

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4015

BY DELEGATES HOWELL, CRISS, HILL, HAMRICK, STATLER, QUEEN,

BLAIR, SUMMERS, SYPOLT, MOORE AND STORCH

[Passed March 7, 2018; in effect ninety days from passage.]

1 AN ACT to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and
2 reenact §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend
3 said code by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-
4 12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10, §5A-12-11, §5A-
5 12-12, §5A-12-13 and §5A-12-14; to amend said code by adding thereto a new section,
6 designated §12-6D-7; to amend and reenact §17A-3-23 of said code; to amend said code
7 by adding thereto three new sections, designated §17A-3-25, §17A-3-26, and §17A-3-27;
8 and to amend and reenact §29B-1-4 of said code, all relating to the management and
9 inventory of vehicles owned, leased, operated, or acquired by the state and its agencies;
10 authorizing establishment of aviation division within Department of Administration;
11 establishing Fleet Management Division within Department of Administration; repealing
12 provisions relating to the central motor pool; continuing management of state owned or
13 leased aircraft through an Aviation Division; setting duties of Aviation Division; continuing
14 Aviation Fund and authorizing administration by division director or secretary of
15 Department of Administration; defining terms; setting scope of article and applicability to
16 spending units; continuing Fleet Management Office as Fleet Management Division;
17 setting duties and responsibilities of division; providing for the appointment of a division
18 director; providing powers and duties of the division director; terminating the Fleet
19 Management Office Fund; establishing the Fleet Management Division Fund; providing
20 for transfer of funds from Fleet Management Office Fund to Fleet Management Division
21 Fund; establishing rulemaking authority for division director; requiring proposal of certain
22 legislative rules; setting requirements for operators of state vehicles; establishing duties
23 and responsibilities of spending units with respect to state vehicles and equipment;
24 requiring each spending unit designate a fleet coordinator; requiring spending unit provide
25 name and contact information of fleet coordinator to division; setting requirements and
26 responsibilities of fleet coordinators; requiring spending units use vehicle management

27 services provided by division; authorizing certain exceptions; requiring annual reporting
28 by spending units to division; requiring spending units maintain certain records; requiring
29 division director establish complaint process for general public to report issues relevant to
30 state vehicle fleet; requiring spending unit investigate complaints received by division;
31 requiring division prepare state vehicle fleet annual report; setting contents of annual
32 report; providing for spot compliance audits by the State Auditor; requiring legislative
33 compliance audit; directing Enterprise Resource Planning Board develop standard naming
34 convention for state vehicle information in centralized accounting system; increasing
35 number of state vehicles Attorney General may have without state license plate; changing
36 colors of state license plates to gold with blue lettering effective January 1, 2019;
37 authorizing Commissioner of the Division of Motor Vehicles to issue special plates to
38 certain organizations and entities at no charge; authorizing inclusion of higher education
39 institution logos on state license plates; requiring higher education institutions bear any
40 additional costs of those features; prohibiting public service districts or designated
41 nongovernmental institutional from being issued state license plate; directing
42 commissioner of Division of Motor Vehicles develop and adopt standardized naming
43 convention for title, registration and licensing of state vehicles; providing for expiration of
44 green and white state license plates; requiring spending units obtain new state license
45 plate prior to January 1, 2019; requiring affirmative statement from spending unit that
46 vehicle is state asset recorded in central accounting system, and verification of same, prior
47 to issuance of state license plate; providing license plates and registrations be valid for
48 not more than 24 months; requiring renewal every two years; authorizing promulgation of
49 emergency rules by commissioner; directing proposal of legislative and emergency rules
50 to establish standardized naming conventions for state vehicle titles, licenses, and
51 registrations; establishing process for spending unit to apply for and acquire new uniform
52 vehicle title and registration plate; requiring updating of information in centralized

53 accounting system following receipt of new title, registration and license plates; providing
54 for a citation for vehicles with expired state license plate; requiring spending unit file report
55 with division upon receipt of citation; directing compliance audit by Legislative Auditor of
56 Division of Motor Vehicles; exempting confidential information relating to certain vehicles
57 from public disclosure under the Freedom of Information Act; authorizing rule-making; and
58 requiring annual reports to the Governor and Legislature.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5A-1-2. Department of Administration and Office of Secretary; secretary; divisions; directors.

1 (a) The Department of Administration and the Office of Secretary of Administration are
2 continued in the executive branch of state government. The secretary is the Chief Executive
3 Officer of the department and shall be appointed by the Governor, by and with the advice and
4 consent of the Senate, for a term not exceeding the term of the Governor.

5 (b) The Department of Administration may receive federal funds.

6 (c) The secretary serves at the will and pleasure of the Governor. The annual
7 compensation of the secretary shall be as specified in §6-7-2a of this code.

8 (d) There shall be in the Department of Administration an Aviation Division, at the
9 discretion of the secretary, a Finance Division, a Fleet Management Division, a General Services
10 Division, an Information Services and Communications Division, Division of Personnel and a
11 Purchasing Division. Each division shall be headed by a director who may also head any and all
12 sections within that division and who shall be appointed by the secretary.

13 (e) There shall also be in the Department of Administration those agencies, boards,
14 commissions and councils specified in §5F-2-1 of this code.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-49. Central motor pool for state-owned vehicles and aircraft.

1 [Repealed]

§5A-3-52. Aviation division; fund.

