WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED
Committee Substitute for
SENATE BILL NO. 274

(By Mr. )

PASSED April 9, 1981
In Effect sixty days from Passage

APPROVED AND SIGNED BY THE GOVERNOR
Date 4-28-81
Time ____________________
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.

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

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

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

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

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

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

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

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

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

(i) "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property.
(j) "Trailer" means every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

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

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

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

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

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

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

(q) "Implement of husbandry" means every vehicle which is designed for or adapted to agricultural purposes and used by the owner thereof primarily in the conduct of his agricultural operations, including, but not limited to, trucks used for spraying trees and plants: Provided, That said vehicle shall not be let for hire at any time.
(r) "Special mobile equipment" means every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including, without limitation, farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers, wood-sawing equipment, asphalt spreaders, bituminous mixers, bucket loaders, ditches, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, rock-drilling equipment and earth-moving equipment. The foregoing enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 8. SPECIAL ANTITHEFT LAWS.

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

Every sheriff, chief of police, member of the department of public safety or peace officer upon receiving reliable information that any vehicle registered hereunder or any item of special mobile equipment has been stolen shall
immediately report such theft to the department unless prior thereto information has been received of the recovery of such vehicle or item of special mobile equipment. Upon receiving a report of a stolen or embezzled item of special mobile equipment, or the recovery thereof, the department shall immediately report the information to the national crime information center maintained by the federal bureau of investigation. Any said officer upon receiving information that any such vehicle or item of special mobile equipment, which he has previously reported as stolen, has been recovered, shall immediately report the fact of such recovery to the local sheriff's office, police department, or department of public safety and to the department.

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

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

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

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

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

The department shall at least once each week compile and maintain at its headquarters office a list of all vehicles or items of special mobile equipment which have been stolen or embezzled or recovered as reported to it during the preceding week and such list shall be open to inspection by any peace
officer or other person interested in any such vehicle or item
of special mobile equipment. A copy of each such weekly list
shall be forwarded to the superintendent of the department of
public safety.

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

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

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

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

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

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

(a) Any person who knowingly buys, receives, disposes of,
sells, offers for sale, or has in his possession any motor
vehicle, or engine removed from a motor vehicle, from which
the manufacturer's serial or engine number or other
distinguishing number or identification mark or number
placed thereon under assignment from the department has
been removed, defaced, covered, altered, or destroyed for the
purpose of concealing or misrepresenting the identity of said
motor vehicle or engine is guilty of a misdemeanor, and, upon
a second or subsequent conviction under this section, the
conviction shall be for a felony.

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

§17A-8-8. Altering or changing engine or other numbers.
(a) No person shall with fraudulent intent deface, destroy,
or alter the manufacturer's serial or engine number or other
distinguishing number or identification mark of a motor
vehicle nor shall any person place or stamp any serial, engine,
or other number or mark upon a motor vehicle, except one
assigned thereto by the department. Any violation of this
provision is a misdemeanor.
This section shall not prohibit the restoration by an owner
of an original serial, engine, or other number or mark when
such restoration is made under permit issued by the
department, nor prevent any manufacturer from placing in
the ordinary course of business numbers or marks upon
motor vehicles or parts thereof.
(b) Any person who removes, covers, alters, or defaces, or
causes to be destroyed, removed, covered, altered, or defaced,
the manufacturer's serial number, the motor number or other
distinguishing number on special mobile equipment or
special mobile equipment tires, the property of another, for
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.
(a) When an item of special mobile equipment has been
lawfully seized and remains in the custody of the
law-enforcement authority having seized it, if at any time the true owner thereof shall appear and prove to the satisfaction of such law-enforcement authority his ownership of and entitlement to such item of special mobile equipment, it may be returned to such owner subject to its being made available for use in any criminal prosecution under this article.

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

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

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

Notwithstanding the provisions of article eleven of this chapter, any person convicted of a misdemeanor under the
provisions of subsection (b) of section six of this article shall be confined in the county jail for a term not to exceed one 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

Tony E. Whitlow  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd A. Wells  
Clerk of the Senate

W. Blankenship  
Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor