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1985 APR 30 AM 10:25

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STATE OF WEST VIRGINIA
SECRETARY OF STATE

SECRETARY OF STATE

Charleston 25305

PROPOSED RULES

STATE REGISTER FILING

=====

AGENCY Department of Motor Vehicles

CONTACT PERSON Steven O. Dale PHONE 348-3981

TYPE OF RULE Legislative

TITLE OF RULE Motor Vehicle Titling, Section 3

CHAPTER 17A ARTICLE 2 SERIES III

AUTHORITY 17A-2-9

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CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

NEW RULE

NOTICE OF HEARING

AMENDMENTS TO EXISTING RULE

NOTICE OF AGENCY APPROVAL
(legislative rules only)

REPEAL OF EXISTING RULE

NOTICE OF AGENCY ADOPTION
(interpretive & procedural
rules only)

NOTE: ALL FILINGS REQUIRE ONLY
ONE COPY, EXCEPT FINAL
FILING OF RULES WHICH
REQUIRES AN ORIGINAL AND
A COPY.

FINAL FILING

FIRST EMERGENCY FILING

SECOND EMERGENCY FILING



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DEPARTMENT OF MOTOR VEHICLES

STATE OFFICE BUILDING
CHARLESTON, W. VA.
25317

SECRETARY OF STATE

ARCH A. MOORE, JR.
Governor

L. W. BECHTOLD
Commissioner

April 30, 1985

The Honorable Ken Hechler
Secretary of State
State Capitol Building
Charleston, West Virginia

Dear Mr. Secretary:

Please find enclosed one original and one copy of legislative rules which have been authorized by the Legislature pursuant to §29A-3-13.

These rules are entitled "Motor Vehicle Titling," and are designated Series III. Section 3 of Series III has been amended. Pursuant to your emergency legislative rules, the entire Series III is being refiled in conformity with the provisions relating to size and format. Also attached pursuant to §29A-2-6(b) is a promulgation history abstract.

I certify that the attached constitute the legislative rules in conformity with the provisions of law authorizing and directing their promulgation.

Very truly yours,


L. W. Bechtold
Commissioner

LWB:SOD/lsk

SENATE BILL NO. 403

(By Mr. R. Williams)

Introduced March 6, 1985
referred to the Committee on Transportation; then to the
Committee on the Judiciary

A BILL to amend and reenact section seventeen-a (two)(nine), article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the commissioner of motor vehicles to promulgate legislative rules relating to titling a vehicle.

Be it enacted by the Legislature of West Virginia:

That section seventeen-a (two)(nine), article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-17a(2)(9). Commissioner of motor vehicles.

(a) The legislative rules filed in the state register on the second day of December, one thousand nine hundred eighty-two, relating to the commissioner of motor vehicles

1 (denial of driving privileges), are authorized with the
2 amendments set forth below:

3 By inserting the words "licensed in the United States"
4 after the phrase "physician of the applicant's choice," on
5 page five, line two, and page seven, line one; and by
6 striking out the words "licensed vision specialist" and
7 inserting in lieu thereof the words "an optometrist or
8 ophthalmologist licensed in the United States," on page
9 five, line three, and on page seven, line two.

10 These rules were proposed by the commissioner pursuant
11 to section nine, article two, chapter seventeen-a and
12 section six, article three-c, chapter seventeen-b of this
13 code.

14 (b) The legislative rules filed in the state register on
15 the twentieth day of November, one thousand nine hundred
16 eighty-four, relating to the commissioner of motor vehicles
17 (titling a vehicle) are authorized.

18

19 NOTE: The purpose of this bill is to authorize the
20 commissioner of motor vehicles to promulgate legislative
21 rules related to titling a vehicle.

22 Strike-throughs indicate language that would be stricken
23 from the present law, and underscoring indicates new
24 language that would be added.

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H. B. 1613

(By Delegate Casey)

(Introduced March 6, 1985; referred to the

Committee on Roads and Transportation with the)

direction that it later be referred to the

~~Committee~~ on the Judiciary.)

