

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time \_\_\_\_\_

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981

ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 274

(By Mr. Huck)

PASSED April 9, 1981

In Effect ninety days from Passage



No: 274

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 274**  
(MR. HECK, *original sponsor*)

[Passed April 9, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article one, and sections one, two, three, six, seven and eight of article eight, all of chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article eight by adding thereto a new section, designated section twelve, all relating to definitions; reporting by police of stolen vehicles or items of special mobile equipment; reporting of the recovery of such vehicles and equipment; prohibiting receiving or transferring of or injuring or tampering with stolen vehicles or items of special mobile equipment; prohibiting the altering or changing of engine numbers and other numbers with fraudulent intent; prohibiting knowingly buying, receiving, possessing, selling, disposing of or offering for sale certain items from which certain identifying marks or numbers have been altered, covered, defaced or destroyed; recovery of special mobile equipment; sale of unclaimed special mobile equipment; penalties.

*Be it enacted by the Legislature of West Virginia:*

That section one, article one, and sections one, two, three, six, seven and eight of article eight, all of 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 eight be further amended by adding thereto a new section, designated section twelve, all to read as follows:

**ARTICLE 1. WORDS AND PHRASES DEFINED.**

**§17A-1-1. Definitions.**

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

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

8 (b) "Motor vehicle" means every vehicle which is  
9 self-propelled and every vehicle which is propelled by  
10 electric power obtained from overhead trolley wires, but not  
11 operated upon rails.

12 (c) "Motorcycle" means every motor vehicle, including  
13 motor-driven cycles and mopeds as defined in sections five  
14 and five-a, article one, chapter seventeen-c of this code,  
15 having a saddle for the use of the rider and designed to travel  
16 on not more than three wheels in contact with the ground but  
17 excluding a tractor.

18 (d) "School bus" means every motor vehicle owned by a  
19 public governmental agency and operated for the  
20 transportation of children to or from school or privately  
21 owned and operated for compensation for the transportation  
22 of children to or from school.

23 (e) "Bus" means every motor vehicle designed for  
24 carrying more than seven passengers and used for the  
25 transportation of persons; and every motor vehicle, other  
26 than a taxicab, designed and used for the transportation of  
27 persons for compensation.

28 (f) "Truck tractor" means every motor vehicle designed  
29 and used primarily for drawing other vehicles and not so  
30 constructed as to carry a load other than a part of the weight  
31 of the vehicle and load so drawn.

32 (g) "Farm tractor" means every motor vehicle designed  
33 and used primarily as a farm implement for drawing plows;  
34 mowing machines, and other implements of husbandry.

35 (h) "Road tractor" means every motor vehicle designed,  
36 used or maintained drawing other vehicles and not so  
37 constructed as to carry any load thereon either independently  
38 or any part of the weight of a vehicle or load so drawn.

39 (i) "Truck" means every motor vehicle designed, used or  
40 maintained primarily for the transportation of property.

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

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

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

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

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

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

72 (p) "Foreign vehicle" means every vehicle of a type  
73 required to be registered hereunder brought into this state  
74 from another state, territory or country other than in the  
75 ordinary course of business by or through a manufacturer or  
76 dealer and not registered in this state.

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

83 (r) "Special mobile equipment" means every  
84 self-propelled vehicle not designed or used primarily for the  
85 transportation of persons or property and incidentally  
86 operated or moved over the highways, including, without  
87 limitation, farm equipment, implements of husbandry, road  
88 construction or maintenance machinery, ditch-digging  
89 apparatus, stone crushers, air compressors, power shovels,  
90 cranes, graders, rollers, well-drillers, wood-sawing  
91 equipment, asphalt spreaders, bituminous mixers, bucket  
92 loaders, ditchers, leveling graders, finishing machines, motor  
93 graders, road rollers, scarifiers, earth-moving carryalls,  
94 scrapers, drag lines, rock-drilling equipment and  
95 earth-moving equipment. The foregoing enumeration shall be  
96 deemed partial and shall not operate to exclude other such  
97 vehicles which are within the general terms of this  
98 subdivision.

