesses in circuit court for the travel and appearance of its officers before the

16 commissioner or authorized deputy or agent pursuant to a hearing request under the provisions
17 of this article. The department shall authorize payment to the law-enforcement agencies from said
18 account as the fees for a particular hearing request are received from the person against whom
19 the costs were assessed. The department shall authorize transfer to an appropriate agency
20 account from the Motor Vehicle Fees Fund to pay costs of registered and certified mailings and
21 other expenses associated with the conduct of hearings under this article as the docket fee for a
22 particular hearing request is received from the person against whom the costs were assessed.

23 In the event judicial review results in said order being rescinded or modified to a lesser
24 period of revocation the costs assessed shall be discharged.

25 The provisions of this section enacted in 2017 take effect on July 1, 2017.

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 provisions of article two-a,
2 chapter seventeen-a of this code, furnish any person a certified abstract of the operating record
3 of any person subject to the provisions of this chapter, and if there is no record of any conviction
4 of the person of a violation of any law relating to the operation of a motor vehicle or of any injury
5 or damage caused by the person, the commissioner shall so certify. The commissioner shall
6 collect \$7.50 for each abstract. The Division of Motor Vehicles may adjust this fee every five years
7 on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current
8 Consumer Price Index: *Provided*, That an increase in such fee may not exceed ten percent of the
9 total fee amount in a single year.

10 The provisions of this section enacted in 2017 take effect on July 1, 2017.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2017.

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Governor