ENROLLED
Com. Sub. for
SENATE BILL NO. 160

(By Mr. .................................)

PASSED .................................
March 11, 1967

In Effect .................................
January 1, 1968  Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-62
AN ACT to repeal article six and seven, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof new articles six and seven; to repeal section six, article nine of said chapter and to enact in lieu thereof a new section six; to repeal section six, article ten of said chapter; and to amend and reenact section one, article one, section five, article three, section three, article four, section seven, article nine, and section one, article twelve, all of said chapter; said new article six providing for the annual
licensing of new motor vehicle dealers, used motor vehicle dealers, house trailer dealers, trailer dealers, motorcycles dealers, used parts dealers and wreckers or dismantlers of motor vehicles, requiring certain dealers to furnish and maintain a bond, requiring public liability insurance, specifying various fees, relating to dealer special plates, their expiration and use, relating to the operation of motor vehicles by dealers under special permits, providing for the issuance, use and suspension of temporary registration plates or markers, specifying the grounds for the suspension or revocation of a license certificate to engage in the business of new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, motorcycle dealer, used parts dealer, or wrecker or dismantler or of a dealer special plate or plates, establishing the procedures to be followed when a license certificate is refused, suspended or revoked, the right to issue temporary registration plates or markers is suspended or a dealer special plate or plates are suspended, creating the license certificate appeal board, authorizing appeals from any refusal, suspension or revocation to be taken to such board,
authorizing the board to issue subpoenas and subpoenas duces tecum for the purpose of conducting any appeal hearing, authorizing the board to take original action under certain specified circumstances, authorizing judicial review of any final order of the board, relating to injunctive relief and judicial review of any judgment with respect thereto, providing expressly for the application of the administrative procedures act, authorizing inspections to determine compliance with or violations of said article, providing for criminal offenses and penalties, and providing rules of construction; said new article seven providing for the issuance of special stickers for the movement of vehicles, motor vehicles and house trailers and specifying fees and various restrictions with respect thereto; said new section six, article nine of said chapter seventeen-a providing that references to said section shall henceforth be read, construed and understood to mean section eighteen of said article six; said repealed section six, article ten of said chapter seventeen-a relating to the fees to be paid by dealers and wreckers or dismantlers and the special plates issued to certain dealers; said section one, article one of
said chapter seventeen-a relating to the definition of certain terms used in said chapter; said section five, article three of said chapter seventeen-a relating to the registration and titling of specially constructed, reconstructed or foreign vehicles or vehicles purchased outside this state; said section three, article four of said chapter seventeen-a relating to the duty of the transferee of a vehicle to register and title the same; said section seven, article nine of said chapter seventeen-a relating to the surrender of the evidences of registration, title, permit or license, together with any dealer special plates, upon the cancellation, suspension or revocation thereof, the securing of possession of same where necessary by the department of public safety, and the fees which may be charged incident to the obtaining of such possession; and said section one, article twelve of said chapter seventeen-a relating to severability.

Be it enacted by the Legislature of West Virginia:

That articles six and seven, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and new articles six and seven be enacted in lieu thereof; that section six, article nine of said chap-
ter be repealed, and a new section six be enacted in lieu thereof; that section six, article ten of said chapter be repealed; and that section one, article one, section five, article three, section three, article four, section seven, article nine, and section one, article twelve, all of said chapter seventeen-a, be amended and reenacted, to read as follows:

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17A-1-1. Definitions.

Except as otherwise provided in this chapter the following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this article:

(a) Vehicle.—Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) Motor vehicle.—Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
(c) Motorcycle.—Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

(d) School bus.—Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(e) Bus.—Every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(f) Truck tractor.—Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(g) Farm tractor.—Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.
(h) Road tractor.—Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(i) Truck.—Every motor vehicle designed, used, or maintained primarily for the transportation of property.

(j) Trailer.—Every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(k) Semitrailer.—Every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(l) Pole trailer.—Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members.
capable, generally, of sustaining themselves as beams between the supporting connections.

(m) *Specially constructed vehicles.*—Every vehicle of a type required to be registered hereunder not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(n) *Reconstructed vehicle.*—Every vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(o) *Essential parts.*—All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(p) *Foreign vehicle.*—Every vehicle of a type required to be registered hereunder brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.
(q) Implement of husbandry.—Every vehicle which is designed for or adapted to agricultural purposes and used by the owner thereof primarily in the conduct of his agricultural operations, including, but not limited to, trucks used for spraying trees and plants: Provided, That said vehicle shall not be let for hire at any time.

(r) Special mobile equipment.—Every vehicle not designed or used for the transportation of persons or property and incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus, concrete mixers, and farm tractors, when farm tractors cannot be classified as an implement of husbandry as defined in subparagraph (q) of this section. The foregoing enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this subparagraph.

(s) Pneumatic tire.—Every tire in which compressed air is designed to support the load.

(t) Solid tire.—Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.
(u) **Metal tire.**—Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(v) **Commissioner.**—The commissioner of motor vehicles of this state.

(w) **Department.**—The department of motor vehicles of this state acting directly or through its duly authorized officers and agents.

(x) **Person.**—Every natural person, firm, copartnership, association, or corporation.

(y) **Owner.**—A person who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

(z) **Nonresident.**—Every person who is not a resident of this state.
Dealer or dealers.—A general term meaning, depending upon the context in which used, either a new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, or motorcycle dealer, as defined in section one, article six of this chapter, or all of such dealers or a combination thereof, and in some instances a new motor vehicle dealer or dealers in another state.

Registered dealer or registered dealers.—A general term meaning, depending upon the context in which used, either a new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, or motorcycle dealer, or all of such dealers or a combination thereof, licensed under the provisions of article six of this chapter.

Licensed dealer or licensed dealers.—A general term meaning, depending upon the context in which used, either a new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, or motorcycle dealer, or all of such dealers or a combination thereof, licensed under the provisions of article six of this chapter.

Transporter.—Every person engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling, or
ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-5. Application for specially constructed, reconstructed or foreign vehicles or new vehicles purchased outside this state.

(a) In the event the vehicle to be registered is specially constructed, reconstructed, or a foreign vehicle, such fact
shall be stated in the application and with reference to
every foreign vehicle which has been registered hereto-
fore outside of this state the owner shall surrender to
the department all registration plates, registration cards,
and certificates of title or other evidence of such foreign
registration as may be in his possession or under his
control except as provided in subsection (b) hereof.

(b) Where in the course of interstate operation of a
vehicle registered in another state it is desirable to retain
registration of said vehicle in such other state, such
applicant need not surrender but shall submit for inspec-
tion said evidences of such foreign registration and the
department upon a proper showing shall register said
vehicle in this state but shall not issue a certificate of title
for such vehicle.

(c) In the event application for registration and cer-
tificate of title is made for a new vehicle purchased from
a dealer outside this state, a certificate of title shall not
be issued for such vehicle nor shall such vehicle be regis-
tered by the department unless and until such application
shall be accompanied by a certificate of title or a manu-
facturer's certificate of origin, or if the state of purchase does not require a certificate of title such application shall be accompanied by a manufacturer's certificate of origin, accompanied by evidence that such seller is a bona fide dealer of the state in which such vehicle was purchased.

ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.

§17A-4-3. New owner must secure registration and certificate of title.

The transferee before operating or permitting the operation of such vehicle upon a highway shall apply for and obtain the registration thereof, as upon an original registration, except as otherwise permitted in sections thirteen and fifteen, article six, or by any other provisions of this chapter: Provided, That such transferee may operate such vehicle under the registration of its previous owner for a period of not more than ten days as provided in section one, article three of this chapter.

A transferee shall at the same time present the certificate of title endorsed and assigned as hereinbefore provided to the department and make application for and obtain a new certificate of title for such vehicle, except
ARTICLE 6. LICENSING OF DEALERS AND WRECKERS
OR DISMANTLERS; SPECIAL PLATES; TEMPORARY
PLATES OR MARKERS; ETC.

Part 1. Definitions; Legislative Findings and Public Policy.

§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 his agents and employees, if any, while acting
within the scope of their authority or employment), en-
gaged in, or who holds himself out to the public to be
engaged in, the business in this state of selling new motor
vehicles, or new and used motor vehicles, of a type re-
quired to be registered under the provisions of this chap-
ter, except, for the purposes of this article only, motor-
cycles.

(2) "Used motor vehicle dealer" means every person
(other than his agents and employees, if any, while acting
within the scope of their authority or employment), en-
15 gaged in, or who holds himself out to the public to be
16 engaged in, the business in this state of selling used motor
17 vehicles of a type required to be registered under the
18 provisions of this chapter, except, for the purposes of this
19 article only, motorcycles.
20 (3) "House trailer dealer" means every person (other
21 than his agents and employees, if any, while acting within
22 the scope of their authority or employment), engaged in,
23 or who holds himself out to the public to be engaged in,
24 the business in this state of selling new and/or used house
25 trailers, or new and/or used house trailers and trailers.
26 (4) "Trailer dealer" means every person (other than
27 his agents and employees, if any, while acting within the
28 scope of their authority or employment), engaged in, or
29 who holds himself out to the public to be engaged in, the
30 business in this state of selling new and/or used trailers.
31 (5) "Motorcycle dealer" means every person (other
32 than his agents and employees, if any, while acting within
33 the scope of their authority or employment), engaged in,
34 or who holds himself out to the public to be engaged in,
35 the business in this state of selling new and/or used
36 motorcycles.
(6) "Used parts dealer" means every person (other than his agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or who holds himself 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 or dismantler" means every person (other than his agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or who holds himself 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 therefrom.

(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.
"House trailers" means all trailers designed or intended for human occupancy and commonly referred to as mobile homes or house trailers, but shall not include camping, vacation and travel trailers.

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

(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" shall, in addition to the ordinary definitions of such terms, include 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" shall, in addition to the ordinary definition of that term, also include 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 or used motor vehicle dealer business.

(17) "Established place of business" shall, in the case of a new motor vehicle dealer, mean 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, 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 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 such dealer with respect to motor vehicles sold by him, which shall be easily accessible to the
public, which shall conform to all applicable laws of the
state of West Virginia and the ordinances of the munici-
pality in which it is located, if any, which shall display
thereon at least one permanent sign, clearly visible from
the principal public street or highway nearest said loca-
tion and clearly stating the business which is or shall be
conducted thereat, and which shall have adequate facili-
ties to keep, maintain and preserve records, papers and
documents necessary to carry on such business and to
make the same available to inspection by the commissioner
at all reasonable times: Provided, however, That the re-
qualification of exclusive use shall be met even though (i)
some new and any used motor vehicles sold or to be sold by
such dealer are 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
such location is or is to be served by other facilities and
space of such dealer for the servicing and repair of at least
one motor vehicle, adequate and suitable as aforesaid, and
each such 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; (ii) house trailers, trailers and/or motorcycles are sold or are to be sold thereat, if, subject to the provisions of section five of this article, a separate license certificate is obtained for each such type of vehicle business, which license certificate remains unexpired, unsuspended and unrevoked; (iii) farm machinery is sold thereat; and (iv) accessory, gasoline and oil, or storage departments are maintained thereat, if such departments are operated for the purpose of furthering and assisting in the licensed business or businesses.

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

(19) "Established place of business" shall, in the case of a used motor vehicle dealer, mean 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, as the case may be, which is or is to be used exclusively for the purpose of selling used motor vehicles, which shall have facilities
143 and space therewith for the servicing and repair of at
144 least one motor vehicle, which servicing and repair fa-
145 cilities and space shall be adequate and suitable to carry
146 out servicing and to make repairs necessary to keep and
147 carry out all representations, warranties and agreements
148 made or to be made by such dealer with respect to used
149 motor vehicles sold by him, which shall be easily accessi-
150 ble to the public, shall conform to all applicable laws of
151 the state of West Virginia, and the ordinances of the
152 municipality in which it is located, if any, which shall
153 display thereon at least one permanent sign, clearly visi-
154 ble from the principal public street or highway nearest
155 said location and clearly stating the business which is or
156 shall be conducted thereat, and which shall have adequate
157 facilities to keep, maintain and preserve records, papers
158 and documents necessary to carry on such business and
159 to make the same available to inspection by the commis-
160 sioner at all reasonable times: Provided further, That if a
161 used motor vehicle dealer has entered into a written agree-
162 ment or agreements with a person or persons owning or
163 operating a servicing and repair facility or facilities ade-
quate and suitable as aforesaid, the effect of which agreement or agreements is to provide such servicing and repair services and space in like manner as if said servicing and repair facilities and space were located in or on said dealer's place of business, then, so long as such an agreement or agreements are in effect, it shall not be necessary for such dealer to maintain such servicing and repair facilities and space at his place of business in order for such place of business to be an established place of business as herein defined: And provided further, That the requirement of exclusive use shall be met even though (i) house trailers, trailers and/or motorcycles are sold or are to be sold thereat, if, subject to the provisions of section five of this article, a separate license certificate is obtained for each such type of vehicle business, which license certificate remains unexpired, unsuspended and unrevoked; (ii) farm machinery is sold thereat; and (iii) accessory, gasoline and oil, or storage departments are maintained thereat, if such departments are operated for the purpose of furthering and assisting in the licensed business or businesses.
(20) "Established place of business" shall, in the case of a house trailer dealer, trailer dealer, motorcycle dealer, used parts dealer and wrecker or dismantler, mean 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, as the case may be, which shall be easily accessible to the public, which shall conform to all applicable laws of the state of West Virginia and the ordinances of the municipality in which it is located, if any, which shall display thereon at least one permanent sign, clearly visible from the principal public street or highway nearest said location and clearly stating the business which is or shall be conducted thereat, and which shall have adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on such business and to make the same available to inspection by the commissioner at all reasonable times.

