

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

ENROLLED

Com. Sub. for
SENATE BILL NO. 60

(By Mr. *Moreland original sponsor*)

PASSED March 11, 1967

In Effect January 1, 1968 Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-67

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ENROLLED
JUDICIARY
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 60
(Mr. MORELAND original sponsor)

[Passed March 11, 1967; in effect January 1, 1968.]

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 fol-
2 lowing words and phrases when used in this chapter shall
3 have the meanings respectively ascribed to them in this
4 article:

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

9 (b) *Motor vehicle*.—Every vehicle which is self-pro-
10 pelled and every vehicle which is propelled by electric
11 power obtained from overhead trolley wires, but not oper-
12 ated upon rails.

13 (c) *Motorcycle*.—Every motor vehicle having a saddle
14 for the use of the rider and designed to travel on not more
15 than three wheels in contact with the ground but exclud-
16 ing a tractor.

17 (d) *School bus*.—Every motor vehicle owned by a pub-
18 lic governmental agency and operated for the transporta-
19 tion of children to or from school or privately owned and
20 operated for compensation for the transportation of chil-
21 dren to or from school.

22 (e) *Bus*.—Every motor vehicle designed for carrying
23 more than seven passengers and used for the transporta-
24 tion of persons; and every motor vehicle, other than a
25 taxicab, designed and used for the transportation of per-
26 sons for compensation.

27 (f) *Truck tractor*.—Every motor vehicle designed and
28 used primarily for drawing other vehicles and not so con-
29 structed as to carry a load other than a part of the weight
30 of the vehicle and load so drawn.

31 (g) *Farm tractor*.—Every motor vehicle designed and
32 used primarily as a farm implement for drawing plows,
33 mowing machines, and other implements of husbandry.

34 (h) *Road tractor*.—Every motor vehicle designed and
 35 used for drawing other vehicles and not so constructed as
 36 to carry any load thereon either independently or any
 37 part of the weight of a vehicle or load so drawn.

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

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

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

49 (l) *Pole trailer*.—Every vehicle without motive power
 50 designed to be drawn by another vehicle and attached to
 51 the towing vehicle by means of a reach, or pole, or by
 52 being boomed or otherwise secured to the towing vehicle,
 53 and ordinarily used for transporting long or irregularly
 54 shaped loads such as poles, pipes, or structural members

55 capable, generally, of sustaining themselves as beams be-
56 tween the supporting connections.

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

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

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

71 (p) *Foreign vehicle*.—Every vehicle of a type required
72 to be registered hereunder brought into this state from
73 another state, territory, or country other than in the ordi-
74 nary course of business by or through a manufacturer or
75 dealer and not registered in this state.

76 (q) *Implement of husbandry*.—Every vehicle which is
 77 designed for or adapted to agricultural purposes and used
 78 by the owner thereof primarily in the conduct of his agri-
 79 cultural operations, including, but not limited to, trucks
 80 used for spraying trees and plants: *Provided*, That said
 81 vehicle shall not be let for hire at any time.

82 (r) *Special mobile equipment*.—Every vehicle not de-
 83 signed or used for the transportation of persons or proper-
 84 ty and incidentally operated or moved over the highways,
 85 including road construction or maintenance machinery,
 86 ditch-digging apparatus, well-boring apparatus, concrete
 87 mixers, and farm tractors, when farm tractors cannot be
 88 classified as an implement of husbandry as defined in sub-
 89 paragraph (q) of this section. The foregoing enumeration
 90 shall be deemed partial and shall not operate to exclude
 91 other such vehicles which are within the general terms of
 92 this subparagraph.

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

95 (t) *Solid tire*.—Every tire of rubber or other resilient
 96 material which does not depend upon compressed air for
 97 the support of the load.

98 (u) *Metal tire*.—Every tire the surface of which in con-
99 tact with the highway is wholly or partly of metal or
100 other hard, nonresilient material.

101 (v) *Commissioner*.—The commissioner of motor vehi-
102 cles of this state.

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

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

108 (y) *Owner*.—A person who holds the legal title to a
109 vehicle or in the event a vehicle is the subject of an agree-
110 ment for the conditional sale or lease thereof with the
111 right of purchase upon performance of the conditions
112 stated in the agreement and with an immediate right of
113 possession vested in the conditional vendee or lessee, or in
114 the event a mortgagor of a vehicle is entitled to posses-
115 sion, then such conditional vendee or lessee or mortgagor
116 shall be deemed the owner for the purpose of this chapter.

117 (z) *Nonresident*.—Every person who is not a resident
118 of this state.

119 (aa) *Dealer or dealers*.—A general term meaning, de-
 120 pending upon the context in which used, either a new mo-
 121 tor vehicle dealer, used motor vehicle dealer, house trailer
 122 dealer, trailer dealer, or motorcycle dealer, as defined in
 123 section one, article six of this chapter, or all of such deal-
 124 ers or a combination thereof, and in some instances a new
 125 motor vehicle dealer or dealers in another state.

126 (bb) *Registered dealer or registered dealers*.—A general
 127 term meaning, depending upon the context in which used,
 128 either a new motor vehicle dealer, used motor vehicle
 129 dealer, house trailer dealer, trailer dealer, or motorcycle
 130 dealer, or all of such dealers or a combination thereof,
 131 licensed under the provisions of article six of this chapter.

132 (cc) *Licensed dealer or licensed dealers*.—A general
 133 term meaning, depending upon the context in which used,
 134 either a new motor vehicle dealer, used motor vehicle
 135 dealer, house trailer dealer, trailer dealer, or motorcycle
 136 dealer, or all of such dealers or a combination thereof,
 137 licensed under the provisions of article six of this chapter.

138 (dd) *Transporter*.—Every person engaged in the busi-
 139 ness of delivering vehicles of a type required to be regis-
 140 tered hereunder from a manufacturing, assembling, or

141 distributing plant to dealers or sales agents of a manufac-
142 turer.

143 (ee) *Manufacturer*.—Every person engaged in the busi-
144 ness of constructing or assembling vehicles of a type re-
145 quired to be registered hereunder at a place of business in
146 this state which is actually occupied either continuously
147 or at regular periods by such manufacturer where his
148 books and records are kept and a large share of his busi-
149 ness is transacted.

150 (ff) *Street or highway*.—The entire width between
151 boundary lines of every way publicly maintained when
152 any part thereof is open to the use of the public for pur-
153 poses of vehicular travel.

154 (gg) *Code*.—The code of West Virginia, one thousand
155 nine hundred thirty-one, as amended.

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRA-
TION; 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
2 constructed, reconstructed, or a foreign vehicle, such fact

3 shall be stated in the application and with reference to
 4 every foreign vehicle which has been registered hereto-
 5 fore outside of this state the owner shall surrender to
 6 the department all registration plates, registration cards,
 7 and certificates of title or other evidence of such foreign
 8 registration as may be in his possession or under his
 9 control except as provided in subsection (b) hereof.

