WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED

HOUSE BILL No. 1197

(By Mrs. Smith of the White, Cabell)

PASSED March 13, 1971

In Effect from Passage

1197

FILED IN THE OFFICE
WILLIS D. ROKERFELD, IV
SECRETARY OF STATE
THIS DATE 4-2-71
ENROLLED

House Bill No. 1197
(By MRS. SMIRL and MR. WHITE, of Cabell)

[Passed March 13, 1971; in effect from passage.]

AN ACT to amend and reenact section one, article six, chapter
seventeen-a of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to definitions
and to further amend said article by adding thereto a
new section, designated section ten-a, relating to special
plates for manufacturers and transporters, fee.

Be it enacted by the Legislature of West Virginia:

That section one, article six, chapter seventeen-a of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted; and that said article
six be further amended by adding thereto a new section,
designated section ten-a, all to read as follows:
ARTICLE 6. LICENSING OF DEALERS AND WRECKERS OR DISMANTLERS; SPECIAL PLATES; TEMPORARY PLATES OR MARKERS, ETC.

§17A-6-1. Definitions.

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

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

18  (3) "House trailer dealer" means every person (other
than his agents and employees, if any, while acting within
the scope of their authority or employment), engaged
in, or who holds himself out to the public to be engaged
in, the business in this state of selling new and/or
used house trailers, or new and/or used house trailers
and trailers.

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

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

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

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

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

(9) "Used motor vehicles" means all motor vehicles, except motorcycles, of a type required to be registered under the provisions of this chapter which have been sold and operated, or which have been registered or titled, in this or any other state or jurisdiction.
(10) "House trailers" means all trailers designed or intended for human occupancy and commonly referred to as mobile homes or house trailers, but shall not include camping, vacation and travel trailers.

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

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

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

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

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

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

(17) "Established place of business" shall, in the case of a new motor vehicle dealer, mean a permanent location, not a temporary stand or other temporary quarters, owned or leased by the licensee or applicant and actually occupied or to be occupied by him, as the case may be, which is or is to be used exclusively for the purpose of selling new motor vehicles or new and used motor vehicles, which shall have space under roof for the display of at least one new motor vehicle and facilities and space therewith for the servicing and repair of at least one motor vehicle, which servicing and repair facilities and space shall be adequate
and suitable to carry out servicing and to make repairs necessary to keep and carry out all representations, warranties and agreements made or to be made by such dealer with respect to motor vehicles sold by him, which shall be easily accessible to the public, which shall conform to all applicable laws of the state of West Virginia and the ordinances of the municipality in which it is located, if any, which shall display thereon at least one permanent sign, clearly visible from the principal public street or highway nearest said location and clearly stating the business which is or shall be conducted thereat, and which shall have adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on such business and to make the same available to inspection by the commissioner at all reasonable times: Provided, however, That the requirement of exclusive use shall be met even though (i) some new and any used motor vehicles sold or to be sold by such dealer or sold or are to be sold at a different location or locations not meeting the definition of an established place of busi-
ness of a new motor vehicle dealer, if each such location
is or is to be served by other facilities and space of
such dealer for the servicing and repair of at least
one motor vehicle, adequate and suitable as aforesaid,
and each such location used for the sale of some new
and any used motor vehicles otherwise meets the defi-
nition of an established place of business of a used
motor vehicle dealer; (ii) house trailers, trailers
and/or motorcycles are sold or are to be sold thereat,
if, subject to the provisions of section five of this
article, a separate license certificate is obtained for
each such type of vehicle business, which license cer-
tificate remains unexpired, unsuspended and unrevoked;
(iii) farm machinery is sold thereat; and (iv) acces-
sory, gasoline and oil, or storage departments are main-
tained thereat, if such departments are operated for
the purpose of furthering and assisting in the licensed
business or businesses.

(18) "Farm machinery" means all machines and
tools used in the production, harvesting or care of farm
products.
(19) "Established place of business" shall, in the case of a used motor vehicle dealer, mean a permanent location, not a temporary stand or other temporary quarters, owned or leased by the licensee or applicant and actually occupied or to be occupied by him, as the case may be, which is or is to be used exclusively for the purpose of selling used motor vehicles, which shall have facilities and space therewith for the servicing and repair of at least one motor vehicle, which servicing and repair facilities and space shall be adequate and suitable to carry out servicing and to make repairs necessary to keep and carry out all representations, warranties and agreements made or to be made by such dealer with respect to used motor vehicles sold by him, which shall be easily accessible to the public, shall conform to all applicable laws of the state of West Virginia, and the ordinances of the municipality in which it is located, if any, which shall display thereon at least one permanent sign, clearly visible from the principal public street or highway nearest said location and clearly stating the business
which is or shall be conducted thereat, and which shall have adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on such business and to make the same available to inspection by the commissioner at all reasonable times:

Provided, That if a used motor vehicle dealer has entered into a written agreement or agreements with a person or persons owning or operating a servicing and repair facility or facilities adequate and suitable as aforesaid, the effect of which agreement or agreements is to provide such servicing and repair services and space in like manner as if said servicing and repair facilities and space were located in or on said dealer's place of business, then, so long as such an agreement or agreements are in effect, it shall not be necessary for such dealer to maintain such servicing and repair facilities and space at his place of business in order for such place of business to be an established place of business as herein defined: Provided further, That the requirement of exclusive use shall be met even though (i) house trailers, trailers and/or motorcycles
are sold or are to be sold thereat, if, subject to the provisions of section five of this article, a separate license certificate is obtained for each such type of vehicle business, which license certificate remains unexpired, unsuspended and unrevoked; (ii) farm machinery is sold thereat; and (iii) accessory, gasoline and oil, or storage departments are maintained thereat, if such departments are operated for the purpose of furthering and assisting in the licensed business or businesses.

