WEST VIRGINIA CODE CHAPTER 17a ARTICLE 6B

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§17A-6B-1. License certificate required; application.

No person shall engage in the license service business in West Virginia without a license certificate. For purposes of this article, the term "license service or services" shall mean any person processing division of motor vehicle documents for compensation when such service or services are offered to the general public.

Application for a license certificate shall be made on a form prescribed by the commissioner and shall disclose such information the commissioner requires. Such application shall be verified by an oath or affirmation of the applicant, if an individual, or if the applicant is a copartnership or corporation, by a partner or officer thereof.

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§17A-6B-2. Applicant must be bonded.

An application for a license certificate must be accompanied by a bond in the penal sum of $25,000 and have a corporate surety authorized to do business in this state, to ensure that the applicant will not, in the conduct of his or her business, make any fraudulent representation which shall cause a financial loss to any purchaser, seller, financial institution, agency, or the State of West Virginia. The bond shall be effective on the date the license certificate is issued.

A licensee shall keep the bond in full force and effect at all times. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. The surety on such bond shall have the right to cancel such bond upon giving thirty days notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said cancellation.

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§17A-6B-3. Fee required for license certificate; special fund created.

The initial application fee for a certificate to engage in the license service business is $25. The renewal fee for the certificate is $25.

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§17A-6B-4. Investigation prior to issuance of license certificate; information confidential.

Upon receipt of a completed application, the required bond, and the application fee, the commissioner may conduct such investigation, as necessary, to determine the accuracy of any statements contained in the application and the existence of any other facts relevant in considering such application. To facilitate such investigation, the commissioner may withhold issuance or refusal of the license certificate for a period not to exceed twenty days.

Any application for a license certificate under the provisions of this article and any information submitted therewith shall be confidential for the use of the division. No person shall divulge any information contained in any application or any information submitted therewith, except in response to a valid subpoena or subpoena duces tecum issued pursuant to law.

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§17A-6B-5. Refusal of license certificate.

If the commissioner finds that the applicant:

(1) Has failed to furnish the required bond;

(2) Has knowingly made a false statement of a material fact in the application;

(3) Has habitually defaulted on financial obligations;

(4) Has been convicted of a felony within five years immediately preceding receipt of the application by the commissioner;

(5) So far as can be ascertained, has not complied with and will not comply with the registration and title laws of this state;

(6) Has been guilty of any fraudulent act in connection with the business of licensing service; or

(7) Has done any act or has failed or refused to perform any duty for which the license certificate sought could be suspended or revoked were it then issued and outstanding.

Then, upon the basis of the application, such findings, and all other information, the commissioner shall make and enter an order denying the application for a license certificate, which denial is final and conclusive unless an appeal is taken. Otherwise, the commissioner shall issue to the applicant the license certificate which shall entitle the licensee to engage in the license service business.

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§17A-6B-6. When application to be made; expiration of license certificate; renewal.

(a) The initial application for a license certificate to engage in a license service business shall be made thirty days prior to January 1, 1991. This license shall be valid for one year.

(b) Any initial application made after January 1, 1991, and any year thereafter, shall expire on December 31, of that year.

(c) A license certificate may be renewed by paying the renewal fee and after review by the commissioner.

(d) A license certificate issued in accordance with the provisions of this article shall not be transferable.

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§17A-6B-7. Form and display of license certificate; certified copies of license.

(a) The commissioner shall prescribe the form of the license certificate for a license service business. Each license certificate shall have printed thereon the seal of the division, the location of each place of business of the licensee, the year for which the license is issued, the serial number, and such other information the commissioner may prescribe. The license certificate shall be delivered or mailed to the licensee.

(b) When a licensee conducts his or her licensed business at more than one location, he or she shall, upon application therefor, obtain from the commissioner, for each such place of business, one certified copy of the license certificate. A fee of $1 shall be paid for each such certified copy. Each licensee shall keep his or her license certificate or certified copy thereof conspicuously posted at each place of business.

(c) In the event of the loss or destruction of a license certificate or a certified copy thereof, the licensee shall immediately make application for a certified copy of the license certificate. A fee of $1 shall be required for any such certified copy.

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§17A-6B-8. Changes in business; action required.

Every license service business shall notify the commissioner within sixty days from the date on which any of the following changes in the business occur:

(1) A change of the location of any place of business;

(2) A change of the name or trade name under which the licensee engages or will engage in the business;

(3) The death of the licensee or any partner or partners thereof;

(4) A change in any partners, officers or directors;

(5) A change in ownership of the business;

(6) A change in the type of legal entity by and through which the licensee engages or will engage in the business; or

(7) The appointment of any trustee in bankruptcy, trustee under an assignment for the benefit of creditors, master or receiver.