2 (a) The secretary may establish an aviation division within the Department of
3 Administration to:

4 (1) Manage all aircraft owned or possessed by the State of West Virginia or any of its
5 departments, divisions, agencies, bureaus, boards, commissions, offices or authorities: *Provided*,
6 That, such aircraft shall not be used for personal purposes;

7 (2) Administer the rules, including emergency rules, promulgated under the provisions of
8 §5A-3-48 of this code; and

9 (3) Perform any duties relating to aircraft owned or possessed by the State of West Virginia
10 assigned by the secretary, which duties may include those set out in §5A-3-50 through §5A-3-53
11 of this code.

12 (b) The special revenue account, known as the Aviation Fund, is hereby continued and
13 shall be administered by the director of the division, or in the absence of a director, by the
14 secretary. Expenditures from this fund are authorized from collections but are to be made only in
15 accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-
16 1 *et seq.* of this code and upon fulfillment of the provisions of §11B-2-1 *et seq.* of this code. Any
17 balance remaining in the special revenue account at the end of any state fiscal year does not
18 revert to the General Revenue Fund but remains in the special revenue account and shall be
19 used solely in a manner consistent with this article. All costs and expenses incurred pursuant to
20 §5A-3-52 of this code, including administrative, shall be paid from those funds. Charges for
21 operating, repairing and servicing aircraft made against any institution, agency, or department
22 shall be paid into the Aviation Fund by that institution, department, or agency.

ARTICLE 12. FLEET MANAGEMENT DIVISION.

§5A-12-1. Definitions.

1 As used in this article:

2 (a) "Central motor pool" means, under the direction and control of the Secretary of
3 Administration, the group of state vehicles to be shared among spending units;

4 (b) "Centralized accounting system" means the system of record for the maintenance of
5 an accurate inventory of state vehicle fixed assets as maintained by the Enterprise Resource
6 Planning Board pursuant to §12-6D-1 *et seq.* of this code;

7 (c) "Director" means the Director of the Fleet Management Division;

8 (d) "Division" means the Fleet Management Division, under the Department of Administration,
9 as established pursuant to this article;

10 (e) "Fleet Coordinator" means the head of a spending unit, or his or her designee, who is
11 responsible for the duties of fleet coordinator as required by this article;

12 (f) "Indirect costs" means the expenses of operating state vehicles that may or may not be
13 attributable to a specific vehicle, including miscellaneous expenses for cleaning supplies, shop
14 supplies, small parts, office and administrative expenses attributable to fleet coordinator activity,
15 training costs for fleet coordinators and state vehicle driver training, facilities costs, administrative
16 office overhead, parking costs, and shop equipment costs where applicable;

17 (g) "Secretary" means the Secretary of the Department of Administration;

18 (h) "Spending unit" means the State of West Virginia and all agencies, offices,
19 departments, divisions, boards, commissions, councils, committees, or other entities of the state
20 government for which an appropriation is requested or to which an appropriation is made by the
21 Legislature. "Spending unit" does not mean any county, city, township, public service district, or
22 other political subdivision of the state;

23 (i) "State vehicle" means, for the purpose of this article, a vehicle with a rating of one ton
24 or less that is owned, purchased, or leased by any state spending unit, on which a state vehicle
25 license plate is required, where the use of such vehicle is paid for with public funds regardless of
26 the source of such funding, but does not include all-terrain vehicles (ATVs) or vehicles requiring
27 a commercial driver's license to operate;

28 (j) "State vehicle fleet" means all state vehicles;

29 (k) "State vehicle license plate" means a license plate authorized to be issued by the
30 Division of Motor Vehicles pursuant to §17A-3-23 and §17A-3-25 of this code, which identifies the
31 vehicle as owned or leased by the state or a spending unit;

32 (l) "State Vehicle Title, Registration and Relicensing Project of 2018" means the
33 requirement for all spending units owning or leasing state vehicles, to report to the Division of
34 Motor Vehicles and obtain new titles, new registration cards and new state vehicle license plates
35 by December 31, 2018, pursuant to §17A-3-23 and §17A-3-25 of this code, to standardize the
36 naming conventions on titles and registration cards of state vehicles in order to facilitate the
37 creation and maintenance of a centralized state vehicle inventory system; and

38 (m) "Vehicle log" means the record of state vehicle use, to be updated by the vehicle
39 operator and maintained by the fleet coordinators, used to track vehicle utilization data required
40 to be compiled and maintained pursuant to this article.

§5A-12-2. Scope of Article.

1 (a) This article applies to all spending units of state government relating to the purchase,
2 lease, or use of any state vehicle with the expenditure of public funds, except as otherwise
3 provided by this code.

4 (b) Notwithstanding any exemption given to a spending unit by this code from the
5 provisions of §5A-3-1 *et seq.* of this code or any prior exemption granted administratively from
6 the Fleet Management Division or the Fleet Management Office, each spending unit of the state

7 that owns, leases, purchases, or reimburses for personal vehicle use, shall comply with the
8 reporting provisions of this article.

§5A-12-3. Fleet Management Division created; director; duties and responsibilities.

1 (a) The Fleet Management Office, as previously authorized pursuant to §5A-1-2 and §5A-
2 3-52 of this code, is hereby continued in the Department of Administration as the Fleet
3 Management Division for the purpose of maintaining a state vehicle fleet.