(b) Under no circumstances whatever shall the terms "new motor vehicle dealer", "used motor vehicle dealer", "house trailer dealer", "trailer dealer", "motorcycle
dealer”, “used parts dealer” or “wrecker or dismantler” 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 shall come in possession or ownership of, or acquire contract rights, or security interests in or to, any vehicle or vehicles or any part thereof and shall sell such vehicle or vehicles or any part thereof for purposes other than engaging in and holding himself or itself 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” shall have the meaning ascribed to it in sub-section (a) of this section.
§17A-6-2. Legislative findings and declaration of public policy.

The Legislature hereby determines and finds that in the past some few persons engaged in the business of selling new or used motor vehicles, house trailers, trailers, motorcycles, or used motor vehicle parts, and in the business of wrecking or dismantling motor vehicles, have not had the necessary qualifications, staff, equipment or facilities to adequately serve the public; that some few persons engaged in said businesses have made false and deceptive claims and advertisements to the public and have engaged in fraud and other illegal conduct; that certain citizens of this state have sustained financial losses as a result thereof; and that in some of said cases there has been no adequate means to prevent said conduct or protect the interests of the citizens of West Virginia. It is, therefore, declared to be the public policy of this state that the business of new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, motorcycle dealer, used parts dealer, or wrecker or dismantler, affects the general welfare of this state and its citizens; that persons without the necessary qualifications,
staff, equipment or facilities to adequately serve the public, and persons not of good character or who have or are likely to attempt to misrepresent their product or engage in fraudulent or other illegal conduct should not engage in such businesses; and that such evils may best be prevented and the interests of the public best served by requiring persons in such businesses to meet the qualifications set forth in this article and to be licensed by the commissioner of motor vehicles as provided in this article.


§17A-6-3. License certificate required; engaging in more than one business; established place of business required.

(a) No person shall engage or represent or advertise that he is engaged or intends to engage in the business of new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, motorcycle dealer, used parts dealer, or wrecker or dismantler, in this state, unless and until he shall first obtain a license certificate therefor as provided in this article, which license certificate remains unexpired, unsuspended and
unrevoked. Any person desiring to engage in more than
one such business must, subject to the provisions of sec-
tion five of this article, apply for and obtain a separate
license certificate for each such business.

(b) Except for the qualification contained in subpara-
graph (17), subsection (a), section one of this article with
respect to a new motor vehicle dealer, each place of busi-
ness of a new motor vehicle dealer, used motor vehicle
dealer, house trailer dealer, trailer dealer, motorcycle
dealer, used parts dealer and wrecker or dismantler, must
be an established place of business as defined for such
business in said section one.

(c) Any license certificate and special plates issued by
the commissioner under the former provisions of article
six or article seven or section six, article ten of this chap-
ter, and which have not been cancelled, suspended or
revoked prior to the effective date of this article shall be
governed by the provisions of this article and shall remain
valid until their expiration, unless such license certificate
is sooner suspended or revoked in accordance with the
provisions of this article.
§17A-6-4. Application for license certificate; insurance; bonds; investigation.

(a) Application for any license certificate required by section three of this article shall be made on such form as may be prescribed by the commissioner. There shall be attached to the application a certificate of insurance certifying that the applicant has in force an insurance policy issued by an insurance company authorized to do business in this state insuring the applicant and any other person, as insured, using any vehicle or vehicles owned by the applicant with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use of such vehicle or vehicles, subject to minimum limits, exclusive of interest and costs, with respect to each such vehicle, as follows: Ten thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, twenty thousand dollars because of bodily injury to or death of two or more persons in any one
accident, and five thousand dollars because of injury to or
destruction of property of others in any one accident.

(b) In the case of an application for a license certificate to
engage in the business of new motor vehicle dealer, used
motor vehicle dealer or house trailer dealer, such applica-
tion shall disclose, but not be limited to, the following:

(1) The type of business for which a license certificate
is sought;

(2) If the applicant be an individual, the full name and
address of the applicant and any trade-name under which
he will engage in said business;

(3) If the applicant be a copartnership, the full name
and address of each partner therein, the name of the co-
partnership, its post office address and any trade-name
under which it will engage in said business;

(4) If the applicant be a corporation, its name, the state
of its incorporation, its post office address and the full
name and address of each officer and director thereof;

(5) The location of each place in this state at which the
applicant will engage in said business and whether the
same is owned or leased by the applicant;
(6) Whether the applicant, any partner, officer or director thereof has previously engaged in said business or any other business required to be licensed under the provisions of this article and if so, with or for whom, at what location and for what periods of time;

(7) Whether the applicant, any partner, officer, director or employer thereof has previously applied for a license certificate under the provisions of this article or a similar license certificate in this or any other state, and if so, whether such license certificate was issued or refused, and, if issued, whether it was ever suspended or revoked;

(8) A statement of previous general business experience and past history of the applicant; and

(9) Such other information as the commissioner may reasonably require which may include information relating to any contracts, agreements or understandings between the applicant and other persons respecting the transaction of said business, and any criminal record of the applicant if an individual, or of each partner if a copartnership, or of each officer and director, if a corporation.
(c) In the case of an application for a license certificate to engage in the business of new motor vehicle dealer, such application shall, in addition to the matters outlined in subsection (b) of this section disclose:

(1) The make or makes of new motor vehicles which the applicant will offer for sale in this state during the ensuing fiscal year; and

(2) The exact number of new motor vehicles, if any, sold at retail in this state by such applicant or his predecessor, if any, during the preceding fiscal year, and if no new motor vehicles were sold at retail in this state by such applicant or his predecessor, if any, during the preceding fiscal year, the number of new motor vehicles the applicant reasonably expects to sell at retail in this state during the ensuing fiscal year.

(d) In the case of an application for a license certificate to engage in the business of used motor vehicle dealer, such application shall in addition to the matters outlined in subsection (b) of this section, disclose the exact number of used motor vehicles, if any, sold at retail in this state by such applicant or his predecessor, if any, during
the preceding fiscal year, and if no used motor vehicles
were sold at retail in this state by such applicant or his
predecessor, if any, during the preceding fiscal year, the
number of used motor vehicles the applicant reasonably
expects to sell at retail in this state during the ensuing
fiscal year.

(e) In the case of an application for a license certificate
to engage in the business of trailer dealer, motorcycle
dealer, used parts dealer, or wrecker or dismantler, such
application shall disclose such information as the commis-
sioner may reasonably require.