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

18 (c) In the event application for registration and cer-
 19 tificate of title is made for a new vehicle purchased from
 20 a dealer outside this state, a certificate of title shall not
 21 be issued for such vehicle nor shall such vehicle be regis-
 22 tered by the department unless and until such application
 23 shall be accompanied by a certificate of title or a manu-

24 factorer's certificate of origin, or if the state of purchase
25 does not require a certificate of title such application shall
26 be accompanied by a manufacturer's certificate of origin,
27 accompanied by evidence that such seller is a bona fide
28 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 oper-
2 ation of such vehicle upon a highway shall apply for and
3 obtain the registration thereof, as upon an original regis-
4 tration, except as otherwise permitted in sections thirteen
5 and fifteen, article six, or by any other provisions of this
6 chapter: *Provided*, That such transferee may operate
7 such vehicle under the registration of its previous owner
8 for a period of not more than ten days as provided in
9 section one, article three of this chapter.

10 A transferee shall at the same time present the certifi-
11 cate of title endorsed and assigned as hereinbefore pro-
12 vided to the department and make application for and
13 obtain a new certificate of title for such vehicle, except

14 as otherwise permitted in sections four and five of this
15 article.

**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
2 a different meaning, as used in this article:

3 (1) “*New motor vehicle dealer*” means every person
4 (other than his agents and employees, if any, while acting
5 within the scope of their authority or employment), en-
6 gaged in, or who holds himself out to the public to be
7 engaged in, the business in this state of selling new motor
8 vehicles, or new and used motor vehicles, of a type re-
9 quired to be registered under the provisions of this chap-
10 ter, except, for the purposes of this article only, motor-
11 cycles.

12 (2) “*Used motor vehicle dealer*” means every person
13 (other than his agents and employees, if any, while acting
14 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.

37 (6) "*Used parts dealer*" means every person (other
38 than his agents and employees, if any, while acting within
39 the scope of their authority or employment), engaged in,
40 or who holds himself out to the public to be engaged in,
41 the business in this state of selling any used appliance, ac-
42 cessory, member, portion or other part of any vehicle.

43 (7) "*Wrecker or dismantler*" means every person
44 (other than his agents and employees, if any, while acting
45 within the scope of their authority or employment), en-
46 gaged in, or who holds himself out to the public to be
47 engaged in, the business in this state of dealing in wrecked
48 or damaged motor vehicles or motor vehicle parts for the
49 purpose of selling the parts thereof or scrap therefrom.

50 (8) "*New motor vehicles*" means all motor vehicles, ex-
51 cept motorcycles and used motor vehicles, of a type re-
52 quired to be registered under the provisions of this chapter.

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

53 (10) "*House trailers*" means all trailers designed or in-
59 tended for human occupancy and commonly referred to
60 as mobile homes or house trailers, but shall not include
61 camping, vacation and travel trailers.

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

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

70 (13) "*Sell*", "*Sale*" or "*Selling*" shall, in addition to the
71 ordinary definitions of such terms, include offering for
72 sale, soliciting sales of, negotiating for the sale of, dis-
73 playing for sale, or advertising for sale, any vehicle,
74 whether at retail, wholesale or at auction. "*Selling*" shall,
75 in addition to the ordinary definition of that term, also
76 include buying and exchanging.

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

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

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

85 (17) "*Established place of business*" shall, in the case
86 of a new motor vehicle dealer, mean a permanent loca-
87 tion, not a temporary stand or other temporary quarters,
88 owned or leased by the licensee or applicant and actually
89 occupied or to be occupied by him, as the case may be,
90 which is or is to be used exclusively for the purpose of
91 selling new motor vehicles or new and used motor ve-
92 hicles, which shall have space under roof for the dis-
93 play of at least one new motor vehicle and facilities and
94 space therewith for the servicing and repair of at least
95 one motor vehicle, which servicing and repair facilities
96 and space shall be adequate and suitable to carry out
97 servicing and to make repairs necessary to keep and carry
98 out all representations, warranties and agreements made
99 or to be made by such dealer with respect to motor vehi-
100 cles sold by him, which shall be easily accessible to the

101 public, which shall conform to all applicable laws of the
102 state of West Virginia and the ordinances of the munici-
103 pality in which it is located, if any, which shall display
104 thereon at least one permanent sign, clearly visible from
105 the principal public street or highway nearest said loca-
106 tion and clearly stating the business which is or shall be
107 conducted thereat, and which shall have adequate facili-
108 ties to keep, maintain and preserve records, papers and
109 documents necessary to carry on such business and to
110 make the same available to inspection by the commissioner
111 at all reasonable times: *Provided, however,* That the re-
112 quirement of exclusive use shall be met even though (i)
113 some new and any used motor vehicles sold or to be sold by
114 such dealer are sold or are to be sold at a different location
115 or locations not meeting the definition of an established
116 place of business of a new motor vehicle dealer, if each
117 such location is or is to be served by other facilities and
118 space of such dealer for the servicing and repair of at least
119 one motor vehicle, adequate and suitable as aforesaid, and
120 each such location used for the sale of some new and any
121 used motor vehicles otherwise meets the definition of an

122 established place of business of a used motor vehicle
123 dealer; (ii) house trailers, trailers and/or motorcycles are
124 sold or are to be sold thereat, if, subject to the provisions
125 of section five of this article, a separate license certificate
126 is obtained for each such type of vehicle business, which
127 license certificate remains unexpired, unsuspended and
128 unrevoked; (iii) farm machinery is sold thereat; and (iv)
129 accessory, gasoline and oil, or storage departments are
130 maintained thereat, if such departments are operated for
131 the purpose of furthering and assisting in the licensed
132 business or businesses.

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

136 (19) "*Established place of business*" shall, in the case
137 of a used motor vehicle dealer, mean a permanent loca-
138 tion, not a temporary stand or other temporary quarters,
139 owned or leased by the licensee or applicant and actually
140 occupied or to be occupied by him, as the case may be,
141 which is or is to be used exclusively for the purpose of
142 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-

164 quate and suitable as aforesaid, the effect of which agree-
165 ment or agreements is to provide such servicing and repair
166 services and space in like manner as if said servicing and
167 repair facilities and space were located in or on said
168 dealer's place of business, then, so long as such an agree-
169 ment or agreements are in effect, it shall not be neces-
170 sary for such dealer to maintain such servicing and re-
171 pair facilities and space at his place of business in order
172 for such place of business to be an established place of
173 business as herein defined: *And provided further, That*
174 the requirement of exclusive use shall be met **even**
175 though (i) house trailers, trailers and/or motorcycles
176 are sold or are to be sold thereat, if, subject to the pro-
177 visions of section five of this article, a separate license
178 certificate is obtained for each such type of vehicle busi-
179 ness, which license certificate remains unexpired, unsus-
180 pended and unrevoked; (ii) farm machinery is sold
181 thereat; and (iii) accessory, gasoline and oil, or storage
182 departments are maintained thereat, if such departments
183 are operated for the purpose of furthering and assisting
184 in the licensed business or businesses.

185 (20) "*Established place of business*" shall, in the case
186 of a house trailer dealer, trailer dealer, motorcycle dealer,
187 used parts dealer and wrecker or dismantler, mean a per-
188 manent location, not a temporary stand or other tempo-
189 rary quarters, owned or leased by the licensee or appli-
190 cant and actually occupied or to be occupied by him, as
191 the case may be, which shall be easily accessible to the
192 public, which shall conform to all applicable laws of the
193 state of West Virginia and the ordinances of the munici-
194 pality in which it is located, if any, which shall display
195 thereon at least one permanent sign, clearly visible from
196 the principal public street or highway nearest said loca-
197 tion and clearly stating the business which is or shall be
198 conducted thereat, and which shall have adequate facili-
199 ties to keep, maintain and preserve records, papers and
200 documents necessary to carry on such business and to
201 make the same available to inspection by the commis-
202 sioner at all reasonable times.