4 (b) The Division shall have the following duties and responsibilities:

5 (1) To provide or contract for management services, including fueling and vehicle
6 maintenance, and any other services necessary to properly manage the operation and use of
7 state vehicles;

8 (2) To preapprove and assist with purchase of new or replacement vehicles for agencies
9 including facilitating financing arrangements;

10 (3) To maintain a state vehicle fleet for all state vehicles owned or leased by the State of
11 West Virginia or any of its spending units;

12 (4) To charge a fee for division services by spending units utilizing state vehicles;

13 (5) To provide training and notice to fleet coordinators and spending units concerning the
14 duties and responsibilities under this article, including any requirements related to the State
15 Vehicle Title, Registration and Relicensing Project of 2018, established pursuant to §17A-3-25 of
16 this code;

17 (6) To develop safe operation and other policies governing state vehicle use;

18 (7) To propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this
19 code;

20 (8) Report annually to the Governor and to the Joint Committee on Government and
21 Finance, regarding the operations of the state fleet and the utilization of state vehicles;

22 (9) To develop and maintain, in cooperation with the Travel Management Office, state
23 policies for the utilization of state vehicles, including establishing best practices for state vehicle
24 use; and

25 (10) To provide assistance upon request to any spending unit related to financing,
26 purchasing, leasing, operating, maintaining, transferring, and decommissioning state vehicles.

27 (c) The secretary shall appoint a director of the division, who shall:

28 (1) Employ such staff as needed to effectuate the provisions of this article;

29 (2) Maintain adequate office space for staff and equipment as needed to effectuate the
30 provisions of this article; and

31 (3) Under the direction of the secretary, establish a central motor pool, which shall be
32 maintained and administered by the division, subject to such rules as the director may
33 promulgate: *Provided*, That the division is responsible for the storage, maintenance, and repairs
34 of all vehicles assigned to the central motor pool.

§5A-12-4. Fleet Management Division Fund.

1 The special revenue account, known as the "Fleet Management Office Fund", previously
2 created by §5A-3-52 of this code, shall terminate effective July 1, 2018. On and after July 1, 2018,
3 all funds previously belonging to the Fleet Management Office Fund shall transfer to the special
4 revenue account which shall be known as the "Fleet Management Division Fund" which shall be
5 created in the State Treasury, and shall be administered by the director. Expenditures are
6 authorized from collections but are to be made only in accordance with appropriation by the
7 Legislature and in accordance with §12-3-1 *et seq.* of this code and upon fulfillment of the
8 requirements of §11B-2-1 *et seq.* of this code. Any balance remaining in the special revenue
9 account at the end of any state fiscal year does not revert to the General Revenue Fund but
10 remains in the special revenue account and may be used solely in a manner consistent with this
11 article.

§5A-12-5. Rule-making authority; emergency rules.

1 (a) The director shall propose legislative rules as may be necessary to implement this
2 article, in accordance with §29A-3-1 *et seq.* of this code. Those rules shall include, but not be
3 limited to:

- 4 (1) Requirements governing the use of state vehicles;
- 5 (2) Reporting requirements and responsibilities for fleet coordinators;
- 6 (3) Requirements and responsibilities for each driver or operator of a state vehicle;
- 7 (4) Information to be collected and maintained on state vehicle log sheets, including
- 8 information related to mileage, destinations, and purpose of trip;
- 9 (5) The form and manner for each spending unit fleet coordinator to report to the division,
- 10 including any electronic format as deemed necessary by the director;
- 11 (6) The information that each spending unit fleet coordinator shall collect and maintain
- 12 regarding state vehicle use by the spending unit;
- 13 (7) The information for spending unit fleet coordinators to annually report to the division
- 14 regarding state vehicle use;
- 15 (8) Requirements and policies governing commuting in and taking home state vehicles;
- 16 and
- 17 (9) Requirements and policies governing volunteer and non-public employee drivers.
- 18 (b) All rules of the Fleet Management Office in effect on the effective date of this article
- 19 shall remain in effect until they are amended, replaced, or repealed: *Provided*, That these rules
- 20 shall expire on July 1, 2021, if not sooner superseded.
- 21 (c) On or before June 15, 2018, the director shall propose emergency legislative rules
- 22 which may amend or modify existing legislative rules governing the use of state vehicles pursuant
- 23 to §5A-12-1 *et seq.* of this code to implement the provisions of this article.

§5A-12-6. Vehicle operator regulations; training.

- 1 (a) Each operator of a state vehicle, or a personal vehicle for which reimbursement is
- 2 sought, shall maintain the vehicle logs to the level of detail required by the division through
- 3 legislative rules, and as may be required by the spending unit.
- 4 (b) Each operator of a state vehicle shall comply with the laws, rules, and policies
- 5 governing state vehicle use, including spending unit rules and policies.

6 (c) Prior to operating a state vehicle, each operator shall be required to take such training
7 courses as may be required by the Board of Risk and Insurance Management, the Travel
8 Management Office, the Fleet Management Division, and the spending unit.

9 (d) If any public employee or public official fails to comply with any rule or regulation for
10 state vehicle use, the spending unit may require that the individual attend training, be restricted
11 from using state vehicles, or be prohibited from using state vehicles: *Provided*, That nothing in
12 this section authorizes the division to restrict the use of state vehicles except for those employees
13 under its control.

§5A-12-7. Spending unit duties and responsibilities.

1 (a) Every spending unit shall report all vehicles and equipment requiring a state license
2 plate, including those vehicles with a rating of more than one ton, those requiring a commercial
3 driver's license to operate, and all-terrain vehicles, as fixed assets in the centralized accounting
4 system maintained by the Enterprise Resource Planning Board.

5 (b) Every spending unit that owns state vehicles shall annually affirm to the State Agency
6 for Surplus Property on or before July 15 of each year, that the vehicles and assets reported to
7 the centralized accounting system as required by §5A-12-7(a) of this code are accurate and
8 current.

