# WEST VIRGINIA CODE: §47-11B-5

**§47-11B-5. Investigation of application; grounds for denial.**

Upon receipt of the application, the commissioner may in his discretion make or cause to be made an examination or order an investigation of the applicant and all the facts contained in the application and inventory in relation to the proposed sale. A license shall be denied or refused if any one or more of the following facts or circumstances are found by him to exist:

(1) That the applicant has not been the owner of the business advertised or described in the application for a license hereunder for a period of at least three months prior to the date of the application or, if the applicant be a partnership, corporation or association, controlling interest in the corporation or association was transferred within six months prior to the date of the application for a license hereunder except:

(i) Where the application is for a license for a "sale of goods damaged by fire, smoke or water" or a "defunct business sale" and the inventory listed in the application contains only those goods, wares or merchandise which were on the premises at the time of the occurrence of the circumstances warranting the granting of a license hereunder.

(ii) Upon the death of a person doing business in this state, his heirs, distributees, devisees, legatees or their successors and assigns shall have the right to apply at any time for a license hereunder.

(iii) Where a business is required or compelled to be discontinued because the premises whereupon it is being conducted has been condemned, taken for purposes of urban renewal or development, or because the premises must be vacated because of legal or judicial proceedings.

(2) That in the case of a "closing-out sale" the applicant either as owner, partner, member of an association, or principal stockholder of a corporation was granted a prior license hereunder within one year preceding the date of the filing of the application.

(3) That the inventory contains goods, wares or merchandise not purchased by the applicant for resale on bona fide orders without cancellation privileges.

(4) That the inventory contains goods, wares or merchandise purchased by the applicant on consignment except if the consigned goods, wares or merchandise have been damaged while in the consignee's possession.

(5) That the applicant except in the case of an application for a license to conduct a "sale of goods damaged by fire, smoke or water" or a "defunct business sale" either as owner, partner, officer of an association, or principal stockholder of a corporation was granted a prior license hereunder within one year preceding the date of the filing of the application at

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the particular location for which the license is sought or within one year prior to the date of filing of the application has conducted a sale in connection with which he advertised or represented that the entire business conducted at the particular location for which the license is sought was to be closed out or terminated.

(6) That the applicant has within one year, prior to the filing of the application, been convicted of a violation of this article.

(7) That the goods, wares or merchandise as described in the inventory were transferred or assigned to the applicant prior to the date of the filing of the application and that said transfer or assignment was not made for a valuable and adequate consideration.

(8) That the inventory contains goods, wares or merchandise purchased by the applicant or added to his stock in contemplation of such sale and for the purpose of selling the same at such sale. For this purpose any unusual purchase or addition to the stock of such goods, wares and merchandise made within ninety days prior to the date of the filing of such application shall be presumptive evidence that such purchase or additions were made in contemplation of such sale and for the purpose of selling the same at such sale.

(9) That any representation made in the application is false.

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