203 (b) Under no circumstances whatever shall the terms
204 "new motor vehicle dealer", "used motor vehicle dealer",
205 "house trailer dealer", "trailer dealer", "motorcycle

206 dealer”, “used parts dealer” or “wrecker or dismantler”
207 be construed or applied under this article in such a way
208 as to include a banking institution, insurance company,
209 finance company, or other lending or financial institution,
210 or other person, the state or any agency or political sub-
211 division thereof, or any municipality, who or which owns
212 or shall come in possession or ownership of, or acquire
213 contract rights, or security interests in or to, any vehicle
214 or vehicles or any part thereof and shall sell such vehicle
215 or vehicles or any part thereof for purposes other than
216 engaging in and holding himself or itself out to the public
217 to be engaged in the business of selling vehicles or any
218 part thereof.

219 (c) It is recognized that throughout this code the term
220 “trailer” or “trailers” is used to include, among other
221 types of trailers, house trailers. It is also recognized that
222 throughout this code the term “trailer” or “trailers” is
223 seldom used to include semitrailers or pole trailers.
224 However, for the purposes of this article only, the term
225 “trailers” shall have the meaning ascribed to it in sub-
226 section (a) of this section.

§17A-6-2. Legislative findings and declaration of public policy.

The Legislature hereby determines and finds that in the
2 past some few persons engaged in the business of selling
3 new or used motor vehicles, house trailers, trailers, motor-
4 cycles, or used motor vehicle parts, and in the business of
5 wrecking or dismantling motor vehicles, have not had
6 the necessary qualifications, staff, equipment or facilities
7 to adequately serve the public; that some few persons
8 engaged in said businesses have made false and deceptive
9 claims and advertisements to the public and have engaged
10 in fraud and other illegal conduct; that certain citizens of
11 this state have sustained financial losses as a result
12 thereof; and that in some of said cases there has been no
13 adequate means to prevent said conduct or protect the
14 interests of the citizens of West Virginia. It is, therefore,
15 declared to be the public policy of this state that the busi-
16 ness of new motor vehicle dealer, used motor vehicle
17 dealer, house trailer dealer, trailer dealer, motorcycle
18 dealer, used parts dealer, or wrecker or dismantler,
19 affects the general welfare of this state and its citi-
20 zens; that persons without the necessary qualifications,

21 staff, equipment or facilities to adequately serve the pub-
 22 lic, and persons not of good character or who have or are
 23 likely to attempt to misrepresent their product or engage
 24 in fraudulent or other illegal conduct should not engage
 25 in such businesses; and that such evils may best be pre-
 26 vented and the interests of the public best served by re-
 27 quiring persons in such businesses to meet the qualifica-
 28 tions set forth in this article and to be licensed by the
 29 commissioner of motor vehicles as provided in this
 30 article.

Part II. License Certificate Provisions.

**§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
 2 that he is engaged or intends to engage in the business of
 3 new motor vehicle dealer, used motor vehicle dealer,
 4 house trailer dealer, trailer dealer, motorcycle dealer,
 5 used parts dealer, or wrecker or dismantler, in
 6 this state, unless and until he shall first obtain a license
 7 certificate therefor as provided in this article, which li-
 8 cense certificate remains unexpired, unsuspended and

9 unrevoked. Any person desiring to engage in more than
10 one such business must, subject to the provisions of sec-
11 tion five of this article, apply for and obtain a separate
12 license certificate for each such business.

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

21 (c) Any license certificate and special plates issued by
22 the commissioner under the former provisions of article
23 six or article seven or section six, article ten of this chap-
24 ter, and which have not been cancelled, suspended or
25 revoked prior to the effective date of this article shall be
26 governed by the provisions of this article and shall remain
27 valid until their expiration, unless such license certificate
28 is sooner suspended or revoked in accordance with the
29 provisions of this article.

§17A-6-4. Application for license certificate; insurance; bonds; investigation.

(a) Application for any license certificate required by
 2 section three of this article shall be made on such form as
 3 may be prescribed by the commissioner. There shall be
 4 attached to the application a certificate of insurance
 5 certifying that the applicant has in force an insurance
 6 policy issued by an insurance company authorized to do
 7 business in this state insuring the applicant and any other
 8 person, as insured, using any vehicle or vehicles owned
 9 by the applicant with the express or implied permission
 10 of such named insured, against loss from the liability im-
 11 posed by law for damages arising out of the ownership,
 12 operation, maintenance, or use of such vehicle or vehicles,
 13 subject to minimum limits, exclusive of interest and costs,
 14 with respect to each such vehicle, as follows: Ten thou-
 15 sand dollars because of bodily injury to or death of one
 16 person in any one accident and, subject to said limit for
 17 one person, twenty thousand dollars because of bodily
 18 injury to or death of two or more persons in any one

19 accident, and five thousand dollars because of injury to or
20 destruction of property of others in any one accident.

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

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

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

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

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

37 (5) The location of each place in this state at which the
38 applicant will engage in said business and whether the
39 same is owned or leased by the applicant;

40 (6) Whether the applicant, any partner, officer or di-
 41 rector thereof has previously engaged in said business or
 42 any other business required to be licensed under the pro-
 43 visions of this article and if so, with or for whom, at what
 44 location and for what periods of time;

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

51 (8) A statement of previous general business experi-
 52 ence and past history of the applicant; and

53 (9) Such other information as the commissioner may
 54 reasonably require which may include information re-
 55 lating to any contracts, agreements or understandings
 56 between the applicant and other persons respecting the
 57 transaction of said business, and any criminal record of
 58 the applicant if an individual, or of each partner if a
 59 copartnership, or of each officer and director, if a corpora-
 60 tion.

61 (c) In the case of an application for a license certificate
62 to engage in the business of new motor vehicle dealer,
63 such application shall, in addition to the matters outlined
64 in subsection (b) of this section disclose:

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

68 (2) The exact number of new motor vehicles, if any,
69 sold at retail in this state by such applicant or his prede-
70 cessor, if any, during the preceding fiscal year, and if no
71 new motor vehicles were sold at retail in this state by
72 such applicant or his predecessor, if any, during the pre-
73 ceding fiscal year, the number of new motor vehicles the
74 applicant reasonably expects to sell at retail in this state
75 during the ensuing fiscal year.

76 (d) In the case of an application for a license certificate
77 to engage in the business of used motor vehicle dealer,
78 such application shall in addition to the matters outlined
79 in subsection (b) of this section, disclose the exact num-
80 ber of used motor vehicles, if any, sold at retail in this
81 state by such applicant or his predecessor, if any, during

82 the preceding fiscal year, and if no used motor vehicles
83 were sold at retail in this state by such applicant or his
84 predecessor, if any, during the preceding fiscal year, the
85 number of used motor vehicles the applicant reasonably
86 expects to sell at retail in this state during the ensuing
87 fiscal year.

