WEST VIRGINIA CODE: §17a-6-1

§17A-6-1. Definitions.

(a) Unless the context in which used clearly requires a different meaning, as used in this article:

(1) "New motor vehicle dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling five or more new motor vehicles or new and used motor vehicles in any fiscal year of a type required to be registered under the provisions of this chapter, except, for the purposes of this article only, motorcycles.

(2) "Used motor vehicle dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling 10 or more used motor vehicles, and projecting to sell 10 or more used motor vehicles, in any fiscal year of a type required to be registered under the provisions of this chapter, except, for the purposes of this article only, motorcycles.

(3) "House trailer dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling new or used house trailers, or both, or new or used, or both, house trailers and trailers or new or used, or both, manufactured homes, and mobile homes.

(4) "Trailer dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling new or used trailers.

(5) "Motorcycle dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling new or used motorcycles.

(6) "Used parts dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling any used appliance, accessory, member, portion, or other part of any vehicle.

(7) "Wrecker/dismantler/rebuilder" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of dealing in wrecked or damaged motor vehicles or motor vehicle parts for the purpose of selling the parts thereof or scrap

WV Legislature

therefrom or who is in the business of rebuilding salvage motor vehicles for the purpose of resale to the public.

(8) "New motor vehicles" means all motor vehicles, except motorcycles and used motor vehicles, of a type required to be registered under the provisions of this chapter.

(9) "Used motor vehicles" means all motor vehicles, except motorcycles, of a type required to be registered under the provisions of this chapter which have been sold and operated, or which have been registered or titled, in this or any other state or jurisdiction.

(10) "House trailers" means all trailers designed and used for human occupancy on a continual nonrecreational basis but may not include fold-down camping and travel trailers, mobile homes, or manufactured homes.

(11) "Trailers" means all types of trailers other than house trailers, and shall include, but not be limited to, pole trailers and semitrailers but excluding recreational vehicles.

(12) "Sales instrument" means any document resulting from the sale of a vehicle, which shall include, but not be limited to, a bill of sale, invoice, conditional sales contract, chattel mortgage, chattel trust deed, security agreement, or similar document.

(13) "Sell", "sale", or "selling", in addition to the ordinary definitions of the terms, includes offering for sale, soliciting sales of, negotiating for the sale of, displaying for sale or advertising for sale, any vehicle, whether at retail, wholesale or at auction. "Selling", in addition to the ordinary definition of that term, also includes buying and exchanging.

(14) "Applicant" means any person making application for an original or renewal license certificate under the provisions of this article.

(15) "Licensee" means any person holding any license certificate issued under the provisions of this article.

(16) "Predecessor" means the former owner or owners or operator or operators of any new motor vehicle dealer business or used motor vehicle dealer business.

(17) "Established place of business" means, in the case of a new motor vehicle dealer, a permanent location, not a temporary stand or other temporary quarters, owned or leased by the licensee or applicant and actually occupied or to be occupied by him or her, as the case may be, which is or is to be used exclusively for the purpose of selling new motor vehicles or new and used motor vehicles, which shall have space under roof for the display of at least one new motor vehicle and facilities and space therewith for the servicing and repair of at least one motor vehicle, which servicing and repair facilities and space is adequate and suitable to carry out servicing and to make repairs necessary to keep and carry out all representations, warranties, and agreements made or to be made by the dealer with respect to motor vehicles sold by him or her, which is easily accessible to the public, which conforms to all applicable laws of this state and the ordinances of the municipality in which it is

