

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 543

SENATORS BLAIR, ROBERTS, AND TARR, *original*

sponsors

[Originating in the Committee on Transportation and

Infrastructure; Reported on February 21, 2019]

1 A BILL to amend and reenact §17A-10-3a of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §17C-16-4, §17C-16-5, and §17C-16-6 of said code; and to amend
3 said code by adding thereto a new section, designated §46A-6-107a, all relating generally
4 to automobile warranties and inspections; changing annual mandatory state inspections
5 of motor vehicles to inspections every two years; adjusting inspection sticker fee and
6 charge for vehicle inspections; providing that a used motor vehicle may be sold “as is”
7 under certain circumstances; providing certain disclosure requirements for “as is” sales of
8 used motor vehicles; providing that a consumer shall sign and date the disclosure for an
9 “as is” sale in order for the disclosure to be effective; providing that a merchant disclose
10 in writing certain defects or malfunctions when selling a used motor vehicle “as is”;
11 providing that the merchant provide the consumer a copy of a nationally recognized
12 vehicle history report for the used motor vehicle; and providing that an “as is” sale of a
13 used motor vehicle waives implied warranties but does not waive any express warranties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

**§17A-10-3a. Special registration of antique motor vehicles and motorcycles; definition,
registration, and use of classic motor vehicles and classic motorcycles; customized
antique plates.**

1 (a) The annual registration fee for any antique motor vehicle or motorcycle as defined in
2 this section is \$2. As used in this section:

3 “Antique motor vehicle” means any motor vehicle which is more than 25 years old and is
4 owned solely as a collector’s item.

5 “Antique motorcycle” means any motorcycle which is more than 25 years old and is owned

6 solely as a collector's item.

7 "Classic motor vehicle" means a motor vehicle which is more than 25 years old and is
8 registered pursuant to §17A-10-3 of this code and is used for general transportation.

9 "Classic motorcycle" means a motorcycle which is more than 25 years old and is registered
10 pursuant to §17A-10-3 of this code and is used for general transportation.

11 (b) Except as otherwise provided in this section, antique motor vehicles or motorcycles
12 may not be used for general transportation but may only be used for:

13 (1) Participation in club activities, exhibits, tours, parades, and similar events;

14 (2) The purpose of testing their operation, obtaining repairs or maintenance, and
15 transportation to and from events as described in §17A-10-3a(b)(1) of this code; and

16 (3) Recreational purposes over weekends, beginning on Friday at 12:00 p. m., and ending
17 on the following Monday at 12:00 p. m., and on holidays: *Provided*, That a classic motor vehicle
18 or a classic motorcycle as defined in this section may be registered under the applicable class at
19 the applicable registration fee set forth in §17A-10-3 of this code and may be used for general
20 transportation.

21 (c) A West Virginia motor vehicle or motorcycle displaying license plates of the same year
22 of issue as the model year of the antique motor vehicle or motorcycle, as authorized in this section,
23 may be used for general transportation purposes if the following conditions are met:

24 (1) The license plate's physical condition has been inspected and approved by the Division
25 of Motor Vehicles;

26 (2) The license plate is registered to the specific motor vehicle or motorcycle by the
27 Division of Motor Vehicles;

28 (3) The owner of the motor vehicle or motorcycle annually registers the motor vehicle or
29 motorcycle and pays an annual registration fee for the motor vehicle or motorcycle equal to that
30 charged to obtain regular state license plates;

31 (4) The motor vehicle or motorcycle passes ~~an annual safety inspection~~ a safety inspection

32 every two years; and

33 (5) The motor vehicle or motorcycle displays a sticker attached to the license plate, issued
34 by the division, indicating that the motor vehicle or motorcycle may be used for general
35 transportation.

36 (d) If more than one request is made for license plates having the same number, the
37 division shall accept only the first application.

38 (e) The commissioner may propose rules for legislative approval in accordance with the
39 provisions of §29A-3-1 *et seq.* of this code as may be necessary or convenient for the carrying
40 out of the provisions of this section.

41 (f) Upon appropriate application, together with a special annual fee of \$40, which is in
42 addition to all other fees required by this chapter, there shall be issued to the owner of an antique
43 motor vehicle a special registration plate for an antique motor vehicle titled in the name of the
44 qualified applicant, bearing a combination of letters or numbers requested by that applicant,
45 subject to the approval by the commissioner, and with the maximum number of letters or numbers
46 to be determined by the commissioner.