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

93 (f) Such application shall be verified by the oath or
94 affirmation of the applicant, if an individual, or if the ap-
95 plicant is a copartnership or corporation, by a partner or
96 officer thereof, as the case may be, and in the case of an
97 application for a license certificate to engage in the busi-
98 ness of a new motor vehicle dealer, used motor vehicle
99 dealer, or house trailer dealer, such application must be
100 accompanied by a bond of the applicant in the penal sum
101 of two thousand dollars, in such form as may be prescribed
102 by the commissioner, conditioned that the applicant will

103 not in the conduct of his business practice any fraud
104 which, or make any fraudulent representation which, shall
105 cause a financial loss to any purchaser, seller, or financial
106 institution or agency, or the state of West Virginia, with a
107 corporate surety thereon authorized to do business in this
108 state, which bond shall be effective as of the date on which
109 the license certificate sought is issued.

110 (g) Upon receipt of any such fully completed applica-
111 tion, together with any bond required as aforesaid, the
112 certificate of insurance as aforesaid and the appropriate
113 fee as hereinafter provided in section ten of this article,
114 the commissioner may conduct such investigation as he
115 deems necessary to determine the accuracy of any state-
116 ments contained in such application and the existence
117 of any other facts which he deems relevant in consider-
118 ing such application. To facilitate such investigation,
119 the commissioner may withhold issuance or refusal of the
120 license certificate for a period not to exceed twenty days.

121 (h) Any application for a license certificate under the
122 provisions of this article and any information submitted
123 therewith shall be confidential for the use of the depart-

124 ment and the license certificate appeal board created in
 125 section twenty of this article. No person shall divulge
 126 any information contained in any such application or any
 127 information submitted therewith except in response to a
 128 valid subpoena or subpoena duces tecum issued pursuant
 129 to law.

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

Any new motor vehicle dealer, used motor vehicle
 2 dealer, house trailer dealer, trailer dealer or motorcycle
 3 dealer receiving a vehicle in trade of a type other than
 4 that he is licensed to sell hereunder may sell such vehicle
 5 without obtaining a license certificate to engage in the
 6 business of selling vehicles of such type and without being
 7 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
 2 information before him, the commissioner shall make
 3 and enter an order denying the application for a license
 4 certificate and refusing the license certificate sought,
 5 which denial and refusal shall be final and conclusive

6 unless an appeal is taken in accordance with the pro-
7 visions of section twenty-one of this article, if the commis-
8 sioner finds that the applicant (individually, if an indi-
9 vidual, or the partners, if a copartnership, or the officers
10 and directors, if a corporation):

- 11 (1) Has failed to furnish the required bond;
- 12 (2) Has failed to furnish the required certificate of
13 insurance;
- 14 (3) Has knowingly made false statement of a material
15 fact in his application;
- 16 (4) Has habitually defaulted on financial obligations;
- 17 (5) Has been convicted of a felony within five years
18 immediately preceding receipt of the application by the
19 commissioner;
- 20 (6) So far as can be ascertained, has not complied with
21 and will not comply with the registration and title laws
22 of this state;
- 23 (7) Does not or will not have and/or maintain at each
24 place of business [subject to the qualification contained
25 in subparagraph (17), subsection (a), section one of this
26 article with respect to a new motor vehicle dealer] an

27 established place of business as defined for the business
28 in question in said section one;

29 (8) Has been guilty of any fraudulent act in connection
30 with the business of new motor vehicle dealer, used motor
31 vehicle dealer, house trailer dealer, trailer dealer, motor-
32 cycle dealer, used parts dealer, or wrecker or dismantler;
33 or

34 (9) Has done any act or has failed or refused to per-
35 form any duty for which the license certificate sought
36 could be suspended or revoked were it then issued and
37 outstanding.

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

46 (b) A license certificate issued in accordance with the
47 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
2 of article seven of this chapter shall make application for
3 a license certificate under the provisions of this article at
4 least thirty days before expiration of his license granted in
5 accordance with said article seven.

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

13 (c) A license certificate may be renewed each year in
14 the same manner, for the same fee as prescribed in section
15 ten of this article and upon the same basis as an original
16 license certificate is issued under section six of this article.
17 All applications for the renewal of any license certificate
18 shall be filed with the commissioner at least thirty days
19 before the expiration thereof.

§17A-6-8. Form and display of license certificate or certified copy thereof; obtaining certified copy of license certificate; bond.

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

(b) When a licensee conducts his licensed business at
13 more than one location, he shall, upon application therefor,
14 obtain from the commissioner for each such place of busi-
15 ness one certified copy of his license certificate. A fee of
16 one dollar shall be paid for each such certified copy. Each
17 licensee shall keep his license certificate or certified copy
18 thereof conspicuously posted at each place of business,

19 (c) A licensee shall keep the bond and liability in-
20 surance required by section four of this article in full
21 force and effect at all times. The aggregate liability of
22 the surety in no event shall exceed the principal sum of
23 the bond. The surety on such bond shall have the right
24 to cancel such bond upon giving thirty days' notice to
25 the commissioner and thereafter shall be relieved of lia-
26 bility for any breach of condition occurring after the
27 effective date of said cancellation.

28 (d) In the event of the loss or destruction of a license
29 certificate or a certified copy thereof, the licensee shall
30 immediately make application for a certified copy of the
31 license certificate. A fee of one dollar shall be required
32 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
2 dealer and house trailer dealer shall notify the commis-
3 sioner within sixty days from and after the date on which
4 any of the following changes in the business occur:

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

6 (2) A change of the name or trade-name under which
7 the licensee engages or will engage in the business;
8
9 ners thereof;

3 (3) The death of the licensee or any partner or part-

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

11 (5) A change in ownership of the business;

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

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

18 When any change specified in subparagraphs (1), (2),
19 (3), (4), (5) and/or (6) occurs, an application for a new
20 license certificate shall immediately be filed with the com-
21 missioner: *Provided*, That when a subparagraph (3), (4)
22 and/or (5) change is involved, an application for a new
23 license certificate need not be filed during the balance of
24 the license year if the change results from death and a
25 member of the family of such deceased person succeeds
26 to his interest in the business. Thereupon, a new license

27 certificate shall be issued incorporating the changes speci-
28 fied in said subparagraphs (1), (2), (3), (4), (5) and/or
29 (6) and reflecting any new licensee occasioned thereby,
30 if there is then no reason for refusing said license certifi-
31 cate as specified in section six of this article. No new li-
32 cense certificate shall be required for any trustee in bank-
33 ruptcy, trustee under an assignment for the benefit of
34 creditors, receiver or master, appointed pursuant to law,
35 who shall take charge of or operate such business for the
36 purpose of winding up the affairs of such business or pro-
37 tecting the interests of the creditors of such business. No
38 additional fee for the balance of the license year shall be
39 required for the issuance of any new license certificate
40 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
2 engage in the business of new motor vehicle dealer shall
3 be one hundred dollars. This fee shall also entitle such
4 licensee to one dealer's special plate which shall be known

5 as a Class D special plate. Up to nine additional Class D
6 special plates shall be issued to any such licensee upon
7 application therefor on a form prescribed by the com-
8 missioner for such purpose and the payment of a fee of
9 five dollars for each additional Class D special plate. Any
10 such licensee who obtains a total of ten Class D special
11 plates as aforesaid shall be entitled to receive additional
12 Class D special plates on a formula basis, that is, one
13 additional Class D special plate per twenty new motor
14 vehicles sold at retail in this state by such licensee or his
15 predecessor during the preceding fiscal year, upon appli-
16 cation therefor on a form prescribed by the commissioner
17 for such purpose and the payment of a fee of five dollars
18 for each such additional Class D special plate: *Provided,*
19 That in the case of a licensee who did not own or operate
20 such business during such preceding fiscal year and who
21 has no predecessor who owned or operated such business
22 during the preceding fiscal year, additional Class D special
23 plates shall be issued, for the ensuing fiscal year only, on
24 a formula basis of one additional Class D special plate per
25 twenty new motor vehicles which such licensee estimates

26 on his application for his license certificate he will sell at
27 retail in this state during said ensuing fiscal year. Any
28 such licensee may obtain Class D special plates in addition
29 to the ten plates authorized above and any authorized on
30 a formula basis, but the cost of each such Class D special
31 plate shall be thirty dollars.