§5A-12-8. Fleet coordinators.

1 (a) Each spending unit shall name a fleet coordinator, who shall be responsible for the
2 management and maintenance of state vehicle information, and for reporting state vehicle
3 utilization reports to the division as required by this article and legislative rules promulgated
4 pursuant thereto.

5 (b) Each spending unit shall provide to the division the name and contact information for
6 the spending unit fleet coordinator.

7 (c) Each fleet coordinator is required to attend the Fleet Coordinator training provided by
8 the Fleet Management Division.

9 (d) Each fleet coordinator shall be responsible for providing adequate training to each
10 operator of a state vehicle within his or her spending unit.

§5A-12-9. Utilization of Vehicle Management Services; exemption.

1 (a) Each spending unit that owns, uses, or maintains a state vehicle shall utilize the vehicle
2 management services provided by the Fleet Management Division for all state vehicles.

3 (b) Spending units may request an exemption from part or all of the services provided by
4 the Fleet Management Division. The division shall review each request and may recommend
5 approval of the request by the secretary. The division shall submit a legislative rule identifying
6 each spending unit for which an exemption has been approved, which rule shall further state the
7 nature of the proposed exemption, and which services will be used, as well as the manner in
8 which the spending unit will comply with all other requirements of this article, including the
9 requirements to report certain information to the division: *Provided*, That no request for exemption
10 pursuant to this section shall become effective without the enactment of a legislative rule pursuant
11 to the provisions of §29A-3-1 *et seq.* of this code.

§5A-12-10. Annual reports by spending units.

1 (a) Each spending unit that owns or operates a state vehicle, rents vehicles for a state
2 purpose, or reimburses for personal vehicle use, shall annually report the Fleet Management
3 Division, beginning on or before October 31, 2018, and on or before October 31 each year
4 thereafter, in the manner required by this article and by legislative rule.

5 (b) Each spending unit that owns or leases a state vehicle or rents or reimburses an
6 employee for personal vehicle use, shall periodically compile and maintain the individual specific
7 vehicle records of each state vehicle, and all records of vehicle rental and private vehicle use
8 expenditures, for not less than three years, or as may be required by the division or the State
9 Auditor pursuant to §5A-12-13 of this code.

§5A-12-11. Complaint process.

1 (a) The director shall provide a complaint process for use by the general public to report
2 to the division issues relevant to the operation and maintenance of a state vehicle fleet.

3 Complaints may be received by the division in writing, by telephone, or electronically: *Provided,*
4 That the division shall review all complaints weekly, and report to the appropriate spending unit
5 the information regarding the state vehicle in use by the spending unit, and shall describe the
6 nature of the complaint, including, but not limited to mechanical problems, equipment failures,
7 misuse, or illegal operation of a state vehicle.

8 (b) Each spending unit shall investigate each complaint it receives and provide an update
9 to the division on a regular basis and at the conclusion of the investigation.

§5A-12-12. State vehicle fleet annual report.

1 (a) The Fleet Management Division shall maintain sufficient records and fleet coordinator
2 reports to produce a State Vehicle Fleet Annual Report, regarding the maintenance and operation
3 of the state vehicle fleet.

4 (b) On or before December 31, 2019 and each December 31 thereafter, the division shall
5 submit the State Vehicle Fleet Annual Report to the Governor, and to the Joint Committee on
6 Government and Finance, containing, at a minimum:

- 7 (1) The total number of state vehicles;
- 8 (2) The total number of vehicles operated by each spending unit;
- 9 (3) The total number of state vehicle miles driven, both in the aggregate and by spending
10 unit;
- 11 (4) The total amount of fuel purchased, and the total expenditures for annual maintenance,
12 repair, fuel expenditures, both in the aggregate and by spending unit;
- 13 (5) The total number of miles reimbursed for personal vehicle use and the amount
14 reimbursed annually, both in the aggregate and by spending unit;
- 15 (6) The total number of vehicles owned and operated by the division, including information
16 on the total miles driven, and the annual expenditures for maintenance, repair, and fuel;
- 17 (7) The total annual indirect costs of operating the state vehicle fleet, both in the aggregate
18 and by spending unit;

(8) A summary of complaints received concerning state vehicle usage;

(9) A summary of the State Auditor's spot compliance audit report authorized pursuant to §5A-12-13 of this code;

(10) The operating revenue and expenses of the division; and

(11) Recommendations for any policy or statutory changes the director determines may be necessary to maintain accurate records of the state vehicle fleet, utilization of state vehicles, and the expenses necessary to maintain such vehicle fleet.

(c) An annual report produced in an electronic format complies with the reporting requirements of this article and shall be made available on the division website: *Provided, That* the division shall redact any personally identifiable or confidential information.

§5A-12-13. Spot compliance audits by the State Auditor.

(a) Beginning July 1, 2019, the State Auditor shall conduct spot compliance audits to monitor operator, spending unit, and fleet coordinator records and reports for accuracy and compliance with the record keeping provisions of this article. The State Auditor shall conduct a spot compliance audit on not less than 20 percent of the state vehicle fleet annually, in order to conduct spot compliance audits of all state vehicle records on a five-year cycle.

(b) A spending unit found to be noncompliant with the recordkeeping provisions of this article may be subject to further compliance monitoring as the State Auditor and director deem necessary.