99 (s) "Pneumatic tire" means every tire in which  
100 compressed air is designed to support the load.

101 (t) "Solid tire" means every tire of rubber or other resilient  
102 material which does not depend upon compressed air for the  
103 support of the load.

104 (u) "Metal tire" means every tire the surface of which in  
105 contact with the highway is wholly or partly of metal or other  
106 hard, nonresilient material.

107 (v) "Commissioner" means the commissioner of motor  
108 vehicles of this state.

109 (w) "Department" means the department of motor  
110 vehicles of this state acting directly or through its duly  
111 authorized officers and agents.

112 (x) "Person" means every natural person, firm,  
113 copartnership, association or corporation.

114 (y) "Owner" means a person who holds the legal title to a  
115 vehicle, or in the event a vehicle is the subject of an  
116 agreement for the conditional sale or lease thereof with the  
117 right of purchase upon performance of the conditions stated  
118 in the agreement and with an immediate right of possession  
119 vested in the conditional vendee or lessee, or in the event a  
120 mortgagor of a vehicle is entitled to possession, then such  
121 conditional vendee or lessee or mortgagor shall be deemed  
122 the owner for the purpose of this chapter.

123 (z) "Nonresident" means every person who is not a  
124 resident of this state.

125 (aa) "Dealer" or "dealers" is a general term meaning,  
 126 depending upon the context in which used, either a new  
 127 motor vehicle dealer, used motor vehicle dealer, house trailer  
 128 dealer, trailer dealer or motorcycle dealer, as defined in  
 129 section one, article six of this chapter, or all of such dealers or  
 130 a combination thereof, and in some instances a new motor  
 131 vehicle dealer or dealers in another state.

132 (bb) "Registered dealer" or "registered dealers" is a  
 133 general term meaning, depending upon the context in which  
 134 used, 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 (cc) "Licensed dealer" or "licensed dealers" is a general  
 139 term meaning, depending upon the context in which used,  
 140 either a new motor vehicle dealer, used motor vehicle dealer,  
 141 house trailer dealer, trailer dealer, or motorcycle dealer, or all  
 142 of such dealers or a combination thereof, licensed under the  
 143 provisions of article six of this chapter.

144 (dd) "Transporter" means every person engaged in the  
 145 business of delivery vehicles of a type required to be  
 146 registered hereunder from a manufacturing, assembling or  
 147 distributing plant to dealers or sales agents of a manufacturer.

148 (ee) "Manufacturer" means every person engaged in the  
 149 business of constructing or assembling vehicles of a type  
 150 required to be registered hereunder at a place of business in  
 151 this state which is actually occupied either continuously or at  
 152 regular periods by such manufacturer where his books and  
 153 records are kept and a large share of his business is  
 154 transacted.

155 (ff) "Street" or "highway" means the entire width between  
 156 boundary lines of every way publicly maintained when any  
 157 part thereof is open to the use of the public for purposes of  
 158 vehicular travel.

#### ARTICLE 8. SPECIAL ANTITHEFT LAWS.

##### **§17A-8-1. Report by police of stolen and recovered vehicles or special mobile equipment.**

1 Every sheriff, chief of police, member of the department of  
 2 public safety or peace officer upon receiving reliable  
 3 information that any vehicle registered hereunder or any item  
 4 of special mobile equipment has been stolen shall

5 immediately report such theft to the department unless prior  
6 thereto information has been received of the recovery of such  
7 vehicle or item of special mobile equipment. Upon receiving  
8 a report of a stolen or embezzled item of special mobile  
9 equipment, or the recovery thereof, the department shall  
10 immediately report the information to the national crime  
11 information center maintained by the federal bureau of  
12 investigation. Any said officer upon receiving information  
13 that any such vehicle or item of special mobile equipment,  
14 which he has previously reported as stolen, has been  
15 recovered, shall immediately report the fact of such recovery  
16 to the local sheriff's office, police department, or department  
17 of public safety and to the department.