(f) Such application shall be verified by the oath or
affirmation of the applicant, if an individual, or if the ap-
plicant is a copartnership or corporation, by a partner or
officer thereof, as the case may be, and in the case of an
application for a license certificate to engage in the busi-
ness of a new motor vehicle dealer, used motor vehicle
dealer, or house trailer dealer, such application must be
accompanied by a bond of the applicant in the penal sum
of two thousand dollars, in such form as may be prescribed
by the commissioner, conditioned that the applicant will
not in the conduct of his business practice any fraud
which, or make any fraudulent representation which, shall
cause a financial loss to any purchaser, seller, or financial
institution or agency, or the state of West Virginia, with a
corporate surety thereon authorized to do business in this
state, which bond shall be effective as of the date on which
the license certificate sought is issued.
(g) Upon receipt of any such fully completed applica-
tion, together with any bond required as aforesaid, the
certificate of insurance as aforesaid and the appropriate
fee as hereinafter provided in section ten of this article,
the commissioner may conduct such investigation as he
deems necessary to determine the accuracy of any state-
ments contained in such application and the existence
of any other facts which he deems relevant in consider-
ing 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.
(h) 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 depart-
ment and the license certificate appeal board created in section twenty of this article. No person shall divulge any information contained in any such application or any information submitted therewith except in response to a valid subpoena or subpoena duces tecum issued pursuant to law.

§17A-6-5. License certificate exemption.

Any new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer or motorcycle dealer receiving a vehicle in trade of a type other than that he is licensed to sell hereunder may sell such vehicle without obtaining a license certificate to engage in the business of selling vehicles of such type and without being considered to be a dealer in vehicles of such type.

§17A-6-6. Refusal or issuance of license certificate; license certificate not transferable.

(a) Upon the basis of the application and all other information before him, the commissioner shall make and enter an order denying the application for a license certificate and refusing the license certificate sought, which denial and refusal shall be final and conclusive
unless an appeal is taken in accordance with the provisions of section twenty-one of this article, if the commissioner finds that the applicant (individually, if an individual, or the partners, if a copartnership, or the officers and directors, if a corporation):

(1) Has failed to furnish the required bond;

(2) Has failed to furnish the required certificate of insurance;

(3) Has knowingly made false statement of a material fact in his application;

(4) Has habitually defaulted on financial obligations;

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

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

(7) Does not or will not have and/or maintain at each place of business [subject to the qualification contained in subparagraph (17), subsection (a), section one of this article with respect to a new motor vehicle dealer] an
established place of business as defined for the business in question in said section one;

(8) Has been guilty of any fraudulent act in connection with the business of new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, motorcycle dealer, used parts dealer, or wrecker or dismantler;

or

(9) 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.

Otherwise, the commissioner shall issue to the applicant the appropriate license certificate which shall entitle the licensee to engage in the business of new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, motorcycle dealer, used parts dealer, or wrecker or dismantler, as the case may be, during the period, unless sooner suspended or revoked, for which the license certificate is issued.

(b) A license certificate issued in accordance with the provisions of this article shall not be transferable.
§17A-6-7. When application to be made; expiration of license certificate; renewal.

(a) Every person licensed under the former provisions of article seven of this chapter shall make application for a license certificate under the provisions of this article at least thirty days before expiration of his license granted in accordance with said article seven.

(b) Every license granted under the former provisions of article seven of this chapter shall, unless sooner suspended or revoked, expire on June thirtieth, one thousand nine hundred sixty-eight, and every license certificate issued in accordance with the provisions of this article shall, unless sooner suspended or revoked, expire on June thirtieth next following the issuance thereof.

(c) A license certificate may be renewed each year in the same manner, for the same fee as prescribed in section ten of this article and upon the same basis as an original license certificate is issued under section six of this article.

All applications for the renewal of any license certificate shall be filed with the commissioner at least thirty days before the expiration thereof.
§17A-6-8. Form and display of license certificate or certified
copy thereof; obtaining certified copy of license cer-
tificate; bond.

(a) The commissioner shall prescribe the form of
license certificate for each type of business required
to be licensed under the provisions of this article,
and each such license certificate shall have printed
thereon the seal of the department and such other
information as the commissioner may prescribe, and
shall show as to any licensee the location of each place of
business of such licensee. The license certificates for each
type of business shall show the year for which issued and
shall be serially numbered. The license certificate shall
be delivered or mailed to the licensee.

(b) When a licensee conducts his licensed business at
more than one location, he shall, upon application therefor,
obtain from the commissioner for each such place of busi-
ness one certified copy of his license certificate. A fee of
one dollar shall be paid for each such certified copy. Each
licensee shall keep his license certificate or certified copy
thereof conspicuously posted at each place of business,
(c) A licensee shall keep the bond and liability insurance required by section four of this article 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.

(d) 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 one dollar shall be required for any such certified copy.

§17A-6-9. Changes in business; action required; applications for and issuance of certificates; fees.

Every new motor vehicle dealer, used motor vehicle dealer and house trailer dealer shall notify the commissioner within sixty days from and after 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 partner 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 subparagraphs (1), (2), (3), (4), (5) and/or (6) occurs, an application for a new license certificate shall immediately be filed with the commissioner: Provided, That when a subparagraph (3), (4) and/or (5) change is involved, an application for a new license certificate need not be filed during the balance of the license year if the change results from death and a member of the family of such deceased person succeeds to his interest in the business. Thereupon, a new license
certificate shall be issued incorporating the changes specified in said subparagraphs (1), (2), (3), (4), (5) and/or (6) and reflecting any new licensee occasioned thereby, if there is then no reason for refusing said license certificate as specified in section six of this article. 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. 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.

**Part III. Fees and Dealer Special Plates Generally.**

§17A-6-10. Fee required for license certificate; dealer special plates.

(a) The annual fee required for a license certificate to engage in the business of new motor vehicle dealer shall be one hundred dollars. This fee shall also entitle such licensee to one dealer's special plate which shall be known
as a Class D special plate. Up to nine additional Class D special plates shall be issued to any such licensee upon application therefor on a form prescribed by the commissioner for such purpose and the payment of a fee of five dollars for each additional Class D special plate. Any such licensee who obtains a total of ten Class D special plates as aforesaid shall be entitled to receive additional Class D special plates on a formula basis, that is, one additional Class D special plate per twenty new motor vehicles sold at retail in this state by such licensee or his predecessor during the preceding fiscal year, upon application therefor on a form prescribed by the commissioner for such purpose and the payment of a fee of five dollars for each such additional Class D special plate: Provided, That in the case of a licensee who did not own or operate such business during such preceding fiscal year and who has no predecessor who owned or operated such business during the preceding fiscal year, additional Class D special plates shall be issued, for the ensuing fiscal year only, on a formula basis of one additional Class D special plate per twenty new motor vehicles which such licensee estimates
on his application for his license certificate he will sell at retail in this state during said ensuing fiscal year. Any such licensee may obtain Class D special plates in addition to the ten plates authorized above and any authorized on a formula basis, but the cost of each such Class D special plate shall be thirty dollars.