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

ARTICLE 16. INSPECTION OF VEHICLES.

§17C-16-4. Superintendent of the West Virginia State Police to require periodical inspection; acceptance of certificate of inspection from another state; suspension of registration of unsafe vehicles.

1 (a) The Superintendent of the West Virginia State Police shall once ~~each year~~ every two
2 years require that every motor vehicle, trailer, semitrailer, and pole trailer registered in this state
3 be inspected and that an official certificate of inspection and approval be obtained for each
4 vehicle.

5 The inspections shall be made and the certificates obtained with respect to the

6 mechanism, brakes, and equipment of every vehicle designated by the superintendent.

7 The superintendent may make necessary rules for the administration and enforcement of
8 this section and may designate any period or periods during which owners of any vehicles, subject
9 to this section, shall display upon the vehicles certificates of inspection and approval or shall
10 produce the certificates upon demand of any officer or employee of the State Police designated
11 by the superintendent or any police or peace officer when authorized by the superintendent.

12 (b) The superintendent may authorize the acceptance in this state of a certificate of
13 inspection and approval issued in another state having an inspection law similar to this chapter
14 and may extend the time within which the resident owner of a vehicle which was not in this state
15 during the time an inspection was required must obtain a certificate.

16 (c) At the request of the superintendent, the Commissioner of the Division of Motor
17 Vehicles may suspend the registration of any vehicle which the superintendent determines is in
18 such an unsafe condition that it constitutes a menace to safety or which after notice and demand
19 is not equipped as required in this chapter or for which the vehicle's owner has not obtained the
20 required certificate.

21 (d) If requested by the owner of the vehicle, the superintendent shall also cause to be
22 inspected a Class A farm use motor vehicle exempt from annual registration certificate and
23 licensing as provided in §17A-3-2 of this code. If the Class A farm use motor vehicle passes the
24 inspection, the superintendent shall cause a certificate of inspection to be issued for that vehicle.

§17C-16-5. Permit for official inspection stations; fees for and certificate of inspection.

1 (a) The Superintendent of the State Police is responsible for the inspection as provided in
2 this article and shall prescribe requirements and qualifications for official inspection stations. He
3 or she shall select and designate the stations and shall issue permits for official inspection stations
4 and furnish instructions and all necessary forms for the inspection of vehicles as required in this
5 article and the issuance of official certificates of inspection and approval. The certificate of
6 inspection shall be a paper sticker or decal to be affixed to the windshield of a motor vehicle, shall

7 be serially numbered, and shall properly identify the official inspection station which issued it. A
8 charge of ~~\$3~~ \$6 per sticker shall be charged by the State Police to the inspection station, and the
9 funds received shall be deposited into the State Treasury and credited to the account of the State
10 Police for application in the administration and enforcement of the provisions of this article and
11 for the purchase of vehicles, equipment for vehicles, and maintenance of vehicles. The
12 superintendent may exchange stickers or make refunds to official inspection stations for stickers
13 on hand when permits are revoked or when, for any reason, the stickers become obsolete.

14 (b) A person shall apply for a permit upon an official form prescribed by the superintendent
15 and the superintendent shall grant permits only when the superintendent is satisfied that the
16 station is properly equipped and has competent personnel to make the inspections and
17 adjustments and that the inspections and adjustments will be properly conducted. The
18 superintendent, before issuing a permit, may require the applicant to file a bond with surety
19 approved by the superintendent, conditioned that such applicant, as a station operator, will make
20 compensation for any damage to a vehicle during an inspection or adjustment due to negligence
21 on the part of the station operator or employees thereof.

22 (c) The superintendent shall properly supervise and cause inspections to be made of the
23 stations. Upon finding that a station is not properly equipped or conducted, the superintendent
24 may, upon a first violation, suspend the permit for a period of up to one year. Upon a second or
25 subsequent finding that a station is not properly equipped or conducted, the superintendent shall
26 permanently revoke and require the surrender of the permit. The superintendent may reinstate
27 the permit of any person whose permit was permanently revoked prior to the effective date of this
28 section upon a first finding that a station was not properly equipped or conducted, upon
29 application, at any time after the expiration of six months from the time of revocation and shall
30 reinstate the permit, upon application, after the expiration of one year. He or she shall maintain
31 and post at his or her office and at any other places as he or she may select lists of all stations
32 holding permits and of those whose permits have been suspended or revoked.