WV Legislature

located, if any, which displays thereon at least one permanent sign, clearly visible from the principal public street or highway nearest the location and clearly stating the business which is or shall be conducted thereat, and which has adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on the business and to make the business available to inspection by the commissioner at all reasonable times: *Provided*, That each established place of business shall have a display area which may be outside or inside or a combination thereof of at least 1,200 square feet which is to be used exclusively for the display of vehicles which are offered for sale by the dealer, office space of at least 144 square feet and a telephone listed in the name of the dealership. Each established place of business shall be open to the public a minimum of 20 hours per week at least 40 weeks per calendar year with at least 10 of those hours being between the hours of 9:30 a.m. and 8:30 p.m., Monday through Saturday: *Provided, however*, That the requirement of exclusive use is met even though: (A) Some new and any used motor vehicles sold or to be sold by the dealer or sold or are to be sold at a different location or locations not meeting the definition of an established place of business of a new motor vehicle dealer, if each location is or is to be served by other facilities and space of the dealer for the servicing and repair of at least one motor vehicle, adequate and suitable as aforesaid, and each location used for the sale of some new and any used motor vehicles otherwise meets the definition of an established place of business of a used motor vehicle dealer; (B) house trailers, trailers, or motorcycles are sold or are to be sold thereat, if, subject to the provisions of §17A-6-5 of this code, a separate license certificate is obtained for each type of vehicle business, which license certificate remains unexpired, unsuspended, and unrevoked; (C) farm machinery is sold thereat; (D) accessory, gasoline and oil, or storage departments are maintained thereat, if the departments are operated for the purpose of furthering and assisting in the licensed business or businesses; and (E) the established place of business has an attached single residential rental unit with an outside separate entrance and occupied by a person or persons with no financial or operational interest in the dealership where the established place of business has space under roof for the display of at least three new motor vehicles and facilities and space therewith for the concurrent servicing and repair of at least two motor vehicles and otherwise meets the requirements set forth in this subdivision.

(18) "Farm machinery" means all machines and tools used in the production, harvesting or care of farm products.

(19) "Established place of business", in the case of a used motor vehicle dealer, means a permanent location, not a temporary stand or other temporary quarters, owned or leased by the licensee or applicant and actually occupied or to be occupied by him or her, as the case may be, which is or is to be used for the purpose of selling used motor vehicles, which shall have facilities and space therewith for the servicing and repair of at least one motor vehicle, which servicing and repair facilities and space shall be adequate and suitable to carry out servicing and to make repairs necessary to keep and carry out all representations, warranties and agreements made or to be made by the dealer with respect to used motor vehicles sold by him or her, which is easily accessible to the public, conforms to all applicable laws of this state, and the ordinances of the municipality in which it is located, if

WV Legislature

any, which displays thereon at least one permanent sign, clearly visible from the principal public street or highway nearest the location and clearly stating the business which is or shall be conducted thereat, and which has adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on the business and to make the business available to inspection by the commissioner at all reasonable times: *Provided*, That if a used motor vehicle dealer has entered into a written agreement or agreements with a person or persons owning or operating a servicing and repair facility or facilities adequate and suitable as aforesaid, the effect of which agreement or agreements is to provide the servicing and repair services and space in like manner as if the servicing and repair facilities and space were located in or on the dealer's place of business, then, so long as the agreement or agreements are in effect, it is not necessary for the dealer to maintain the servicing and repair facilities and space at the place of business in order for the place of business to be an established place of business as herein defined.

(20) "Established place of business", in the case of a house trailer dealer, trailer dealer, recreational vehicle dealer, motorcycle dealer, used parts dealer, and wrecker or dismantler, means a permanent location, not a temporary stand or other temporary quarters, owned or leased by the licensee or applicant and actually occupied or to be occupied by the licensee, as the case may be, which is easily accessible to the public, which conforms to all applicable laws of this state and the ordinances of the municipality in which it is located, if any, which displays thereon at least one permanent sign, clearly visible from the principal public street or highway nearest the location and clearly stating the business which is or shall be conducted thereat, and which has adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on the business and to make the business available to inspection by the commissioner at all reasonable times.

(21) "Manufacturer" means every person engaged in the business of reconstructing, assembling, or reassembling vehicles with a special type of body required by the purchaser if the vehicle is subject to the title and registration provisions of this code.

(22) "Transporter" means every person engaged in the business of transporting vehicles to or from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer, or purchasers.

(23) "Recreational vehicle dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling new or used recreational vehicles, or both.

(24) "Motorboat" means any vessel propelled by an electrical, steam, gas, diesel or other fuel-propelled or -driven motor, whether or not the motor is the principal source of propulsion, but does not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto.