(b) The annual fee required for a license certificate to engage in the business of used motor vehicle dealer shall be one hundred dollars. This fee shall also entitle such licensee to one dealer's special plate which shall be known as a Class D-U/C special plate. Up to four additional Class D-U/C special plates shall be issued to any such licensee upon application therefor on a form prescribed by the commissioner for such purpose and the payment of a fee of five dollars for each additional Class D-U/C special plate. Any such licensee who obtains a total of five Class D-U/C special plates as aforesaid shall be entitled to receive additional Class D-U/C special plates on a formula basis, that is, one additional Class D-U/C special plate per thirty used motor vehicles sold at retail in this state by such licensee or his predecessor during the pre-
ceeding fiscal year, upon application therefor on a form
prescribed by the commissioner for such purpose and the
payment of a fee of five dollars for each such additional
Class D-U/C special plate: Provided, however, That in
the case of a licensee who did not own or operate such
business during such preceding fiscal year and who has no
predecessor who owned or operated such business during
the preceding fiscal year, additional Class D-U/C special
plates shall be issued, for the ensuing fiscal year only, on
a formula basis of one additional Class D-U/C special
plate per thirty used motor vehicles which such licensee
estimates on his application for his license certificate he
will sell at retail in this state during said ensuing fiscal
year. Any such licensee may obtain Class D-U/C special
plates in addition to the five plates authorized above and
any authorized on a formula basis, but the cost of each
such Class D-U/C special plate shall be thirty dollars.

(c) The annual fee required for a license certificate to
engage in the business of house trailer dealer or trailer
dealer, as the case may be, shall be twenty-five dollars.
This fee shall also entitle such licensee to four dealer's
special plates which shall be known as Class D-T/R special plates. Additional Class D-T/R special plates shall be issued to any such licensee upon application therefor on a form prescribed by the commissioner for such purpose and the payment of a fee of five dollars for each such additional Class D-T/R special plate.

(d) The annual fee required for a license certificate to engage in the business of motorcycle dealer shall be ten dollars. This fee shall also entitle such licensee to two dealer's special plates which shall be known as Class F special plates. Additional Class F special plates shall be issued to any such dealer upon application therefor on a form prescribed by the commissioner for such purpose and the payment of a fee of five dollars for each such additional Class F special plate.

(e) The annual fee required for a license certificate to engage in the business of used parts dealer, or wrecker or dismantler, as the case may be, shall be fifteen dollars.

(f) All of the special plates provided for in this section shall be of such form and design and contain such other distinguishing marks or characteristics as the commissioner may prescribe.
§17A-6-11. Expiration of special plates.

Every special plate or plates issued hereunder shall expire at midnight on June thirtieth next following the issuance thereof. A new plate or plates for the ensuing fiscal year may be obtained as specified in section ten of this article.

§17A-6-12. Operation of vehicles under special plates.

A dealer holding an unexpired, unsuspended and unrevoked license certificate and owning a vehicle or vehicles of the type he is licensed to sell hereunder and which are otherwise required to be registered under this chapter may operate or move the same upon the streets and highways without registering each such vehicle upon condition that any such vehicle display thereon a special plate issued to such dealer as provided in this article.

§17A-6-13. Use of special plates; records to be maintained by dealer.

(a) The Class D special plates and the Class D-U/C special plates herein authorized may be used for any purpose on any motor vehicle owned by the dealer to whom issued and which is being operated with his
knowledge and consent and not otherwise: *Provided,*

That under no circumstances whatever shall a Class D
special plate or Class D-U/C special plate be used on
any work or service vehicle owned by a dealer, on any
vehicle owned by a dealer and offered for hire or lease,
or on any vehicle which has been sold by a dealer to a
customer.

(b) Under no circumstances whatever shall a Class
D-T/R special plate be used for the purpose of operating
a motor vehicle upon the streets and highways, or on
any house trailer or other trailer owned by a dealer and
offered for hire or lease, or on any house trailer or other
trailer which has been sold by a dealer to a customer:
*Provided, however,* That notwithstanding such sale or any
provision of this code to the contrary, a Class D-T/R
special plate may be used in moving a house trailer sold
by a house trailer dealer to a customer for one trip only
from the house trailer dealer's established place of busi-
ness to a place designated by such customer.

(c) Under no circumstances whatever shall a Class F
special plate be used for the purpose of operating any
type of motor vehicle other than a motorcycle on the streets and highways, or on a motorcycle owned by a dealer and offered for hire or lease, or on any motorcycle which has been sold by a dealer to a customer.

(d) Every dealer entitled to and issued a special plate or plates under the provisions of this article shall keep a written record of the salesman, mechanic, employee, agent, officer, or other person, to whom a special plate or plates have been assigned by such dealer. Every such record shall be open to inspection by the commissioner or his representatives or any law enforcement officer.

§17A-6-14. Operation of motor vehicles by certain dealers under special permits.

The commissioner is hereby authorized to grant, in his discretion, special permits to a new motor vehicle dealer for use on new motor vehicles driven under their own power from the factory or distributing place of a manufacturer, or other dealer, to a place of business of such dealer, or from such place of business to a place of business of another such dealer. Each special permit shall be good only for one trip, and such permit shall not be used
9 by any such dealer in lieu of any registration card or
10 plate required by this chapter.

§17A-6-15. Temporary registration plates or markers.

(a) In order to permit a vehicle which is sold to a pur-
2 chaser by a dealer to be operated on the streets and high-
3 ways pending receipt of the annual registration plate
4 from the department for such vehicle, the commissioner
5 may, subject to the limitations and conditions hereinafter
6 set forth, deliver temporary vehicle registration plates
7 or markers to dealers who in turn may, subject to the
8 limitations and conditions hereinafter set forth, issue the
9 same to purchasers of vehicles, but such purchasers must
10 comply with the pertinent provisions of this section.

(b) Application by a dealer to the commissioner for
11 such temporary registration plates or markers shall be
12 made on the form prescribed and furnished by the com-
13 missioner for such purpose and shall be accompanied by
14 a fee of one dollar for each such temporary registration
15 plate or marker. No refund or credit of fees paid by
16 dealers to the commissioner for temporary registration
17 plates or markers shall be allowed, except that in the
event the commissioner discontinues the issuance of such
temporary plates or markers, dealers returning temporary
registration plates or markers to the commissioner may
petition for and be entitled to a refund or a credit thereof.
No temporary registration plates or markers shall be de-
ivered by the commissioner to any dealer in house trailers
only, and no such temporary plates or markers shall be
issued for or used on any house trailer for any purpose.
(c) Every dealer 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 him, a record of all tempo-
rary registration plates or markers issued by him, 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 dealer who issues a
temporary registration plate or marker shall, within three
days after he issues such plate or marker, send to the de-
partment a copy of the temporary registration plate or
marker certificate properly executed by such dealer and
the purchaser. No temporary registration plates or mark-
ers may be delivered to any dealer until such dealer has
fully accounted to the commissioner for the temporary
registration plates or markers last delivered to such dealer,
by showing the number issued to purchasers by such
dealer and any on hand.

(d) A dealer shall not issue, assign, transfer or deliver
a temporary registration plate or marker to anyone other
than the bona fide purchaser of the vehicle to be regis-
tered; nor shall a dealer issue a temporary registration
plate or marker to anyone possessed of an annual regis-
tration plate for a vehicle which has been sold or ex-
changed, except a dealer may issue a temporary regist-
tration plate or marker to the bona fide purchaser of a
vehicle to be registered who possesses an annual regist-
tration plate of a different class and makes application
to the department to exchange such annual registration
plate of a different class in accordance with the provi-
sions of section one, article four of this chapter; nor
shall a dealer lend to anyone, or use on any vehicle which
he may own, a temporary registration plate or marker.