§17C-16-6. Assignment, transfer and posting of official inspection station permit; issuance and record of certificate of inspection; inspection fee.

1 (a) No permit for an official inspection station shall be assigned or transferred or used at
2 any location other than designated in the permit, and every permit shall be posted in a
3 conspicuous place at the station location designated in the permit.

4 (b) The person operating the station shall issue a certificate of inspection and approval,
5 upon an official form, to the owner of a vehicle upon inspecting the vehicle and determining that
6 its equipment required under this article is in good condition and proper adjustment, but otherwise
7 no certificate shall be issued, except one issued pursuant to §17C-16-2 of this code. When
8 required by the superintendent, a record and report shall be made of every inspection and every
9 certificate issued.

10 (c) A fee of not more than ~~\$14~~ \$28 may be charged for an inspection and any necessary
11 headlight adjustment to proper focus, not including any replacement parts required, and the
12 issuance of the certificate, but the imposition of the charge is not mandatory.

**CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND
PROTECTION ACT.**

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-107a. Used motor vehicles sold "as is".

1 (a) Notwithstanding the provisions of §46A-6-107 of this code, a used motor vehicle may
2 be sold "as is" if:

3 (1) The vehicle is inoperable and a total loss;

4 (2) The vehicle has been custom built or modified for show purposes or racing; or

5 (3) The vehicle is all of the following:

6 (A) Sold for less than \$2,500;

7 (B) Driven more than 100,000 miles at the time sold; and

8 (C) Seven years of age or older as calculated from January 1 of the designated model
9 year of the vehicle.

10 (b) For the purposes of this section, a used motor vehicle is a “total loss” only if:

11 (1) There is material damage to the vehicle’s frame, unitized structure, or suspension
12 system; and

13 (2) The projected cost of repairing the damage exceeds the market value of the vehicle at
14 the time of the incident causing it to be declared a total loss.

15 (c) If a used motor vehicle is sold “as is” pursuant to this section, a merchant shall satisfy
16 the following disclaimer requirements:

17 (1) A disclaimer must appear on the front page of the contract of sale;

18 (2) The disclaimer shall read as follows:

19 “AS IS”

20 THIS VEHICLE IS SOLD “AS IS”. THIS MEANS THAT YOU WILL LOSE YOUR IMPLIED
21 WARRANTIES. YOU WILL HAVE TO PAY FOR ANY REPAIRS NEEDED AFTER THE SALE.
22 IF WE HAVE MADE ANY PROMISES TO YOU, THE LAW SAYS WE MUST KEEP OUR
23 PROMISES EVEN IF WE SELL “AS IS”. TO PROTECT YOURSELF, ASK US TO PUT ALL
24 PROMISES IN WRITING.

25 (3) The text of the disclaimer must be printed in 12-point boldfaced type, except the
26 heading, which must be in 16-point extra boldfaced type;

27 (4) The entire disclaimer must be boxed;

28 (5) The consumer shall sign and date within the box containing the disclaimer prior to the
29 sale;

30 (6) The merchant shall describe in writing any defects or malfunctions, if any, disclosed to
31 the merchant by a previous owner of the used motor vehicle or discoverable by the merchant after
32 an inspection of the used motor vehicle; and

33 (7) The merchant shall provide the consumer a copy of a nationally recognized vehicle
34 history report for the used motor vehicle.

35 (d) An “as is” sale of a used motor vehicle waives implied warranties, but does not waive
36 any express warranties, either oral or written, upon which the consumer relied in entering into the
37 transaction.

NOTE: The purpose of this bill relates to automobile warranties and inspections. It changes the annual mandatory state inspection requirement for motor vehicles to require inspections every two years. It adjusts the inspection sticker fee and charge for vehicle inspections so that the overall cost remains the same. It also provides that a used motor vehicle may only be sold “as is” under certain circumstances. It also provides that an “as is” sale of a used motor vehicle waives implied warranties but does not waive any express warranties.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.