(20) “Established place of business” shall, in the case of a house trailer dealer, trailer dealer, motorcycle dealer, used parts dealer and wrecker or dismantler, mean a permanent location, not a temporary stand or other temporary quarters, owned or leased by the licensee or applicant and actually occupied or to be occupied by him, as the case may be, which shall be easily accessible to the public, which shall conform to all applicable laws of the state of West Virginia and the ordinances of the municipality in which it is located, if any, which shall display thereon at least one
207 permanent sign, clearly visible from the principal pub-
208 lic street or highway nearest said location and clearly
209 stating the business which is or shall be conducted
210 thereat, and which shall have adequate facilities to keep,
211 maintain and preserve records, papers and documents
212 necessary to carry on such business and to make the
213 same available to inspection by the commissioner at
214 all reasonable times.
215 (b) Under no circumstances whatever shall the
216 terms “new motor vehicle dealer,” “used motor vehicle
217 dealer,” “house trailer dealer,” “trailer dealer,” “motor-
218 cycle dealer,” “used parts dealer” or “wrecker or dis-
219 mantler” be construed or applied under this article in
220 such a way as to include a banking institution, insur-
221 ance company, finance company, or other lending or
222 financial institution, or other person, the state or any
223 agency or political subdivision thereof, or any munici-
224 pality, who or which owns or shall come in possession
225 or ownership of, or acquire contract rights, or security
226 interests in or to, any vehicle or vehicles or any part
227 thereof and shall sell such vehicle or vehicles or any
part thereof for purposes other than engaging in and
holding himself or itself out to the public to be en-
gaged in the business of selling vehicles or any part
thereof.

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

(21) “Manufacturer” means every person engaged
in the business of reconstructing, assembling, or reas-
sembling vehicles with a special type body required by
the purchaser if said vehicle is subject to the title and
registration provision of the code.

(22) “Transporter” means every person engaged in
the business of transporting vehicles to or from a manu-
facturing, assembling or distributing plant to dealers,
or sales agents of a manufacturer, or purchasers.
§17A-6-10A. Special plates for manufacturers and transporters; fee.

(1) Notwithstanding any of the other provisions of this article, a manufacturer or transporter may operate or move a vehicle upon the highways of this state solely for purposes of transporting and/or testing the same without first registering each such vehicle upon condition that any such vehicle display thereon, in a manner prescribed by the commissioner, a special plate or plates issued to such manufacturer or transporter as provided in this section.

(2) Any manufacturer or transporter may make application to the commissioner upon a form prescribed by him for a certificate containing a general distinguishing number and for a special plate or plates. The applicant shall also submit proof of his status as a bona fide manufacturer or transporter as may be required by the commissioner.

(3) The commissioner, upon approving any such application, shall issue to the applicant a certificate containing the applicant's name and address and the general
distinguishing number assigned to the applicant. The commissioner shall also issue a special plate, or special plates, as applied for, which shall have displayed thereon the general distinguishing number assigned to the applicant. Each plate shall also contain a number or symbol identifying the same from every other plate or plates bearing the same general distinguishing number.

(4) The annual fee for a license certificate for a manufacturer or transporter and one special plate shall be one hundred dollars. Additional special plates shall be twenty-five dollars each.

(5) Every manufacturer or transporter shall keep a written record of the vehicle upon which such special plates are used, the time during which each is used on a particular vehicle, and the location to which the vehicle was delivered, which record shall be open to inspection by any police officer or employee of the department.

(6) The provisions of this section shall not apply to work or service vehicles owned by a manufacturer or transporter.
(7) Said manufacturer or transporter shall be required to furnish a certificate of insurance in the amount of ten thousand dollars because of bodily injury to or death to any one person in any one accident. Twenty thousand dollars because of bodily injury or death to two or more persons in any one accident, and five thousand dollars because of injury to or destruction of property of others in any one accident.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

[Signatures]

Chairman House Committee

Originated in the House.

Takes effect from passage.

[Signatures]

Clerk of the Senate

[Signatures]

Clerk of the House of Delegates

[Signatures]

President of the Senate

[Signatures]

Speaker House of Delegates

The within [Approved] this the 1st
day of [April], 1971.

[Signature] Governor
PRESENTED TO THE
GOVERNOR

Date 3/22/71
Time 3:10 p.m.

RECEIVED
APR 2 11 55 PH 71
SECRETARY OF STATE
STATE OF WEST VIRGINIA