It shall be unlawful for any dealer to issue any temporary registration plate or marker knowingly containing any misstatement of fact, or knowingly to insert any false information upon the face thereof.

(e) Every dealer 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 and motor or serial number of the vehicle for which issued.

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

(g) Every person who is issued a temporary registration plate or marker shall execute and send an application for an annual registration plate to the department, previous to or not later than fifteen days from the day on which the temporary registration plate or marker is issued to such purchaser.
(h) Every person to whom a temporary registration plate or marker has been issued shall permanently destroy such temporary registration plate or marker immediately upon receiving the annual registration plate for such vehicle from the department: Provided, That if the annual registration plate is not received within twenty days of the issuance of the temporary registration plate or marker, the owner shall, notwithstanding the fact that the annual registration plate has not been received, immediately and permanently destroy the temporary registration plate or marker: Provided, however, That not more than one temporary registration plate or marker shall be issued to the same bona fide purchaser for the same vehicle.

(i) A temporary registration plate or marker shall expire and become void upon the receipt of the annual registration plate from the department or upon the rescission of the contract to purchase the vehicle in question, or upon the expiration of twenty days from the date of issuance, depending upon whichever event shall first occur.
Part IV. General Records Required.

§17A-6-16. Records must be kept and maintained.

(a) In addition to all other records herein required to be kept and maintained, each licensee shall keep and maintain a record in such form and for such period of time as may be prescribed by the commissioner of:

(1) Every vehicle which is bought, sold, or exchanged by such licensee or received or accepted by such licensee for sale or exchange;

(2) Every used vehicle body or chassis which is sold or otherwise disposed of; and

(3) Every vehicle which is bought or otherwise acquired and wrecked or dismantled by such licensee.

(b) Every such record shall state the name and address of the person from whom such vehicle was purchased or acquired and the date thereof, the name and address of the person to whom any such vehicle, vehicle body, or chassis was sold or otherwise disposed of, the date thereof, and a description of every such vehicle, body or chassis by name and identifying numbers sufficient to identify the same.
(c) Every licensee shall also keep and maintain such other records as the commissioner may require by reasonable rules and regulations authorized in section nine, article two of this chapter and promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code.

§17A-6-17. Sales instrument; full disclosure required.

Every vehicle sale at retail shall be evidenced by a sales instrument in writing which shall contain all of the agreements between the buyer and the seller, which shall be signed by the buyer and seller or a representative of either party, and a copy of which shall be delivered to the buyer before such sale becomes final. Such instrument shall contain the following information, so far as applicable:

1. Name of the seller;
2. Name of the buyer;
3. Make, year and model of the vehicle;
4. Cash sale price;
5. Cash paid down by the buyer;
6. Amount credited to buyer for any trade-in;
(7) Provisions as to whether the seller or buyer is to pay off the indebtedness, if any, on the trade-in;

(8) Description of the trade-in;

(9) Amount of the time differential charge (if not a cash sale so far as the dealer is concerned);

(10) Amount charged by seller for insurance and the type of coverage afforded; if any insurance does not include coverage for bodily injury and/or property damage caused to others, the sales instrument shall expressly so state; and

(11) Net balance due from buyer and the terms of payment (if not a cash sale so far as the dealer is concerned). A copy of such sales instrument shall be kept and maintained among the records of the seller as provided in section sixteen of this article.

Part V. Suspension or Revocation of License Certificates; Surrender of Plates, Etc.

§17A-6-18. Investigation; matters confidential; grounds for suspending or revoking license certificate; suspension and revocation generally.

(a) The commissioner may conduct an investigation to determine whether any provisions of this
chapter have been or are about to be violated by a licensee. Any investigation shall be kept in strictest con-
fidence by the commissioner, the department, the licensee, any complainant and all other persons, unless and until the commissioner suspends or revokes the license certifi-
cate of the licensee involved. The commissioner may suspend or revoke a license certificate or suspend a special dealer plate or plates 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, the provisions and requirements of this article, or any reasonable rules and regulations authorized in section nine, article two of this chapter and promulgated, to implement the provisions of this article, by the commissioner in accordance with the provisions of article three, chapter twenty-nine-a of this code;

(2) Has given any check in the payment of any fee required under the provisions of this chapter which is dishonored;
(3) In the case of a dealer, has knowingly made or permitted any unlawful use of any dealer special plate or plates issued to him; or

(4) In the case of a dealer, has a dealer special plate or plates to which he is not lawfully entitled.

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

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

(2) Has habitually defaulted on financial obligations.

(3) Does not have and/or maintain at each place of business [subject to the qualification contained in subparagraph (17), subsection (a), section one of this article with respect to a new motor vehicle dealer] an established place of business as defined for the business in question in said section one;

(4) Has been guilty of any fraudulent act in connection with the business of new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer,
motorcycle dealer, used parts dealer, or wrecker or dismantler;

(5) Has defrauded or is attempting to defraud any buyer or any other person, to the damage of the buyer or such other person, in the conduct of the licensee's business;

(6) 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;

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

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

(9) 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;

(10) Has wilfully failed or refused to perform any legally binding written agreement with any buyer;

(11) Has made a fraudulent sale or purchase;
(12) Has failed or refused to assign, reassign or transfer a proper certificate of title; or
(13) Has a license certificate to which he is not lawfully entitled.

The commissioner shall also suspend or revoke the license certificate of a licensee if he finds the existence of any ground upon which the license certificate could have been refused, or any ground which would be cause for refusing a license certificate to such licensee were he then applying for the same.

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

(c) Suspensions hereunder shall continue until the cause therefor has been eliminated or corrected. Revocation of a license certificate shall not preclude application for a new license certificate, which application shall be
processed in the same manner and the license certificate
issued or refused on the same grounds as any other ap-
lication for a license certificate is processed, considered
and passed upon, except that any previous suspension and
the revocation may be given such weight in deciding
whether to issue or refuse such license certificate as is
meet and proper under all of the circumstances.

§17A-6-19. Notice of refusal, or suspension or revocation, of
license certificate or of suspension of right to issue tem-
porary registration plates or markers or of suspension
of a dealer special plate or plates; relinquishing license
certificate, dealer special plate or plates and temporary
plates or markers.

(a) 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 dealer to issue
temporary plates or markers under the provisions of
section fifteen of this article, or shall suspend a dealer
special plate or plates, he 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.

(b) Whenever a license certificate is suspended or revoked, the commissioner shall in the order of suspension or revocation direct the licensee to return to the department his license certificate and any special dealer plates and temporary registration plates or markers issued in conjunction with the issuance of such license certificate or such business, which temporary registration plates or markers are still in the licensee's possession. Whenever the right of a dealer to issue temporary registration plates or markers is suspended or a dealer special plate or plates are suspended as aforesaid, the commissioner shall in the order of suspension direct the licensee to return to the department all temporary registration plates or markers issued in conjunction with such business and still in the licensee's possession or such dealer special plate or plates.