32 (b) The annual fee required for a license certificate to
33 engage in the business of used motor vehicle dealer shall
34 be one hundred dollars. This fee shall also entitle such
35 licensee to one dealer's special plate which shall be known
36 as a Class D-U/C special plate. Up to four additional
37 Class D-U/C special plates shall be issued to any such
38 licensee upon application therefor on a form prescribed
39 by the commissioner for such purpose and the payment
40 of a fee of five dollars for each additional Class D-U/C
41 special plate. Any such licensee who obtains a total of
42 five Class D-U/C special plates as aforesaid shall be en-
43 titled to receive additional Class D-U/C special plates on
44 a formula basis, that is, one additional Class D-U/C special
45 plate per thirty used motor vehicles sold at retail in this
46 state by such licensee or his predecessor during the pre-

47 ceding fiscal year, upon application therefor on a form
48 prescribed by the commissioner for such purpose and the
49 payment of a fee of five dollars for each such additional
50 Class D-U/C special plate: *Provided, however,* That in
51 the case of a licensee who did not own or operate such
52 business during such preceding fiscal year and who has no
53 predecessor who owned or operated such business during
54 the preceding fiscal year, additional Class D-U/C special
55 plates shall be issued, for the ensuing fiscal year only, on
56 a formula basis of one additional Class D-U/C special
57 plate per thirty used motor vehicles which such licensee
58 estimates on his application for his license certificate he
59 will sell at retail in this state during said ensuing fiscal
60 year. Any such licensee may obtain Class D-U/C special
61 plates in addition to the five plates authorized above and
62 any authorized on a formula basis, but the cost of each
63 such Class D-U/C special plate shall be thirty dollars.

64 (c) The annual fee required for a license certificate to
65 engage in the business of house trailer dealer or trailer
66 dealer, as the case may be, shall be twenty-five dollars.
67 This fee shall also entitle such licensee to four dealer's

68 special plates which shall be known as Class D-T/R spe-
69 cial plates. Additional Class D-T/R special plates shall be
70 issued to any such licensee upon application therefor on
71 a form prescribed by the commissioner for such purpose
72 and the payment of a fee of five dollars for each such addi-
73 tional Class D-T/R special plate.

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

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

86 (f) All of the special plates provided for in this section
87 shall be of such form and design and contain such other
88 distinguishing marks or characteristics as the commis-
89 sioner may prescribe.

§17A-6-11. Expiration of special plates.

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

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

A dealer holding an unexpired, unsuspended and un-
2 revoked license certificate and owning a vehicle or ve-
3 hicles of the type he is licensed to sell hereunder and
4 which are otherwise required to be registered under this
5 chapter may operate or move the same upon the streets
6 and highways without registering each such vehicle upon
7 condition that any such vehicle display thereon a special
8 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
2 special plates herein authorized may be used for any
3 purpose on any motor vehicle owned by the dealer to
4 whom issued and which is being operated with his

5 knowledge and consent and not otherwise: *Provided*,
6 That under no circumstances whatever shall a Class D
7 special plate or Class D-U/C special plate be used on
8 any work or service vehicle owned by a dealer, on any
9 vehicle owned by a dealer and offered for hire or lease,
10 or on any vehicle which has been sold by a dealer to a
11 customer.

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

24 (c) Under no circumstances whatever shall a Class F
25 special plate be used for the purpose of operating any

26 type of motor vehicle other than a motorcycle on the
27 streets and highways, or on a motorcycle owned by a
28 dealer and offered for hire or lease, or on any motorcycle
29 which has been sold by a dealer to a customer.

30 (d) Every dealer entitled to and issued a special plate
31 or plates under the provisions of this article shall keep
32 a written record of the salesman, mechanic, employee,
33 agent, officer, or other person, to whom a special plate or
34 plates have been assigned by such dealer. Every such
35 record shall be open to inspection by the commissioner or
36 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
2 discretion, special permits to a new motor vehicle dealer
3 for use on new motor vehicles driven under their own
4 power from the factory or distributing place of a manu-
5 facturer, or other dealer, to a place of business of such
6 dealer, or from such place of business to a place of busi-
7 ness of another such dealer. Each special permit shall be
8 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.

11 (b) Application by a dealer to the commissioner for
12 such temporary registration plates or markers shall be
13 made on the form prescribed and furnished by the com-
14 missioner for such purpose and shall be accompanied by
15 a fee of one dollar for each such temporary registration
16 plate or marker. No refund or credit of fees paid by
17 dealers to the commissioner for temporary registration
18 plates or markers shall be allowed, except that in the

19 event the commissioner discontinues the issuance of such
20 temporary plates or markers, dealers returning temporary
21 registration plates or markers to the commissioner may
22 petition for and be entitled to a refund or a credit thereof.
23 No temporary registration plates or markers shall be de-
24 livered by the commissioner to any dealer in house trailers
25 only, and no such temporary plates or markers shall be
26 issued for or used on any house trailer for any purpose.

27 (c) Every dealer who has made application for and received
28 temporary registration plates or markers shall maintain in
29 permanent form a record of all temporary registration
30 plates or markers delivered to him, a record of all tempo-
31 rary registration plates or markers issued by him, and a
32 record of any other information pertaining to the receipt or
33 the issuance of temporary registration plates or markers
34 which the commissioner may require. Each such record
35 shall be kept for a period of at least three years from the
36 date of the making thereof. Every dealer who issues a
37 temporary registration plate or marker shall, within three
38 days after he issues such plate or marker, send to the de-
39 partment a copy of the temporary registration plate or

40 marker certificate properly executed by such dealer and
41 the purchaser. No temporary registration plates or mark-
42 ers may be delivered to any dealer until such dealer has
43 fully accounted to the commissioner for the temporary
44 registration plates or markers last delivered to such dealer,
45 by showing the number issued to purchasers by such
46 dealer and any on hand.

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

61 he may own, a temporary registration plate or marker.
 62 It shall be unlawful for any dealer to issue any temporary
 63 registration plate or marker knowingly containing any
 64 misstatement of fact, or knowingly to insert any false
 65 information upon the face thereof.

66 (e) Every dealer who issues temporary registration
 67 plates or markers shall affix or insert clearly and indelibly
 68 on the face of each temporary registration plate or marker
 69 the date of issuance and expiration thereof, and the make
 70 and motor or serial number of the vehicle for which
 71 issued.

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

76 (g) Every person who is issued a temporary regis-
 77 tration plate or marker shall execute and send an
 78 application for an annual registration plate to the
 79 department, previous to or not later than fifteen days
 80 from the day on which the temporary registration plate
 81 or marker is issued to such purchaser.