When any change specified in subdivision (1), (2), (3), (4), (5) or (6) occurs, an application for a new license certificate shall immediately be filed with the commissioner: Provided, That when a subdivision (3) change is involved, an application for a new license certificate need not be filed during the balance of the license year if a member of the family of such deceased person succeeds to the interest in the business. Upon receipt and review of the application, a new license certificate shall be issued incorporating the changes. No additional fee for the balance of the license year shall be required for the issuance of any new license certificate issued as a result of any change specified in this section.

No new license certificate shall be required for any trustee in bankruptcy, trustee under an assignment for the benefit of creditors, receiver or master, appointed pursuant to law, who shall take charge of or operate such business for the purpose of winding up the affairs of such business or protecting the interests of the creditors of such business.

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§17A-6B-9. Investigation; grounds for suspending or revoking license certificate; notice of refusal, suspension or revocation of license certificate; relinquishing license certificate and temporary plates or markers.

The commissioner may conduct an investigation to determine whether any provisions of this chapter have been violated by a licensee. Any investigation shall be kept in strictest confidence by the commissioner, the division, the licensee, any complainant and all other persons, unless and until the commissioner suspends or revokes the license certificate of the licensee involved.

(a) The commissioner may suspend or revoke a license certificate if the commissioner finds that the licensee:

(1) Has failed or refused to comply with the laws of this state relating to the registration and titling of vehicles and the giving of notices of transfers;

(2) Has failed or refused to comply with the provisions and requirements of this article, and the promulgated rules and regulations authorized in section nine, article two of this chapter which were implemented by the commissioner, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to enforce the provisions of this article; or

(b) The commissioner shall suspend or revoke a license certificate if the commissioner finds that the licensee:

(1) Has knowingly made a false statement of a material fact in his or her application for the license certificate then issued and outstanding;

(2) Has habitually defaulted on financial obligations;

(3) Has been guilty of any fraudulent act in connection with the license service business;

(4) Has defrauded or is attempting to defraud the state or any political subdivision of the state of any taxes or fees in connection with the sale or transfer of any vehicle;

(5) Has committed fraud in the registration of a vehicle;

(6) Has knowingly purchased, sold or otherwise dealt in a stolen vehicle or vehicles;

(7) Has advertised by any means, with intent to defraud, any material representation or statement of fact which is untrue, misleading or deceptive in any particular, relating to the conduct of the licensed business;

(8) Has a license certificate to which he is not lawfully entitled; or

(9) The existence of any other ground upon which the license certificate could have been refused, or any ground which would be cause for refusing a license certificate to such

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licensee were he then applying for the same.

(c) Whenever a licensee fails or refuses to keep the bond required by section two of this article in full force and effect, the license certificate of such licensee shall automatically be suspended unless and until the required bond is furnished to the commissioner, in which event the suspension shall be vacated.

(d) Whenever the commissioner shall refuse to issue a license certificate, or shall suspend or revoke a license certificate, or shall suspend the right of a licensee to issue temporary plates or markers under the provisions of section fifteen, article six of this chapter, he or she shall make and enter an order to that effect and shall cause a copy of such order to be served in person or by certified mail, return receipt requested, on the applicant or licensee, as the case may be.

(e) Suspensions hereunder shall continue until the cause therefor has been eliminated or corrected. Whenever a license certificate and the right of a licensee to issue temporary registration plates or markers is suspended or revoked, the commissioner shall, in the order of suspension or revocation, direct the licensee to return to the division his or her license certificate and any temporary registration plates or markers still in the licensee's possession and issued in conjunction with the issuance of such license service certificate. It is the duty of the licensee to comply with the order. Whenever a licensee fails or refuses to comply with any order herein specified, the commissioner shall proceed as provided in section seven, article nine of this chapter.

(f) Any applicant whose request for a license certificate is refused, and any licensee whose license certificate is suspended or revoked, may appeal such order in accordance with the procedures set by the commissioner.

(g) Revocation of a license certificate shall not preclude application for a new license certificate, which application shall be processed in the same manner. The license certificate shall be issued or refused on the same grounds as any other application for a license certificate, except that any previous suspension and revocation may be considered in deciding whether to issue or refuse such license certificate.

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§17A-6B-10. Temporary registration plates or markers.

(a) In order to permit a vehicle which is to be titled and registered to be operated on the streets and highways pending receipt of the annual registration plate from the division for such vehicle, the commissioner may, subject to the limitations and conditions hereinafter set forth, deliver temporary vehicle registration plates or markers to persons engaged in license service businesses who in turn may, subject to the limitations and conditions hereinafter set forth, issue the same to applicants for title and registration of vehicles, but such applicants must comply with the pertinent provisions of this section.