**§17A-8-2. Reports by owners or lienors of stolen and recovered vehicles or special mobile equipment.**

1 The owner, or person having a lien or encumbrance upon a  
2 registered vehicle or any item of special mobile equipment  
3 which has been stolen or embezzled, may notify the  
4 department of such theft or embezzlement, but in the event of  
5 an embezzlement may make such report only after having  
6 procured the issuance of a warrant for the arrest of the person  
7 charged with such embezzlement.

8 Every owner or other person who has given any such notice  
9 must notify the department of a recovery of such vehicle or  
10 special mobile equipment.

**§17A-8-3. Action by department on report of stolen or embezzled vehicle or special mobile equipment.**

1 The department upon receiving a report of a stolen or  
2 embezzled vehicle or any item of special mobile equipment as  
3 hereinbefore provided shall file and appropriately index the  
4 same and shall, if the same is registered or titled, immediately  
5 suspend such registration and/or certificate of title of the  
6 vehicle or item of special mobile equipment so reported, and  
7 shall not transfer the registration of the same until such time  
8 as it is notified in writing that such vehicle or item of special  
9 mobile equipment has been recovered.

10 The department shall at least once each week compile and  
11 maintain at its headquarters office a list of all vehicles or  
12 items of special mobile equipment which have been stolen or  
13 embezzled or recovered as reported to it during the preceding  
14 week and such list shall be open to inspection by any peace

15 officer or other person interested in any such vehicle or item  
16 of special mobile equipment. A copy of each such weekly list  
17 shall be forwarded to the superintendent of the department of  
18 public safety.

19 The department shall publish once a month a list of all  
20 vehicles or items of special mobile equipment stolen,  
21 embezzled or recovered during the previous month and shall  
22 forward a copy of the same to every sheriff and to all police  
23 departments in cities of this state with over five thousand  
24 inhabitants. Such list shall also be forwarded to the state  
25 police department or other proper official in each state of the  
26 United States.

**§17A-8-6. Injuring or tampering with vehicle or special mobile equipment.**

1 (a) Any person who either individually or in association  
2 with one or more persons willfully injures or tampers with  
3 any vehicle or breaks or removes any part or parts of or from a  
4 vehicle without the consent of the owner is guilty of a  
5 misdemeanor.

6 Any person who with intent to commit any malicious  
7 mischief, injury, or other crime climbs into or upon a vehicle  
8 whether it is in motion or at rest or with like intent attempts  
9 to manipulate any of the levers, starting mechanism, brakes,  
10 or other mechanism or device of a vehicle while the same is at  
11 rest and unattended or with like intent sets in motion any  
12 vehicle while the same is at rest and unattended is guilty of a  
13 misdemeanor.

14 (b) Any person, either individually or in association with  
15 one or more persons, who shall willfully injure or damage any  
16 item of special mobile equipment or break or remove any  
17 parts from an item of special mobile equipment, without the  
18 consent of the owner, which injury, damage, or breakage or  
19 removal of parts shall be of an amount of two hundred dollars  
20 or more, shall be guilty of a felony. If the injury, damage, or  
21 breakage or removal of parts shall be of an amount which is  
22 less than two hundred dollars, such person or persons shall  
23 be guilty of a misdemeanor.

**§17A-8-7. Vehicles or special mobile equipment without manufacturers' numbers.**

1 (a) Any person who knowingly buys, receives, disposes of,  
2 sells, offers for sale, or has in his possession any motor



3 vehicle, or engine removed from a motor vehicle, from which  
4 the manufacturer's serial or engine number or other  
5 distinguishing number or identification mark or number  
6 placed thereon under assignment from the department has  
7 been removed, defaced, covered, altered, or destroyed for the  
8 purpose of concealing or misrepresenting the identity of said  
9 motor vehicle or engine is guilty of a misdemeanor, and, upon  
10 a second or subsequent conviction under this section, the  
11 conviction shall be for a felony.

12 (b) Any person who knowingly buys, sells, receives,  
13 disposes of, conceals, transports, causes to be transported, or  
14 has in his possession special mobile equipment or special  
15 mobile equipment tires from which the manufacturer's serial  
16 number, motor number or other distinguishing number has  
17 been removed, covered, altered, defaced or destroyed shall be  
18 guilty of a felony.