82 (h) Every person to whom a temporary registration
83 plate or marker has been issued shall permanently destroy
84 such temporary registration plate or marker immediately
85 upon receiving the annual registration plate for such
86 vehicle from the department: *Provided*, That if the an-
87 nual registration plate is not received within twenty
88 days of the issuance of the temporary registration plate
89 or marker, the owner shall, notwithstanding the fact
90 that the annual registration plate has not been received,
91 immediately and permanently destroy the temporary
92 registration plate or marker: *Provided, however*, That
93 not more than one temporary registration plate or marker
94 shall be issued to the same bona fide purchaser for the
95 same vehicle.

96 (i) A temporary registration plate or marker shall
97 expire and become void upon the receipt of the annual
98 registration plate from the department or upon the re-
99 scission of the contract to purchase the vehicle in question,
100 or upon the expiration of twenty days from the date of
101 issuance, depending upon whichever event shall first
102 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
2 be kept and maintained, each licensee shall keep and
3 maintain a record in such form and for such period of
4 time as may be prescribed by the commissioner of:

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

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

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

12 (b) Every such record shall state the name and address
13 of the person from whom such vehicle was purchased or
14 acquired and the date thereof, the name and address of
15 the person to whom any such vehicle, vehicle body, or
16 chassis was sold or otherwise disposed of, the date thereof,
17 and a description of every such vehicle, body or chassis
18 by name and identifying numbers sufficient to identify
19 the same.

20 (c) Every licensee shall also keep and maintain such
21 other records as the commissioner may require by reason-
22 able rules and regulations authorized in section nine,
23 article two of this chapter and promulgated in accordance
24 with the provisions of article three, chapter twenty-nine-a
25 of this code.

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

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

- 9 (1) Name of the seller;
- 10 (2) Name of the buyer;
- 11 (3) Make, year and model of the vehicle;
- 12 (4) Cash sale price;
- 13 (5) Cash paid down by the buyer;
- 14 (6) Amount credited to buyer for any trade-in;

15 (7) Provisions as to whether the seller or buyer is to
16 pay off the indebtedness, if any, on the trade-in;

17 (8) Description of the trade-in;

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

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

25 (11) Net balance due from buyer and the terms of
26 payment (if not a cash sale so far as the dealer is con-
27 cerned). A copy of such sales instrument shall be kept
28 and maintained among the records of the seller as pro-
29 vided 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 investiga-
2 tion to determine whether any provisions of this

3 chapter have been or are about to be violated by a
4 licensee. Any investigation shall be kept in strictest con-
5 fidence by the commissioner, the department, the licensee,
6 any complainant and all other persons, unless and until
7 the commissioner suspends or revokes the license certifi-
8 cate of the licensee involved. The commissioner may
9 suspend or revoke a license certificate or suspend a special
10 dealer plate or plates if the commissioner finds that the
11 licensee:

12 (1) Has failed or refused to comply with the laws of
13 this state relating to the registration and titling of vehicles
14 and the giving of notices of transfers, the provisions and
15 requirements of this article, or any reasonable rules and
16 regulations authorized in section nine, article two of this
17 chapter and promulgated, to implement the provisions of
18 this article, by the commissioner in accordance with the
19 provisions of article three, chapter twenty-nine-a of this
20 code;

21 (2) Has given any check in the payment of any fee
22 required under the provisions of this chapter which is
23 dishonored;

24 (3) In the case of a dealer, has knowingly made or per-
25 mitted any unlawful use of any dealer special plate or
26 plates issued to him; or

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

29 The commissioner shall suspend or revoke a license cer-
30 tificate if the commissioner finds that the licensee:

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

34 (2) Has habitually defaulted on financial obligations.

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

41 (4) Has been guilty of any fraudulent act in connec-
42 tion with the business of new motor vehicle dealer, used
43 motor vehicle dealer, house trailer dealer, trailer dealer,

44 motorcycle dealer, used parts dealer, or wrecker or dis-
45 mantler;

46 (5) Has defrauded or is attempting to defraud any
47 buyer or any other person, to the damage of the buyer or
48 such other person, in the conduct of the licensee's busi-
49 ness;

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

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

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

58 (9) Has advertised by any means, with intent to de-
59 fraud, any material representation or statement of fact
60 which is untrue, misleading or deceptive in any particular
61 relating to the conduct of the licensed business;

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

64 (11) Has made a fraudulent sale or purchase;

65 (12) Has failed or refused to assign, reassign or trans-
66 fer a proper certificate of title; or

67 (13) Has a license certificate to which he is not law-
68 fully entitled.

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

75 (b) Whenever a licensee fails or refuses to keep the
76 bond or liability insurance required by section four of this
77 article in full force and effect, the license certificate of
78 such licensee shall automatically be suspended unless
79 and until a bond or certificate of insurance as re-
80 quired by said section four is furnished to the commis-
81 sioner, in which event the suspension shall be vacated.

82 (c) Suspensions hereunder shall continue until the
83 cause therefor has been eliminated or corrected. Revoca-
84 tion of a license certificate shall not preclude application
85 for a new license certificate, which application shall be

86 processed in the same manner and the license certificate
87 issued or refused on the same grounds as any other ap-
88 plication for a license certificate is processed, considered
89 and passed upon, except that any previous suspension and
90 the revocation may be given such weight in deciding
91 whether to issue or refuse such license certificate as is
92 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
2 license certificate, or shall suspend or revoke a license
3 certificate, or shall suspend the right of a dealer to issue
4 temporary plates or markers under the provisions of
5 section fifteen of this article, or shall suspend a dealer
6 special plate or plates, he shall make and enter an
7 order to that effect and shall cause a copy of such order
8 to be served in person or by certified mail, return receipt

9 requested, on the applicant or licensee, as the case may be.

10 (b) Whenever a license certificate is suspended or re-
11 voked, the commissioner shall in the order of suspension
12 or revocation direct the licensee to return to the depart-
13 ment his license certificate and any special dealer plates
14 and temporary registration plates or markers issued in
15 conjunction with the issuance of such license certificate
16 or such business, which temporary registration plates or
17 markers are still in the licensee's possession. Whenever
18 the right of a dealer to issue temporary registration plates
19 or markers is suspended or a dealer special plate or plates
20 are suspended as aforesaid, the commissioner shall in the
21 order of suspension direct the licensee to return to the
22 department all temporary registration plates or markers
23 issued in conjunction with such business and still in the
24 licensee's possession or such dealer special plate or plates.
25 It shall be the duty of the licensee to comply with any
26 such order following expiration of the period provided in
27 section twenty-one of this article for an appeal to the
28 license certificate appeal board (created in section twenty
29 of this article) without an appeal to such board having

30 been timely perfected, and immediately if a license certifi-
31 cate were suspended in accordance with the provisions of
32 subsection (b), section eighteen of this article. Whenever
33 a licensee shall fail or refuse to comply with any such
34 order as herein specified, the commissioner shall proceed
35 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
2 board (hereinafter in this article referred to as the board)
3 which shall be composed of five members who shall be
4 appointed by the governor by and with the advice and
5 consent of the Senate. At least three of said members
6 shall have been engaged in this state in the motor ve-
7 hicle business for a period of at least five years imme-
8 diately preceding the date of their appointment. No
9 more than three members shall be members of the same
10 political party.