(b) Application by a license service business to the commissioner for such temporary registration plates or markers shall be made on the form prescribed and furnished by the commissioner for such purpose and shall be accompanied by a fee of $3 for each such temporary registration plate or marker. No refund or credit of fees paid by license services to the commissioner for temporary registration plates or markers shall be allowed, except that in the event the commissioner discontinues the issuance of such temporary plates or markers, license services returning temporary registration plates or markers to the commissioner may petition for and be entitled to a refund or a credit thereof.

(c) Every license service who has made application for and received temporary registration plates or markers shall maintain in permanent form a record of all temporary registration plates or markers delivered to the licensee, a record of all temporary registration plates or markers issued, and a record of any other information pertaining to the receipt or the issuance of temporary registration plates or markers which the commissioner may require. Each such record shall be kept for a period of at least three years from the date of the making thereof.

Every licensee who issues a temporary registration plate or marker shall, within five working days after the issuance of such plate or marker, send to the division a copy of the temporary registration plate or marker certificate properly executed by the license service and the purchaser.

No temporary registration plates or markers may be delivered to any license service until such license service has fully accounted to the commissioner for the temporary registration plates or markers last delivered to such license service, by showing the number issued to purchasers by such license service and any on hand.

(d) A license service shall not issue, assign, or deliver a temporary registration plate or marker to anyone other than the bona fide applicant for title and registration of the vehicle to be registered. Not more than one temporary registration plate or marker shall be issued to the same bona fide applicant for the same vehicle. A license service shall not issue a temporary registration plate or marker to anyone possessing an annual registration plate for a vehicle which has been sold or exchanged, except a license service may issue a temporary registration plate or marker to the bona fide applicant of a vehicle to be registered who possesses an annual registration plate of a different class and makes application to the

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division to exchange such annual registration plate of a different class in accordance with the provisions of §17A-4-1 of this code. A license service shall not lend to anyone, or use on any vehicle which he or she may own, a temporary registration plate or marker.

It is unlawful for any license service to issue any temporary registration plate or marker which contains a misstatement of fact or false information.

No license service shall issue, assign, or deliver a temporary registration plate or marker to anyone unless and until the license service has physical possession of the application and appropriate fees and taxes of the vehicle to be titled and registered. Such application, fees, and taxes shall be postmarked to the issuing agency or submitted to the Division of Motor Vehicles within 48 hours after issuance of the temporary plate or marker.

(e) Every license service who issues temporary registration plates or markers shall affix or insert clearly and indelibly on the face of each temporary registration plate or marker the date of issuance and expiration thereof, and the make, model, and serial number of the vehicle for which issued.

(f) If the commissioner finds that the provisions of this section or his or her directions are not being complied with by a license service, he or she may suspend the right of such license service to issue temporary registration plates or markers.

(g) A temporary registration plate or marker shall expire upon the receipt of the annual registration plate from the division, or upon the rescission of the contract to purchase the vehicle in question, or upon the expiration of 90 days from the date of issuance, depending upon which event occurs first.

(h) A license service may charge a fee not to exceed $5 for issuing a temporary registration plate or marker.

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§17A-6B-11. Inspections; violations and penalties.

(a) The commissioner and all law-enforcement officers of the state, acting at the commissioner's request, are hereby authorized to inspect the place of business and pertinent records, documents and papers of any person required to be licensed under the provisions of this article to the extent deemed reasonably necessary to determine compliance with and violations of this article. For the purpose of making any such inspection, the commissioner and such law-enforcement officers are authorized, at reasonable times, to enter in and upon any such place of business.

(b) Any person who shall violate any provision of this article or any final order of the commissioner or board hereunder shall be guilty of a misdemeanor and, the provisions of article eleven of this chapter governing violations of this chapter generally shall be fully applicable thereto.

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§17A-6B-12. Injunctive relief.

(a) Whenever it appears to the commissioner that any person or licensee has violated any provision of this article or any final order of the commissioner, the commissioner may petition, in the name of the state, the circuit court of the county in which the violation or violations occurred, for an injunction against such person or licensee. A violation or violations resulting in prosecution or conviction under the provisions of article eleven of this chapter shall not prohibit injunctive relief.

The circuit court may, by mandatory or prohibitory injunction, compel compliance with the provisions of this article and all final orders of the commissioner. The court may also issue temporary injunctions.

(b) The judgment by the circuit court shall be final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil cases.

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§17A-6B-13. Promulgation of rules.

The commissioner shall promulgate rules in accordance with chapter twenty-nine-a of this code in order to effect the provisions of this article.

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