It shall be the duty of the licensee to comply with any such order following expiration of the period provided in section twenty-one of this article for an appeal to the license certificate appeal board (created in section twenty of this article) without an appeal to such board having
been timely perfected, and immediately if a license certificate were suspended in accordance with the provisions of subsection (b), section eighteen of this article. Whenever a licensee shall fail or refuse to comply with any such order as herein specified, the commissioner shall proceed as provided in section seven, article nine of this chapter.

Part VI. License Certificate Appeal Board Created; Right to Appeal Hearing; Original Action by Board.

§17A-6-20. Creation of license certificate appeal board; general provisions related thereto.

(a) There is hereby created a license certificate appeal board (hereinafter in this article referred to as the board) which shall be composed of five members who shall be appointed by the governor by and with the advice and consent of the Senate. At least three of said members shall have been engaged in this state in the motor vehicle business for a period of at least five years immediately preceding the date of their appointment. No more than three members shall be members of the same political party.
The members of the board shall be appointed for overlapping terms of five years, except that the original appointments of said members shall be for five, four, three, two and one years, respectively. Any member whose term expires may be reappointed by the governor. Members of the board shall, before performing any duty, take and subscribe to the oath required by section five, article four of the constitution of this state. Members shall serve at the will and pleasure of the governor. Any vacancy shall be filled by appointment of the governor for the unexpired term of the member whose office shall be vacant. Any vacancy occurring in the office of a member of the board shall be filled by appointment within sixty days after such vacancy occurs.

The board shall elect a chairman who shall serve at the will and pleasure of the board. A majority of the members of said board shall constitute a quorum. Meetings shall be held at the call of the chairman or upon the written request of three members at such time and place as is designated in such call or request. Until otherwise provided by law, members shall serve without compen-
sation or reimbursed expenses whatever. The board shall make and keep accurate records of all of its proceedings and make certificates thereof or therefrom as may be required by law. The commissioner shall furnish the board with reasonable assistance, office space, secretarial help and supplies when needed, within the limits of available funds. The board is hereby authorized to promulgate rules and regulations, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement and make effective the powers, duties and responsibilities vested in such board by the provisions of this article.

§17A-6-21. Appeals to board.

(a) Any applicant or licensee, as the case may be, adversely affected by an order made and entered by the commissioner in accordance with the provisions of section nineteen of this article may appeal to the board for an order vacating or modifying such order or for such order as the commissioner should have entered. The person so appealing shall be known as the appellant and the commissioner shall be known as the appellee.
(b) An appeal shall be perfected by filing a notice of appeal with the board and with the commissioner within thirty days after the date upon which the appellant received the copy of such order. Said notice of appeal shall be in such form and contain such information as may be prescribed by the board, but in all cases shall contain a description of any order appealed from and the grounds for said appeal. The filing of the notice of appeal shall operate to automatically stay or suspend execution of any order which is the subject matter of said appeal, except for an order suspending a license certificate in accordance with the provisions of subsection (b), section eighteen of this article. The appellant shall give security for the costs of said appeal in such form and amount as the commissioner may reasonably prescribe. If the appellant does not substantially prevail on such appeal, such costs shall be assessed against him by the board and may be collected by an action at law or other proper remedy.

c) Within ten days after receipt of his copy of said notice of appeal, the commissioner shall prepare and
certify to the board the complete record of the proceedings out of which the appeal arises, including, but not limited to, all documents and correspondence in the commissioner's file relating to the matter in question. The board shall hear the appeal de novo and evidence may be offered on behalf of the appellant and appellee.

(d) All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing on appeal and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in extenso in this subsection.

(e) Any such appeal hearing shall be conducted by a quorum of the board. For the purpose of conducting any such appeal hearing, any member of the board shall have the power and authority to issue subpoenas and subpoenas duces tecum in the name of the board, in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code. All subpoenas and subpoenas duces tecum shall be issued and served within the time and for the fees and shall be enforced, as specified in section one,
article five of said chapter twenty-nine-a, and all of the
said section one provisions dealing with subpoenas and
subpoenas duces tecum shall apply to subpoenas and
subpoenas duces tecum issued for the purpose of an appeal
hearing hereunder.

(f) Upon receipt of said record from the commissioner,
the board shall set a hearing date which shall be not less
than ten nor more than twenty days thereafter unless
there is a postponement or continuance. The board may
postpone or continue any hearing on its own motion, or
for good cause shown upon the application of the appellant
or appellee. The appellant and the appellee shall be given
notice of said hearing in person or by certified mail, return
receipt requested. Any such hearing shall be held in
Charleston, Kanawha county, West Virginia, unless an-
other place is specified by the board. At any such hearing
the appellant may represent himself or be represented by
any attorney at law admitted to practice before any circuit
court of this state and the appellee shall be represented by
the attorney general, or his assistants, in accordance with
the provisions of section twenty, article two of this
chapter. The board may direct the appellant and the
appellee to produce evidence on any point considered by
the board to be relevant and material.
(g) After such hearing and consideration of all of the
testimony, evidence and record in the case, the board
shall make and enter an order affirming, modifying or
vacating the order of the commissioner, or shall make and
enter such order as the commissioner should have entered.
Such order shall be accompanied by findings of fact and
conclusions of law as specified in section three, article
five, chapter twenty-nine-a of this code, and a copy of
such order and accompanying findings and conclusions
shall be served upon the appellant, and his attorney of
record, if any, and upon the appellee, in person or by
certified mail, return receipt requested.
(h) The order of the board shall be final unless vacated
or modified upon judicial review thereof in accordance
with the provisions of section twenty-three of this article.

§17A-6-22. Original action by board; matters confidential.

In the event the commissioner shall receive a sworn com-
plaint in writing alleging a violation of any of the pro-
visions of this chapter by a licensee, and the commissioner does not within thirty days thereafter make and enter an order with respect thereto, the complainant may file a sworn complaint with the board. Upon receipt of any such sworn complaint, the board may investigate the matter, and hold a hearing with respect thereto and decide the matter with like effect as if the commissioner had made and entered an order and the licensee had appealed such order to the board. Any complaint and any investigation shall be kept in strictest confidence by the board, the commissioner, the department, the licensee, the complainant and all other persons, unless and until the commissioner or board suspends or revokes the license certificate of the licensee involved.

Part VII. Judicial Review.

§17A-6-23. Judicial review.

(a) Any person or the commissioner adversely affected by a final order made and entered by the board is entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such review with like
(b) The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

(c) Legal counsel and services for the commissioner in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants, and in appeal proceedings in any circuit court by the prosecuting attorney of the county as well, all without additional compensation and in accordance with the provisions of section twenty, article two of this chapter. The board or commissioner, with the written approval of the attorney general, may employ special counsel to represent the board or commissioner in a particular proceeding.