11 (b) The members of the board shall be appointed for
12 overlapping terms of five years, except that the original
13 appointments of said members shall be for five, four,
14 three, two and one years, respectively. Any member
15 whose term expires may be reappointed by the governor.
16 Members of the board shall, before performing any duty,
17 take and subscribe to the oath required by section five,
18 article four of the constitution of this state. Members
19 shall serve at the will and pleasure of the governor. Any
20 vacancy shall be filled by appointment of the governor
21 for the unexpired term of the member whose office shall
22 be vacant. Any vacancy occurring in the office of a mem-
23 ber of the board shall be filled by appointment within
24 sixty days after such vacancy occurs.

25 (c) The board shall elect a chairman who shall serve
26 at the will and pleasure of the board. A majority of the
27 members of said board shall constitute a quorum. Meet-
28 ings shall be held at the call of the chairman or upon the
29 written request of three members at such time and place
30 as is designated in such call or request. Until otherwise
31 provided by law, members shall serve without compen-

32 sation or reimbursed expenses whatever. The board shall
33 make and keep accurate records of all of its proceedings
34 and make certificates thereof or therefrom as may be
35 required by law. The commissioner shall furnish the
36 board with reasonable assistance, office space, secretarial
37 help and supplies when needed, within the limits of avail-
38 able funds. The board is hereby authorized to promulgate
39 rules and regulations, in accordance with the provisions
40 of article three, chapter twenty-nine-a of this code, to
41 implement and make effective the powers, duties and re-
42 sponsibilities vested in such board by the provisions of
43 this article.

§17A-6-21. Appeals to board.

(a) Any applicant or licensee, as the case may be,
2 adversely affected by an order made and entered by the
3 commissioner in accordance with the provisions of sec-
4 tion nineteen of this article may appeal to the board for
5 an order vacating or modifying such order or for such
6 order as the commissioner should have entered. The
7 person so appealing shall be known as the appellant and
8 the commissioner shall be known as the appellee.

9 (b) An appeal shall be perfected by filing a notice of
10 appeal with the board and with the commissioner within
11 thirty days after the date upon which the appellant
12 received the copy of such order. Said notice of appeal
13 shall be in such form and contain such information as may
14 be prescribed by the board, but in all cases shall contain
15 a description of any order appealed from and the grounds
16 for said appeal. The filing of the notice of appeal shall
17 operate to automatically stay or suspend execution of
18 any order which is the subject matter of said appeal,
19 except for an order suspending a license certificate
20 in accordance with the provisions of subsection (b),
21 section eighteen of this article. The appellant shall give
22 security for the costs of said appeal in such form and
23 amount as the commissioner may reasonably prescribe.
24 If the appellant does not substantially prevail on such
25 appeal, such costs shall be assessed against him by the
26 board and may be collected by an action at law or other
27 proper remedy.

28 (c) Within ten days after receipt of his copy of said
29 notice of appeal, the commissioner shall prepare and

30 certify to the board the complete record of the proceed-
31 ings out of which the appeal arises, including, but not
32 limited to, all documents and correspondence in the com-
33 missioner's file relating to the matter in question. The
34 board shall hear the appeal de novo and evidence may be
35 offered on behalf of the appellant and appellee.

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

42 (e) Any such appeal hearing shall be conducted by a
43 quorum of the board. For the purpose of conducting any
44 such appeal hearing, any member of the board shall have
45 the power and authority to issue subpoenas and subpoenas
46 duces tecum in the name of the board, in accordance with
47 the provisions of section one, article five, chapter twenty-
48 nine-a of this code. All subpoenas and subpoenas duces
49 tecum shall be issued and served within the time and for
50 the fees and shall be enforced, as specified in section one,

51 article five of said chapter twenty-nine-a, and all of the
52 said section one provisions dealing with subpoenas and
53 subpoenas duces tecum shall apply to subpoenas and
54 subpoenas duces tecum issued for the purpose of an appeal
55 hearing hereunder.

56 (f) Upon receipt of said record from the commissioner,
57 the board shall set a hearing date which shall be not less
58 than ten nor more than twenty days thereafter unless
59 there is a postponement or continuance. The board may
60 postpone or continue any hearing on its own motion, or
61 for good cause shown upon the application of the appellant
62 or appellee. The appellant and the appellee shall be given
63 notice of said hearing in person or by certified mail, return
64 receipt requested. Any such hearing shall be held in
65 Charleston, Kanawha county, West Virginia, unless an-
66 other place is specified by the board. At any such hearing
67 the appellant may represent himself or be represented by
68 any attorney at law admitted to practice before any circuit
69 court of this state and the appellee shall be represented by
70 the attorney general, or his assistants, in accordance with
71 the provisions of section twenty, article two of this

72 chapter. The board may direct the appellant and the
73 appellee to produce evidence on any point considered by
74 the board to be relevant and material.

75 (g) After such hearing and consideration of all of the
76 testimony, evidence and record in the case, the board
77 shall make and enter an order affirming, modifying or
78 vacating the order of the commissioner, or shall make and
79 enter such order as the commissioner should have entered.
80 Such order shall be accompanied by findings of fact and
81 conclusions of law as specified in section three, article
82 five, chapter twenty-nine-a of this code, and a copy of
83 such order and accompanying findings and conclusions
84 shall be served upon the appellant, and his attorney of
85 record, if any, and upon the appellee, in person or by
86 certified mail, return receipt requested.

87 (h) The order of the board shall be final unless vacated
88 or modified upon judicial review thereof in accordance
89 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-
2 plaint in writing alleging a violation of any of the pro-

3 visions of this chapter by a licensee, and the commissioner
4 does not within thirty days thereafter make and enter an
5 order with respect thereto, the complainant may file a
6 sworn complaint with the board. Upon receipt of any
7 such sworn complaint, the board may investigate the
8 matter, and hold a hearing with respect thereto and decide
9 the matter with like effect as if the commissioner had
10 made and entered an order and the licensee had appealed
11 such order to the board. Any complaint and any investi-
12 gation shall be kept in strictest confidence by the board,
13 the commissioner, the department, the licensee, the com-
14 plainant and all other persons, unless and until the com-
15 missioner or board suspends or revokes the license certifi-
16 cate of the licensee involved.

Part VII. Judicial Review.

§17A-6-23. Judicial review.

(a) Any person or the commissioner adversely affected
2 by a final order made and entered by the board is entitled
3 to judicial review thereof. All of the pertinent provisions
4 of section four, article five, chapter twenty-nine-a of this
5 code shall apply to and govern such review with like

6 effect as if the provisions of said section four were set
7 forth in extenso in this section.

8 (b) The judgment of the circuit court shall be final
9 unless reversed, vacated or modified on appeal to the su-
10 preme court of appeals in accordance with the provisions
11 of section one, article six, chapter twenty-nine-a of this
12 code.

13 (c) Legal counsel and services for the commissioner in
14 all appeal proceedings in any circuit court and the su-
15 preme court of appeals shall be provided by the attorney
16 general or his assistants, and in appeal proceedings in any
17 circuit court by the prosecuting attorney of the county as
18 well, all without additional compensation and in accord-
19 ance with the provisions of section twenty, article two of
20 this chapter. The board or commissioner, with the written
21 approval of the attorney general, may employ special
22 counsel to represent the board or commissioner in a par-
23 ticular 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
2 person has been or is violating or is about to violate any

3 provision of this article or any final order of the commis-
4 sioner or board, the commissioner may apply in the name
5 of the state, to the circuit court of the county in which the
6 violation or violations or any part thereof has occurred,
7 is occurring or is about to occur, or the judge thereof in
8 vacation, for an injunction against such person and any
9 other persons who have been, are or are about to be, in-
10 volved in, or in any way participating in, any practices,
11 acts or omissions, so in violation, enjoining such person
12 or persons from any such violation or violations. Such
13 application may be made and prosecuted to conclusion
14 whether or not any such violation or violations have re-
15 sulted or shall result in prosecution or conviction under
16 the provisions of article eleven of this chapter.