A BILL to amend and reenact section seventeen-a (two)(nine), article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; relating to authorizing the commissioner of motor vehicles to promulgate legislative rules relating to titling a vehicle.

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22 Strike-throughs indicate language that would be stricken
23 from the present law, and underscoring indicates new
24 language that would be added.

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee



NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Jan 8, 1985

TO: A. James Manchin, Secretary of State; State Register
And

TO: Dept. of Motor Vehicles

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Titling a Vehicle, Chapter 17A-2, Series III, Section 3 (1984)

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule XXX

2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
1985 JAN 15 PM 4:34

Pursuant to Code 29A-3-11(c), this notice has been filed in the state register and with the agency proposing the rule.

FILED

1984 OCT 15 PM 1:24

Section 3. Titling A Vehicle

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

A West Virginia certificate of title will not be issued for a vehicle unless there is compliance with the procedures herein set forth.

If the vehicle to be titled is a new vehicle, application for a certificate of title must be completed in every detail on the form prescribed for such purpose by the Department. Any application submitted to the Department for a certificate of title for a new vehicle shall be accompanied by a manufacturer's statement of origin, and any application submitted to the Department for a certificate of title for a new or used vehicle purchased from any licensed dealer shall be accompanied by a duplicate copy of the actual sales instrument created at the time of purchase.

If the vehicle to be titled is a used vehicle which at the time of application for a West Virginia certificate of title is titled in a jurisdiction which has a certificate of title law, the certificate of title from such jurisdiction in the applicant's name or properly assigned to him by the seller must accompany the application for a West Virginia certificate of title. If the used vehicle was purchased from a dealer, an assignment of title by such dealer, whether a West Virginia dealer or a dealer in another jurisdiction, shall be sufficient. If the vehicle, at the time of application for a West Virginia certificate of title, is titled in a jurisdiction which does not have a certificate of title law, a certificate of registration in the applicant's name, or the registered owner's certificate of registration together with a certified bill of sale from such registered owner must accompany the application for a West Virginia certificate of title.

For the purposes of this section, any vehicle which has been titled in a jurisdiction which has a certificate of title law, or which has been registered.

in a jurisdiction which does not have a certificate of title law, shall be considered to be a used vehicle irrespective of the age of such vehicle or the extent of the use thereof.

~~No certificate of title for any vehicle shall be issued to any applicant unless the applicant shall have paid to the Department the privilege tax imposed by Chapter 17A, Article 3, Section 4 of the Code of West Virginia, 1931, as amended, and all of the required fees. The present market value of any used vehicle shall be that shown in the National Automobile Dealers Association (NADA) Official Used Car Guide Book. The tax is required irrespective of whether the applicant has paid a sales tax in any other jurisdiction.~~

The privilege tax on each motor vehicle, as required by Section four, Article three, Chapter seventeen-a of the Code of West Virginia, shall be paid to the Department, together with other required fees, before a certificate of title may be issued to an applicant. The privilege tax is required irrespective of whether the applicant has paid a similar sales or privilege tax on the motor vehicle in any other jurisdiction.

The privilege tax on a new motor vehicle shall be determined at the rate of five percent of the actual purchase price or consideration provided to the seller by the purchaser.

The privilege tax on a used or second-hand vehicle shall be determined at the rate of five percent of the present market value of the vehicle as shown in the most recent edition of the National Automobile Dealers Association (NADA) Official Used Car Guide Book. However, if the applicant provides the Department with a sworn statement that the actual price of the used or second-hand vehicle is less than the lowest NADA Guide Book, the amount shown on the statement shall be deemed the present market value for tax purposes. The Commissioner shall design and provide forms for this statement and may require any further proof of purchase

price as he may deem desirable to protect the public interest.

On and after the date on which these Rules and Regulations become effective, applications for certificates of title and operator's and chauffeur's licenses made by a married woman shall bear the first name, middle name or initial, if any, of the spouse. For example, any such application must be in the name of Mary E. Doe and not Mrs. John E. Doe.