(c) The State Auditor shall report to the division the findings of each spot compliance audit. Such reports shall list the spending units and fleet coordinators audited, and verify:

(1) That state vehicle drivers of the spending unit have complied with applicable training requirements and are keeping complete and accurate vehicle logs;

(2) That spending unit fleet coordinators have attended training, and are compiling and maintaining the state vehicle records required by this article; and

15 (3) The accuracy of fleet coordinator reporting in the manner consistent with the provisions
16 of this article.

§5A-12-14. Legislative compliance audit.

1 On or before December 31, 2020, the Legislative Auditor, in accordance with §4-10-1 *et*
2 *seq.* of this code, shall audit the division for state spending unit and fleet coordinator compliance
3 with the reporting requirements and applicable provisions of this article. Such audit shall also
4 include an evaluation of the data collected by the division to determine if the data being provided
5 to the division in spending unit annual reports are sufficient to evaluate the state costs of owning,
6 maintaining, and leasing state vehicles, and to evaluate vehicle use and expenditure trends
7 among the spending units.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 6D. WEST VIRGINIA ENTERPRISE RESOURCE PLANNING BOARD.

§12-6D-7. Establishing state vehicle fixed assets record keeping.

1 The West Virginia Enterprise Resource Planning Board shall, after consulting with the
2 Fleet Management Division, established pursuant to §5A-12-1 *et seq.* of this code, and the
3 Division of Motor Vehicles, pursuant to the authority in §17A-3-25, develop standard naming
4 conventions for the title, registration, and other fixed asset information to be used in the
5 identification of state vehicles in the system of record for fixed assets, and shall also designate
6 the information to be entered by spending units into the centralized accounting system maintained
7 by the West Virginia Enterprise Resource Planning Board, for the development and maintenance
8 of an accurate and updated state vehicle inventory.

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

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF
CERTIFICATES OF TITLE.**

§17A-3-23. Registration plates to state, county, municipal and other governmental vehicles; use for undercover activities.

1 (a) Any motor vehicle designed to carry passengers, owned or leased by the state of West
2 Virginia, or any of its departments, bureaus, commissions, or institutions, except vehicles used
3 by the Governor, Treasurer, not to exceed 8 vehicles operated by investigators of the Office of
4 the Attorney General, three vehicles per elected office of the Board of Public Works not otherwise
5 specified, vehicles operated by the State Police, not to exceed five vehicles operated by the office
6 of the Secretary of Military Affairs and Public Safety, not to exceed five vehicles operated by the
7 Division of Homeland Security and Emergency Management, vehicles operated by natural
8 resources police officers of the Division of Natural Resources, not to exceed 10 vehicles operated
9 by the arson investigators of the Office of State Fire Marshal, not to exceed two vehicles operated
10 by the Division of Protective Services, not to exceed 16 vehicles operated by inspectors of the
11 Office of the Alcohol Beverage Control Commissioner, vehicles operated by the West Virginia
12 Wing of the Civil Air Patrol, and vehicles operated by probation officers employed under the
13 Supreme Court of Appeals may not be operated or driven by any person unless it has displayed
14 and attached to the front thereof, in the same manner as regular motor vehicle registration plates
15 are attached, a plate of the same size as the regular registration plate, with white lettering on a
16 green background bearing the words "West Virginia" in one line and the words "State Car" in
17 another line, and the lettering for the words "State Car" shall be of sufficient size to be plainly
18 readable from a distance of 100 feet during daylight: *Provided*, That beginning January 1, 2019,
19 state vehicle license plates shall be gold with blue lettering.

20 The vehicle shall also have attached to the rear a plate bearing a number and any other
21 words and figures as the Commissioner of Motor Vehicles shall prescribe. The rear plate shall
22 also be green with the number in white: *Provided*, That beginning January 1, 2019, state vehicle
23 license plates shall be gold with blue lettering.

24 (b) Registration plates issued to vehicles owned by counties shall be white on red with the
25 word "County" on top of the plate and the words "West Virginia" on the bottom.

26 (c) Registration plates issued to a city or municipality shall be white on blue with the word
27 "City" on top and the words "West Virginia" on the bottom.

28 (d) Registration plates issued to a city or municipality law-enforcement department shall
29 include blue lettering on a white background with the words "West Virginia" on top of the plate
30 and shall be further designed by the commissioner to include a law-enforcement shield together
31 with other insignia or lettering sufficient to identify the motor vehicle as a municipal law-
32 enforcement department motor vehicle. The colors may not be reversed and shall be of
33 reflectorized material. The registration plates issued to counties, municipalities, and other
34 governmental agencies authorized to receive colored plates hereunder shall be affixed to both
35 the front and rear of the vehicles.

36 (e) (1) Registration plates issued to vehicles operated by county sheriffs shall be designed
37 by the commissioner in cooperation with the sheriffs' association with the word "Sheriff" on top of
38 the plate and the words "West Virginia" on the bottom. The plate shall contain a gold shield
39 representing the sheriff's star and a number assigned to that plate by the commissioner. Every
40 county sheriff shall provide the commissioner with a list of vehicles operated by the sheriff, unless
41 otherwise provided in this section, and a fee of \$10 for each vehicle submitted by July 1, 2002.

42 (2) Registration plates issued to vehicles operated by the West Virginia Wing of the Civil
43 Air Patrol shall be designed by the commissioner in cooperation with the Civil Air Patrol and
44 include the words "Civil Air Patrol" on the plate. The Civil Air Patrol shall provide the commissioner
45 with a list of vehicles operated by the Civil Air Patrol, unless otherwise provided in this section,
46 and a fee of \$10 for each new vehicle for which a Civil Air Patrol license plate is requested.