**§17A-8-8. Altering or changing engine or other numbers.**

1 (a) No person shall with fraudulent intent deface, destroy,  
2 or alter the manufacturer's serial or engine number or other  
3 distinguishing number or identification mark of a motor  
4 vehicle nor shall any person place or stamp any serial, engine,  
5 or other number or mark upon a motor vehicle, except one  
6 assigned thereto by the department. Any violation of this  
7 provision is a misdemeanor.

8 This section shall not prohibit the restoration by an owner  
9 of an original serial, engine, or other number or mark when  
10 such restoration is made under permit issued by the  
11 department, nor prevent any manufacturer from placing in  
12 the ordinary course of business numbers or marks upon  
13 motor vehicles or parts thereof.

14 (b) Any person who removes, covers, alters, or defaces, or  
15 causes to be destroyed, removed, covered, altered, or defaced,  
16 the manufacturer's serial number, the motor number or other  
17 distinguishing number on special mobile equipment or  
18 special mobile equipment tires, the property of another, for  
19 any reason, shall be guilty of a felony.

**§17A-8-12. Recovery of special mobile equipment; chain of custody; sale of unclaimed special mobile equipment; penalties.**

1 (a) When an item of special mobile equipment has been  
2 lawfully seized and remains in the custody of the

3 law-enforcement authority having seized it, if at any time the  
4 true owner thereof shall appear and prove to the satisfaction  
5 of such law-enforcement authority his ownership of and  
6 entitlement to such item of special mobile equipment, it may  
7 be returned to such owner subject to its being made available  
8 for use in any criminal prosecution under this article.

9 (b) The law-enforcement authority shall take reasonable  
10 steps to locate the owner, including, but not limited to,  
11 notifying local equipment dealer, notifying equipment  
12 manufacturer and placing legal advertisements detailing  
13 confiscated equipment in newspapers. The law-enforcement  
14 authority shall take reasonable precautions to protect the  
15 equipment. The owner of the special mobile equipment shall  
16 pay the costs incurred by the law-enforcement authority for  
17 advertising, transporting and storing such special mobile  
18 equipment.

19 (c) If, after six months, no person has appeared and  
20 proved he is the true owner of an item of special mobile  
21 equipment seized under this article and prosecution has been  
22 instituted, the court in which such prosecution has been  
23 instituted may sell said item of special mobile equipment  
24 under such terms as are commercially reasonable: *Provided*,  
25 That notice of sale shall be published as a Class I legal  
26 advertisement in compliance with the provisions of article  
27 three, chapter fifty-nine of this code, and the publication shall  
28 be the county in which such prosecution was initially  
29 instituted. The proceeds of such sale shall be applied, first, to  
30 the payment of any expenses incurred in taking possession,  
31 storing and selling such special mobile equipment; and the  
32 balance, if any, shall be paid over to the general receiver of the  
33 court in the county in which the prosecution was instituted  
34 for its application to that county's general revenues.

35 (d) Notwithstanding the provisions of article eleven of this  
36 chapter, any person convicted of a felony under the  
37 provisions of subsection (b) of section six, subsection (b) of  
38 section seven or subsection (b) of section eight of this article  
39 shall be confined in the penitentiary not less than one nor  
40 more than ten years and fined not more than five hundred  
41 dollars, or, in the discretion of the court, be confined in the  
42 county jail for not more than one year and be fined not more  
43 than five hundred dollars.

44 Notwithstanding the provisions of article eleven of this  
45 chapter, any person convicted of a misdemeanor under the

46 provisions of subsection (b) of section six of this article shall  
47 be confined in the county jail for a term not to exceed one  
48 year or fined not more than five hundred dollars, or both.

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

*R. P. Bayles*  
Chairman Senate Committee

*Jonny E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*Todd C. Willis*  
Clerk of the Senate

*Ch Blankenship*  
Clerk of the House of Delegates

*Mont R. Thompson*  
President of the Senate

*Walter H. Lee, Jr.*  
Speaker House of Delegates

The within *is approved* this the *20*  
day of *April*, 1981.

*John A. Royne*  
Governor

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SECY. OF STATE