(25) "Motorboat trailer" means every vehicle designed for or ordinarily used for the

WVLegislature

transportation of a motorboat.

(26) "All-terrain vehicle" (ATV) means any motor vehicle designed for off-highway use and designed to travel on not less than three low-pressure or nonhighway tires, is 50 inches or less in width and intended by the manufacturer to be used by a single operator or is specifically designed by the manufacturer with seating for each passenger. "All-terrain vehicle" and ATV does not include mini trucks, golf carts, riding lawnmowers, or tractors.

(27) "Travel trailer" means every vehicle, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use of such size or weight as not to require special highway movement permits when towed by a motor vehicle and of gross trailer area less than 400 square feet.

(28) "Fold-down camping trailer" means every vehicle consisting of a portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping or travel use.

(29) "Motor home" means every vehicle, designed to provide temporary living quarters, built into an integral part of or permanently attached to a self-propelled motor vehicle, chassis or van including: (1) Type A motor home built on an incomplete truck chassis with the truck cab constructed by the second-stage manufacturer; (2) Type B motor home consisting of a van-type vehicle which has been altered to provide temporary living quarters; and (3) Type C motor home built on an incomplete van or truck chassis with a cab constructed by the chassis manufacturer.

(30) "Snowmobile" means a self-propelled vehicle intended for travel primarily on snow and driven by a track or tracks in contact with the snow and steered by a ski or skis in contact with the snow.

(31) "Recreational vehicle" means a motorboat, motorboat trailer, all-terrain vehicle, travel trailer, fold-down camping trailer, motor home, snowmobile, or utility-terrain vehicle.

(32) "Major component" means any one of the following subassemblies of a motor vehicle: (A) Front clip assembly consisting of fenders, grille, hood, bumper, and related parts; (B) engine; (C) transmission; (D) rear clip assembly consisting of quarter panels and floor panel assembly; or (E) two or more doors.

(33) "Factory-built home" includes mobile homes, house trailers, and manufactured homes.

(34) "Manufactured home" has the same meaning as the term is defined in §21-9-2 of this code which meets the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C.§ 5401 *et seq*.), effective on June 15, 1976, and the federal manufactured home construction and safety standards and regulations promulgated by the Secretary of the United States Department of Housing and Urban Development.

WV Legislature

(35) "Mobile home" means a transportable structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site and designed for long-term residential use and built prior to enactment of the federal Manufactured Housing Construction and Safety Standards Institute (ANSI) — A119.1 standards for mobile homes.

(36) "Utility terrain vehicle" means any motor vehicle with four or more low-pressure or nonhighway tires designed for off-highway use and is greater than 50 inches in width. "Utility terrain vehicle" does not include mini trucks, golf carts, riding lawnmowers, or tractors.

(b) Under no circumstances whatever may the terms "new motor vehicle dealer", "used motor vehicle dealer", "house trailer dealer", "trailer dealer", "recreational vehicle dealer", "motorcycle dealer", "used parts dealer", or "wrecker/dismantler/ rebuilder" be construed or applied under this article in such a way as to include a banking institution, insurance company, finance company, or other lending or financial institution, or other person, the state or any agency or political subdivision thereof, or any municipality, who or which owns or comes in possession or ownership of, or acquires contract rights, or security interests in or to, any vehicle or vehicles or any part thereof and sells the vehicle or vehicles or any part thereof for purposes other than engaging in and holding out to the public to be engaged in the business of selling vehicles or any part thereof.

(c) It is recognized that throughout this code the term "trailer" or "trailers" is used to include, among other types of trailers, house trailers. It is also recognized that throughout this code the term "trailer" or "trailers" is seldom used to include semitrailers or pole trailers. However, for the purposes of this article only, the term "trailers" has the meaning ascribed to it in subsection (a) of this section.

(d) For purposes of this section, volunteer fire departments and part-volunteer fire departments are hereby exempt from being considered “automobile brokers” or “unlicensed dealers”, so long as such organizations hold a valid charitable raffle license or valid online charitable raffle license and raffle no more than four vehicles per month.

WV Legislature