47 (f) The commissioner is authorized to designate the colors and design of any other
48 registration plates that are issued without charge to any other agency or non-state government
49 entity entitled to registration plates at no charge in accordance with the motor vehicle

50 laws: *Provided*, That where the institutions of higher education opt to have their logo displayed on
51 the state license plate, such institution shall bear any additional costs of those added features:
52 *Provided, however*, That no public service districts or designated nongovernmental organizations
53 shall be issued a license plate designated for vehicles owned or leased by the state of West
54 Virginia, or any of its departments, bureaus, commissions, or institutions.

55 (g) Upon application, the commissioner is authorized to issue a maximum of five Class A
56 license plates per applicant to be used by county sheriffs and municipalities on law-enforcement
57 vehicles while engaged in undercover investigations.

58 (h) The commissioner is authorized to issue a maximum of five Class A license plates to
59 be used on vehicles assigned to the Division of Motor Vehicles investigators for commercial driver
60 examination fraud investigation and driver's license issuance fraud detection and fraud
61 prevention.

62 (i) The commissioner is authorized to issue an unlimited number of license plates per
63 applicant to authorized drug and violent crime task forces in the state of West Virginia when the
64 chairperson of the control group of a drug and violent crime task force signs a written affidavit
65 stating that the vehicle or vehicles for which the plates are being requested will be used only for
66 official undercover work conducted by a drug and violent crime task force.

67 (j) The commissioner is authorized to issue 20 Class A license plates to the Criminal
68 Investigation Division of the Department of Revenue for use by its investigators.

69 (k) The commissioner may issue a maximum of 10 Class A license plates to the Division
70 of Natural Resources for use by natural resources police officers. The commissioner shall
71 designate the color and design of the registration plates to be displayed on the front and the rear
72 of all other state-owned vehicles owned by the Division of Natural Resources and operated by
73 natural resources police officers.

74 (l) The commissioner is authorized to issue an unlimited number of Class A license plates
75 to the Commission on Special Investigations for state-owned vehicles used for official undercover
76 work conducted by the Commission on Special Investigations.

77 (m) The commissioner is authorized to issue a maximum of two Class A plates to the
78 Division of Protective Services for state-owned vehicles used by the Division of Protective
79 Services in fulfilling its mission.

80 (n) The commissioner is authorized to issue Class A registration plates for vehicles used
81 by the Medicaid Fraud Control Unit created by §9-7-7 of this code.

82 (o) The commissioner is authorized to issue Class A registration plates for vehicles used
83 by the West Virginia Insurance Fraud Unit created by §33-41-8 of this code.

84 (p) No other registration plate may be issued for, or attached to, any state-owned vehicle.

85 (q) The Commissioner of Motor Vehicles shall have a sufficient number of both front and
86 rear plates produced to attach to all state-owned or leased vehicles.

87 (r) The commissioner shall, after consultation with the Fleet Management Division
88 established pursuant to §5A-12-1 *et seq.* of this code and the Enterprise Resource Planning
89 Board established pursuant to §12-6D-1 *et seq.* of this code, develop and adopt a standardized
90 naming convention for the title, registration, and licensing of state vehicles, pursuant to §17A-3-
91 23 and §7A-3-25 of this code. The naming convention adopted shall be consistent with the naming
92 convention adopted for the centralized accounting system as maintained by the Enterprise
93 Resource Planning Board for the purpose of creating and maintaining an accurate and up to date
94 inventory of the state vehicle fleet.

95 (s) It is the duty of each office, department, bureau, commission, or institution furnished
96 any vehicle to have plates as described herein affixed thereto prior to the operation of the vehicle
97 by any official or employee.

98 (t) The commissioner may issue special registration plates for motor vehicles titled in the
99 name of the Division of Public Transit or in the name of a public transit authority as defined in this
100 subsection and operated by a public transit authority or a public transit provider to transport
101 persons in the public interest. For purposes of this subsection, "public transit authority" means an
102 urban mass transportation authority created pursuant to §8-27-1 *et seq.* of this code or a nonprofit

entity exempt from federal and state income taxes under the Internal Revenue Code and whose purpose is to provide mass transportation to the public at large. The special registration plate shall be designed by the commissioner and shall display the words "public transit" or words or letters of similar effect to indicate the public purpose of the use of the vehicle. The special registration plate shall be issued without charge.

(u) Each green registration plate with white letters affixed to a state vehicle, and each corresponding title and registration certificate for all state vehicles, other than those vehicles with Class A registration plates as provided in this section, terminates at midnight on December 31, 2018. Each spending unit assigned a state vehicle that is required to display a state vehicle license plate and registration shall obtain a new title, new registration card, and new state vehicle license plate prior to January 1, 2019: *Provided*, That no state vehicle license plate shall be issued unless the spending unit has provided an affirmative statement under penalty of perjury that the vehicle is a state asset recorded in the central accounting system as maintained by the Enterprise Resource Planning Board, and the same has been verified by the commissioner, as required by §17A-3-25 of this code. When new registrations are issued pursuant to this article and for subsequent, non-Class A registrations of state owned or leased vehicles, the state vehicle registration plate and certificate shall be valid for a period of not more than 24 months and shall be required to be renewed every two years.

(v) The commissioner is authorized to prepare and promulgate emergency rules, pursuant to §29A-3-1 *et seq.* of this code in order to implement amendments to this section.

(w) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100. Magistrates have concurrent jurisdiction with circuit courts for the enforcement of this section.