Part VIII. Actions for Injunctive Relief.

§17A-6-24. Actions to enjoin violations; injunctive relief.

(a) Whenever it appears to the commissioner that any person has been or is violating or is about to violate any
provision of this article or any final order of the commissioner or board, the commissioner may apply in the name of the state, to the circuit court of the county in which the violation or violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and any other persons who have been, are or are about to be, involved in, or in any way participating in, any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of article eleven of this chapter.

(b) Upon application by the commissioner, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article and all final orders of the commissioner or board. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed.

(c) The judgment of the circuit court upon any appli-
cation permitted by the provisions of this section 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.

(d) The commissioner shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit courts by the prosecuting attorneys of the several counties as well, all without additional compensation and in accordance with the provisions of said section twenty, article two of this chapter. With the written approval of the attorney general, the commissioner may employ special counsel to represent him in any such proceeding.

Part IX. Inspections; Violations and Penalties.

§17A-6-25. 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, vehicles 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 ar-
ticle. 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 and any other public garage or
enclosure where vehicles are sold, stored, hired or re-
paired.

(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 pro-
visions of article eleven of this chapter governing viola-
tions of this chapter generally shall be fully applicable
thereto.

Part X. Construction.


(a) The provisions of this article shall be liberally
construed so as to effectuate its purposes.

(b) All of the provisions of this chapter expressly
stated to be applicable throughout such chapter shall be
as fully applicable to this act as if they were set forth
in extenso herein.
ARTICLE 7. SPECIAL STICKERS.

§17A-7-1. Operation of vehicles under special stickers; application and fees therefor and expiration thereof.

The commissioner may upon application therefor on a form prescribed by him issue to a banking institution, insurance company, finance company, or other type of lending or financial institution, or a person engaged exclusively in wrecking or dismantling vehicles, a paper sticker or decal to be affixed to the left side of the rear window of a motor vehicle or at a place on any other type vehicle as designated by the commissioner. Such sticker or decal shall be of a size to be designated by the commissioner and shall be serially numbered and shall have provision thereon to indicate the date of issuance thereof. A fee of one dollar per sticker shall be charged by the department to the applicant therefor. Such sticker or decal shall be valid for the operation of a vehicle, whether under its own power or while being towed, one time only over the streets or highways of this state, and upon being once affixed to a vehicle shall become invalid for subsequent use on that or any other vehicle.
§17A-7-2. Operation of motor vehicles under special stickers; application and fees therefor and expiration thereof.

A member of the department of public safety may at any detachment office, upon application therefor on a form prescribed by the commissioner, issue to a licensed dealer or any other person other than those specified in section one of this article, a paper sticker or decal to be affixed to the left side of the rear window of a motor vehicle. Such sticker or decal shall be of a size to be designated by the commissioner and shall be serially numbered and shall have provision thereon to indicate the date of issuance thereof. A fee of one dollar per sticker shall be charged and shall be deposited in the state road fund. Such sticker or decal shall be valid for forty-eight hours after its issuance for the operation of a motor vehicle, whether under its own power or while being towed, one time only over the streets or highways of this state, and upon being once affixed to a motor vehicle shall become invalid for subsequent use on that or any other vehicle.

§17A-7-3. Operation of house trailer under special sticker; application therefor and expiration thereof.

Upon application therefor on a form prescribed by him
the commissioner may issue to the owner of a house trailer a special one-movement sticker of such design and content, as may be prescribed by him: Provided, That such special sticker shall not be issued to any house trailer or trailer dealer. Such sticker shall be valid for the movement of a house trailer one time only over the streets and highways of this state, and no more than one such sticker may be issued for the same house trailer while owned by the same person. A fee of two dollars shall be received by the department for each such special sticker.

ARTICLE 9. OFFENSES AGAINST REGISTRATION LAWS AND SUSPENSION OR REVOCATION OF REGISTRATION.

§17A-9-6. References elsewhere to this section shall be read, construed and understood to mean section eighteen, article six.

Wherever in this code or elsewhere in law reference is made to this section, such reference shall henceforth be read, construed and understood to mean section eighteen, article six of this chapter.
§17A-9-7. **Surrender of evidences of registration, etc., upon cancellation, suspension or revocation; wilful failure or refusal to surrender.**

Whenever the registration of a vehicle, a certificate of title, a registration card, registration plate or plates, a temporary registration plate or marker, the right to issue temporary registration plates or markers, any nonresident or other permit, or any license certificate or dealer special plates issued under the provisions of article six of this chapter, is cancelled, suspended or revoked as authorized in this chapter, the owner, holder or other person in possession of such evidences shall, except as otherwise provided in said article six, immediately return the evidences of the registration, title, permit or license so cancelled, suspended, or revoked, together with any dealer special plates relating to any such license certificate, or any dealer special plate or plates if such alone be suspended, to the department. If any person shall wilfully fail or refuse to return to the department the evidences of the registration, title, permit or license so cancelled, suspended, or revoked, or any dealer special plates, when
obligated so to do as aforesaid, the commissioner shall forthwith notify the superintendent of the department of public safety who shall, as soon as possible, secure possession thereof and return same to the department. Said superintendent of the department of public safety shall make a report in writing to the commissioner, within two weeks after being so notified by the commissioner, as to the result of his efforts to secure the possession and return of such evidences of registration, title, permit or license, or any dealer special plates. For each registration, certificate of title, registration card, registration plate or plates, temporary registration plate or marker, permit, license certificate, or dealer special plate, which the owner, holder or other person in possession thereof shall have wilfully failed or refused, as aforesaid, to return to the department within ten days from the time that such cancellation, suspension or revocation becomes effective, and which shall have been certified to the superintendent of the department of public safety as aforesaid, the owner or holder shall, before the same may be reinstated, if reinstatement is permitted, in addition to all other fees
and charges, pay a fee of ten dollars, which fee shall be collected by the department of motor vehicles, paid into the state treasury and credited to the general fund to be appropriated to the department of public safety for application in the enforcement of the road laws. Only one fee shall be collected on each such reinstatement for each vehicle to which any such cancellation, suspension or revocation relates.

ARTICLE 12. SEVERABILITY AND EFFECT OF CHAPTER.

§17A-12-1. Severability.

If any part or parts of this chapter shall be held to be unconstitutional or invalid such unconstitutionality or invalidity shall not affect the constitutionality or validity of the remaining part or parts of this chapter. The Legislature hereby declares that it would have passed the remaining part or parts of this chapter if it had known that such part or parts thereof would be declared unconstitutional or invalid.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tamper
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect January 1, 1968.

Howard Myers
Clerk of the Senate

Clerk of the House of Delegates

Howard W. Carver
President of the Senate

W. Laban White
Speaker House of Delegates

The within approved this the 21 day of March, 1967.

Hulet C. Smith
Governor
PRESENTED TO THE
GOVERNOR

Date 3/3/67
Time 3:20pm