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

23 (c) The judgment of the circuit court upon any appli-

24 cation permitted by the provisions of this section shall
25 be final unless reversed, vacated or modified on appeal to
26 the supreme court of appeals. Any such appeal shall be
27 sought in the manner and within the time provided by
28 law for appeals from circuit courts in other civil cases.

29 (d) The commissioner shall be represented in all such
30 proceedings by the attorney general or his assistants and
31 in such proceedings in the circuit courts by the prose-
32 cuting attorneys of the several counties as well, all with-
33 out additional compensation and in accordance with the
34 provisions of said section twenty, article two of this
35 chapter. With the written approval of the attorney gen-
36 eral, the commissioner may employ special counsel to
37 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 offi-
2 cers of the state, acting at the commissioner's request,
3 are hereby authorized to inspect the place of business,
4 vehicles and pertinent records, documents and papers
5 of any person required to be licensed under the provisions

6 of this article to the extent deemed reasonably necessary
7 to determine compliance with and violations of this ar-
8 ticle. For the purpose of making any such inspection,
9 the commissioner and such law enforcement officers are
10 authorized, at reasonable times, to enter in and upon any
11 such place of business and any other public garage or
12 enclosure where vehicles are sold, stored, hired or re-
13 paired.

14 (b) Any person who shall violate any provision of this
15 article or any final order of the commissioner or board
16 hereunder shall be guilty of a misdemeanor and the pro-
17 visions of article eleven of this chapter governing viola-
18 tions of this chapter generally shall be fully applicable
19 thereto.

Part X. Construction.

§17A-6-26. Construction.

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

3 (b) All of the provisions of this chapter expressly
4 stated to be applicable throughout such chapter shall be
5 as fully applicable to this act as if they were set forth
6 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
2 a form prescribed by him issue to a banking institution,
3 insurance company, finance company, or other type of
4 lending or financial institution, or a person engaged
5 exclusively in wrecking or dismantling vehicles, a paper
6 sticker or decal to be affixed to the left side of the rear
7 window of a motor vehicle or at a place on any other type
8 vehicle as designated by the commissioner. Such sticker
9 or decal shall be of a size to be designated by the commis-
10 sioner and shall be serially numbered and shall have
11 provision thereon to indicate the date of issuance thereof.
12 A fee of one dollar per sticker shall be charged by the
13 department to the applicant therefor. Such sticker or
14 decal shall be valid for the operation of a vehicle, whether
15 under its own power or while being towed, one time only
16 over the streets or highways of this state, and upon being
17 once affixed to a vehicle shall become invalid for subse-
18 quent 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
2 any detachment office, upon application therefor on a form
3 prescribed by the commissioner, issue to a licensed dealer
4 or any other person other than those specified in section
5 one of this article, a paper sticker or decal to be affixed to
6 the left side of the rear window of a motor vehicle. Such
7 sticker or decal shall be of a size to be designated by the
8 commissioner and shall be serially numbered and shall
9 have provision thereon to indicate the date of issuance
10 thereof. A fee of one dollar per sticker shall be charged
11 and shall be deposited in the state road fund. Such sticker
12 or decal shall be valid for forty-eight hours after its is-
13 suance for the operation of a motor vehicle, whether under
14 its own power or while being towed, one time only over
15 the streets or highways of this state, and upon being once
16 affixed to a motor vehicle shall become invalid for subse-
17 quent 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

2 the commissioner may issue to the owner of a house
3 trailer a special one-movement sticker of such design and
4 content, as may be prescribed by him: *Provided, That*
5 such special sticker shall not be issued to any house trailer
6 or trailer dealer. Such sticker shall be valid for the move-
7 ment of a house trailer one time only over the streets and
8 highways of this state, and no more than one such sticker
9 may be issued for the same house trailer while owned
10 by the same person. A fee of two dollars shall be re-
11 ceived by the department for each such special sticker.

**ARTICLE 9. OFFENSES AGAINST REGISTRATION LAWS
AND SUSPENSION OR REVOCATION OF REGISTRA-
TION.**

**§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
2 made to this section, such reference shall henceforth
3 be read, construed and understood to mean section eight-
4 een, 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
2 title, a registration card, registration plate or plates, a
3 temporary registration plate or marker, the right to issue
4 temporary registration plates or markers, any nonresident
5 or other permit, or any license certificate or dealer special
6 plates issued under the provisions of article six of this
7 chapter, is cancelled, suspended or revoked as authorized
8 in this chapter, the owner, holder or other person in pos-
9 session of such evidences shall, except as otherwise pro-
10 vided in said article six, immediately return the evidences
11 of the registration, title, permit or license so cancelled,
12 suspended, or revoked, together with any dealer special
13 plates relating to any such license certificate, or any
14 dealer special plate or plates if such alone be suspended,
15 to the department. If any person shall wilfully fail or
16 refuse to return to the department the evidences of the
17 registration, title, permit or license so cancelled, sus-
18 pended, or revoked, or any dealer special plates, when

19 obligated so to do as aforesaid, the commissioner shall
20 forthwith notify the superintendent of the department of
21 public safety who shall, as soon as possible, secure pos-
22 session thereof and return same to the department. Said
23 superintendent of the department of public safety shall
24 make a report in writing to the commissioner, within two
25 weeks after being so notified by the commissioner, as to
26 the result of his efforts to secure the possession and return
27 of such evidences of registration, title, permit or license,
28 or any dealer special plates. For each registration, cer-
29 tificate of title, registration card, registration plate or
30 plates, temporary registration plate or marker, permit,
31 license certificate, or dealer special plate, which the owner,
32 holder or other person in possession thereof shall have
33 wilfully failed or refused, as aforesaid, to return to the
34 department within ten days from the time that such can-
35 cellation, suspension or revocation becomes effective, and
36 which shall have been certified to the superintendent of
37 the department of public safety as aforesaid, the owner
38 or holder shall, before the same may be reinstated, if
39 reinstatement is permitted, in addition to all other fees

40 and charges, pay a fee of ten dollars, which fee shall be
41 collected by the department of motor vehicles, paid into
42 the state treasury and credited to the general fund to be
43 appropriated to the department of public safety for appli-
44 cation in the enforcement of the road laws. Only one fee
45 shall be collected on each such reinstatement for each
46 vehicle to which any such cancellation, suspension or
47 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
2 be unconstitutional or invalid such unconstitutionality or
3 invalidity shall not affect the constitutionality or validity
4 of the remaining part or parts of this chapter. The Leg-
5 islature hereby declares that it would have passed the
6 remaining part or parts of this chapter if it had known
7 that such part or parts thereof would be declared un-
8 constitutional or invalid.

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

William Tompa
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

A Blankenship
Clerk of the House of Delegates

Howard E. Carson
President of the Senate

H. Laban White
Speaker House of Delegates

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

Hullett C. Smith
Governor

PRESENTED TO THE
GOVERNOR

Date 3/24/67

Time 3:20pm