§17A-3-25. State vehicle title, registration and relicensing project of 2018; emergency and legislative rules.

(a) On or before July 1, 2018, the commissioner shall coordinate with the Fleet Management Division established pursuant to §5A-12-1 *et seq.* of this code and the Enterprise

3 Resource Planning Board established pursuant to §12-6D-1 *et seq.* of this code and other
4 applicable agencies, to develop a standardized titling and registration system for state vehicles.
5 To the extent practicable, the standardization of vehicle title, registration, and state vehicle license
6 plates shall conform to the state's central accounting system maintained by the Enterprise
7 Resource Planning Board. The standardization of state vehicle titles, registrations, and license
8 plates, as described in this section, shall be known as the "State Vehicle Title, Registration, and
9 Relicensing Project of 2018." Every spending unit shall comply with the provisions of this section,
10 and §17A-3-23 of this code.

11 (b) The commissioner, in coordination with the Fleet Management Division, shall develop
12 a standard system for identifying and recording the names of agencies, offices, or spending units
13 to which each state vehicle is assigned, or registered, and such standard naming conventions
14 shall be developed to align with the state's central accounting system, and the centralized state
15 vehicle inventory system. The commissioner shall propose legislative and emergency rules,
16 pursuant to §29A-3-1 *et seq.* of this code, establishing those standard naming conventions for the
17 registration, titling, and licensing of every state vehicle, and assigning by rule a list of the
18 standardized naming conventions for each spending unit for the purpose of issuing new title,
19 registration, and license plates to each state vehicle by December 31, 2018.

20 (c) Once the commissioner has promulgated legislative and emergency rules as
21 authorized pursuant to subsection (b) of this section, and not later than September 1, 2018, the
22 division shall begin to issue the standardized title, registration, and state vehicle license plates for
23 all state vehicles.

24 (d) Any spending unit applying to license or relicense a state vehicle pursuant to this
25 section shall include with the application an affirmative statement under the penalty of perjury that
26 the vehicle is a state asset recorded in the central accounting system as maintained by the
27 Enterprise Resource Planning Board before the commissioner is required to issue any motor
28 vehicle registration plates: *Provided*, That for leased vehicles, the spending unit shall affirm to the

29 commissioner that the vehicle is leased and not required to be recorded in the state central
30 accounting system.

31 (e) The commissioner shall confirm that each vehicle for which an agency applies for a
32 license, title, or registration is properly listed within the centralized accounting system as being a
33 vehicle owned by a state agency before processing the application.

34 (f) The commissioner is authorized, by legislative and emergency rule, to establish a
35 procedure whereby the commissioner shall reject the application for a state vehicle title,
36 registration and state vehicle license plate if that application does not conform to the standard
37 naming convention requirements. The commissioner shall provide by rule for the reasonable
38 remedy, correcting of errors, or to compel compliance with the standard naming conventions.

39 (g) At midnight on December 31, 2018, all green state vehicle license plates with white
40 lettering affixed to vehicles shall expire. The commissioner, in coordination with the Fleet
41 Management Division, shall provide notice to each spending unit, and advertise as deemed
42 appropriate, to inform the fleet coordinators, as defined in §5A-12-3 of this code, that such license
43 plates expire and the procedure for being issued new titles, registrations, and license plates
44 pursuant to this article. The head of each spending unit with state vehicles shall cooperate and
45 comply with the requirements of the State Vehicle Title, Registration, and Relicensing Project of
46 2018, and the centralized accounting system.

47 (h) Upon receipt of the new title, registration, and license plates, each spending unit shall
48 enter the appropriate information into the state's central accounting system maintained by the
49 Enterprise Resource Planning Board, in such detail and specificity as required by the board, the
50 Fleet Management Division established pursuant to §5A-12-1 *et seq.* of this code.

§17A-3-26. Enforcement; report.

1 (a) Beginning January 1, 2019, any state vehicle in this state with a green state license
2 plate with white lettering is in violation of this article.

3 (b) After January 1, 2019, any law-enforcement officer who discovers a state vehicle with
4 an expired state vehicle license plate shall issue a citation with a penalty of \$100 per violation.
5 Upon payment of such penalty, notwithstanding court costs, the clerk of the court shall remit the
6 amount of the penalty to the law-enforcement agency having brought the charge before the court.

7 (c) Any spending unit issued a citation pursuant to this section shall file a report with the
8 Fleet Management Division within 30 days of the citation and describe the state vehicle by the
9 vehicle identification number, the make, model, and year of the vehicle, the state vehicle license
10 plate, and the date on which the license plate was renewed.

§17A-3-27. Compliance audit.

1 On or before December 31, 2019, the Legislative Auditor, in accordance with §4-10-1 *et*
2 *seq.* of this code, shall audit the Division of Motor Vehicles for compliance with the State Vehicle
3 Title, Registration, and Relicensing Project of 2018. The Legislative Auditor may make
4 recommendations for future compliance monitoring of any spending unit found not in compliance
5 with the project and make such recommendations for administrative penalties for noncompliance
6 with the project.

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

§29B-1-4. Exemptions.

1 (a) There is a presumption of public accessibility to all public records, subject only to the
2 following categories of information which are specifically exempt from disclosure under this article:
3 (1) Trade secrets, as used in this section, which may include, but are not limited to, any
4 formula, plan pattern, process, tool, mechanism, compound, procedure, production data or
5 compilation of information which is not patented which is known only to certain individuals within
6 a commercial concern who are using it to fabricate, produce, or compound an article or trade or
7 a service or to locate minerals or other substances, having commercial value, and which gives its
8 users an opportunity to obtain business advantage over competitors;

9 (2) Information of a personal nature such as that kept in a personal, medical, or similar
10 file, if the public disclosure of the information would constitute an unreasonable invasion of
11 privacy, unless the public interest by clear and convincing evidence requires disclosure in this
12 particular instance: *Provided*, That this article does not preclude an individual from inspecting or
13 copying his or her own personal, medical, or similar file;

14 (3) Test questions, scoring keys and other examination data used to administer a licensing
15 examination, examination for employment, or academic examination;

16 (4) (A) Records of law-enforcement agencies that deal with the detection and investigation
17 of crime and the internal records and notations of such law-enforcement agencies which are
18 maintained for internal use in matters relating to law enforcement;

19 (B) Records identifying motor vehicles used, and the agencies using them, for undercover
20 investigation activities conducted by state law-enforcement agencies or other agencies that are
21 authorized by this code to use undercover or unmarked vehicles;

22 (5) Information specifically exempted from disclosure by statute;

23 (6) Records, archives, documents or, manuscripts describing the location of undeveloped
24 historic, prehistoric, archaeological, paleontological, and battlefield sites or constituting gifts to
25 any public body upon which the donor has attached restrictions on usage or the handling of which
26 could irreparably damage the record, archive, document, or manuscript;

27 (7) Information contained in or related to examination, operating, or condition reports
28 prepared by, or on behalf of, or for the use of any agency responsible for the regulation or
29 supervision of financial institutions, except those reports which are by law required to be published
30 in newspapers;

31 (8) Internal memoranda or letters received or prepared by any public body;

32 (9) Records assembled, prepared, or maintained to prevent, mitigate, or respond to
33 terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety
34 or the public health;

35 (10) Those portions of records containing specific or unique vulnerability assessments or
36 specific or unique response plans, data, databases, and inventories of goods or materials
37 collected or assembled to respond to terrorist acts; and communication codes or deployment
38 plans of law-enforcement or emergency response personnel;

39 (11) Specific intelligence information and specific investigative records dealing with
40 terrorist acts or the threat of a terrorist act shared by and between federal and international law-
41 enforcement agencies, state and local law-enforcement, and other agencies within the
42 Department of Military Affairs and Public Safety;

43 (12) National security records classified under federal executive order and not subject to
44 public disclosure under federal law that are shared by federal agencies and other records related
45 to national security briefings to assist state and local government with domestic preparedness for
46 acts of terrorism;

47 (13) Computing, telecommunications, and network security records, passwords, security
48 codes, or programs used to respond to or plan against acts of terrorism which may be the subject
49 of a terrorist act;

50 (14) Security or disaster recovery plans, risk assessments, tests, or the results of those
51 tests;

52 (15) Architectural or infrastructure designs, maps, or other records that show the location
53 or layout of the facilities where computing, telecommunications or network infrastructure used to
54 plan against or respond to terrorism are located or planned to be located;

55 (16) Codes for facility security systems; or codes for secure applications for facilities
56 referred to in subdivision (15) of this subsection;

57 (17) Specific engineering plans and descriptions of existing public utility plants and
58 equipment;

59 (18) Customer proprietary network information of other telecommunications carriers,
60 equipment manufacturers, and individual customers, consistent with 47 U.S.C. §222;

61 (19) Records of the Division of Corrections, Regional Jail and Correctional Facility
62 Authority, and the Division of Juvenile Services relating to design of corrections, jail and detention
63 facilities owned or operated by the agency, and the policy directives and operational procedures
64 of personnel relating to the safe and secure management of inmates or residents, that if released,
65 could be used by an inmate or resident to escape a facility, or to cause injury to another inmate,
66 resident, or to facility personnel;

67 (20) Information related to applications under §61-7-4 of this code, including applications,
68 supporting documents, permits, renewals, or any other information that would identify an applicant
69 for or holder of a concealed weapon permit: *Provided*, That information in the aggregate that does
70 not identify any permit holder other than by county or municipality is not exempted: *Provided*,
71 *however*, That information or other records exempted under this subdivision may be disclosed to
72 a law-enforcement agency or officer: (i) To determine the validity of a permit, (ii) to assist in a
73 criminal investigation or prosecution, or (iii) for other lawful law-enforcement purposes; and

74 (21) Personal information of law-enforcement officers maintained by the public body in the
75 ordinary course of the employer-employee relationship. As used in this paragraph, "personal
76 information" means a law-enforcement officer's social security number, health information, home
77 address, personal address, personal telephone numbers, and personal email addresses, and
78 those of his or her spouse, parents, and children, as well as the names of the law-enforcement
79 officer's spouse, parents, and children.

80 (b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the
81 term "terrorist act" means an act that is likely to result in serious bodily injury or damage to property
82 or the environment and is intended to:

83 (1) Intimidate or coerce the civilian population;

84 (2) Influence the policy of a branch or level of government by intimidation or coercion;

85 (3) Affect the conduct of a branch or level of government by intimidation or coercion; or

86 (4) Retaliate against a branch or level of government for a policy or conduct of the
87 government.

88 (c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section
89 do not make subject to the provisions of this chapter any evidence of an immediate threat to public
90 health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the
91 attention of a public entity in the course of conducting a vulnerability assessment response or
92 similar activity.

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

.....
Chairman, House Committee

.....
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

.....
Clerk of the House of Delegates

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Clerk of the Senate

.....
Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

.....
Governor