WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED
Com. Sub. for
HOUSE BILL No. 1280

(By Del. Yanni and Del. Burke)

Passed April 5, 1985

In Effect July 1, 1985
AN ACT to amend and reenact section three, article twenty-three chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section ten, article four, chapter seventeen-a of said code; and to amend and reenact sections four and ten, article six of chapter seventeen-a of said code, all relating to salvage yards; increasing licensing fee; permitting one assignment of salvage certificates for wrecked or damaged vehicles without charge therefor; increasing time period for surrender of certificates; requiring surrender of title, vehicle identification number plate and submission of photograph for certain vehicles; reducing salvage certificates fee; exempting from payment of privilege tax certain applicants for titles to reconstructed vehicles; changing certain titling provisions for reconstructed vehicles; expanding bonding provisions for applicants for license certificates; deleting reference to license certificate appeal board; and providing special license plates for used parts dealers, wreckers and dismantlers.

Be it enacted by the Legislature of West Virginia:

That section three, article twenty-three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section ten, article four, chapter seventeen-a of said code be amended and reenacted; and that
sections four and ten, article six of chapter seventeen-a of said code
be amended and reenacted, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 23. SALVAGE YARDS.

§17-23-3. License required; issuance; fee; renewal; disposition of fees.

1 No salvage yard or any part thereof shall be established, operated or maintained without a state license. The commissioner shall have the sole authority to issue such a state license, and he shall charge therefor a fee of two hundred dollars payable annually in advance. All licenses issued under this section shall expire on the first day of January following the date of issuance. A license may be renewed from year to year upon paying the commissioner the sum of two hundred dollars for each such renewal. All such renewal license fees collected under the provisions of this article shall be deposited in the special fund provided for in section ten of this article.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.

ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.

§17A-4-10. Salvage certificates for certain wrecked or damaged vehicles; fee; penalty.

1 In the event a motor vehicle is determined to be a total loss or otherwise designated as "totaled" by any insurance company or insurer, and upon payment of an agreed price as a claim settlement to any insured or claimant owner for the purchase of the vehicle, the insurance company or the insurer shall receive the certificate of title and the vehicle. The insurance company or insurer shall within ten days surrender the certificate of title and a copy of the claim settlement to the department of motor vehicles. The department shall issue a "salvage certificate," on a form prescribed by the commissioner, in the name of the insurance company or the insurer. Such certificate shall contain on the reverse thereof spaces for one successive assignment before a new certificate at an additional fee is required. Upon the sale of the vehicle the insurance company or insurer shall endorse the assignment of
ownership on the salvage certificate and deliver it to the purchaser who shall also apply for a salvage certificate, even if the insured or claimant owner is the purchaser. The vehicle shall not be titled or registered for operation on the streets or highways of this state unless there is compliance with subsection (b) of this section:

(a) Any owner, who scraps, compresses, dismantles or destroys a vehicle for which a certificate of title or salvage certificate has been issued, shall, within twenty days surrender the certificate of title or salvage certificate to the department for cancellation. Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled, compressed or destroyed, shall within twenty days surrender the certificate to the department. Should a vehicle less than eight years old be determined to be a complete fire, flood or basket, the vehicle identification number plate and a photograph of the vehicle shall accompany the surrendered certificate: Provided, That the term "basket" means a vehicle which has been damaged more than seventy-five percent of the retail price as described in the national automobile dealers association official used car guide. If the vehicle is to be reconstructed, the owner must obtain a salvage certificate and comply with the provisions of subsection (b) of this section.

(b) If the motor vehicle is a "reconstructed vehicle" as defined in section one, article one of this chapter, it may not be titled or registered for operation until it has been inspected by an authorized law-enforcement officer or official state inspection station to determine the operating condition and vehicle identification number and all other inspection requirements. Following an approved inspection, an application for a new certificate of title may be submitted to the department; however, the applicant may be required to submit all receipts for component parts, equipment and materials used in the reconstruction. The salvage certificate must also be surrendered to the department before a certificate of title may be issued.

(c) The department shall charge a fee of fifteen dollars for the issuance of each salvage certificate but shall not require the payment of the five percent privilege tax. However, upon application for a certificate of title for a reconstructed vehicle, the department shall collect the five percent privilege tax on
the fair market value of the vehicle as determined by the
commissioner unless the applicant is otherwise exempt from
the payment of such privilege tax.

(d) A certificate of title issued by the department for a
reconstructed vehicle shall contain markings in bold print on
the face of the title that it is for a reconstructed vehicle:
Provided, That if the application for a certificate of title is
accompanied by a sworn statement under penalty of perjury
that cost of repair to the vehicle is not more than fifty percent
of the national automobile dealers association official used car
guide value of the vehicle, the boldface markings “recon-
structed vehicle” shall not appear on the title.

Any person who violates the provisions of this section shall
be guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not less than five hundred dollars nor more than
one thousand dollars, or imprisoned in the county jail for not
more than one year, or both fined and imprisoned.

ARTICLE 6. LICENSING OF DEALERS AND WRECKERS OR DIS-
MANTLERS; SPECIAL PLATES; TEMPORARY PLATES
OR MARKERS, ETC.

PART II. LICENSE CERTIFICATE PROVISIONS.

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

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

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

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

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

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

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

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

(6) Whether the applicant, any partner, officer or director
thereof has previously engaged in said business or any other
business required to be licensed under the provisions of this
article and if so, with or for whom, at what location and for
what periods of time;

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

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

(9) Such other information as the commissioner may
reasonably require which may include information relating to
any contracts, agreements or understandings between the
applicant and other persons respecting the transaction of said business, and any criminal record of the applicant if an individual, or of each partner if a copartnership, or of each officer and director, if a corporation.

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

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

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

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

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

(f) Such application shall be verified by the oath or affirmation of the applicant, if an individual, or if the applicant is a copartnership or corporation, by a partner or officer thereof, as the case may be. Such application must be
accompanied by a bond of the applicant in the penal sum of
two thousand dollars, in such form as may be prescribed by
the commissioner, conditioned that the applicant will not in
the conduct of his business practice any fraud which, or make
any fraudulent representation which, shall cause a financial
loss to any purchaser, seller, or financial institution or agency,
or the state of West Virginia, with a corporate surety thereon
authorized to do business in this state, which bond shall be
effective as of the date on which the license certificate sought
is issued.

(g) Upon receipt of any such fully completed application,
together with any bond required as aforesaid, the certificate
of insurance as aforesaid and the appropriate fee as hereinafter
provided in section ten of this article, the commissioner may
conduct such investigation, as he deems necessary to determine
the accuracy of any statements contained in such application
and the existence of any other facts which he deems relevant
in considering such application. To facilitate such investiga-
tion, the commissioner may withhold issuance or refusal of the
license certificate for a period not to exceed twenty days.

(h) Any application for a license certificate under the
provisions of this article and any information submitted
therewith shall be confidential for the use of the department.
No person shall divulge any information contained in any such
application or any information submitted therewith except in
response to a valid subpoena or subpoena duces tecum issued
pursuant to law.

PART III. FEES AND DEALER SPECIAL PLATES GENERALLY.

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

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

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

certificate he will sell at retail in this state during said ensuing
fiscal year. Any such licensee may obtain Class D-U/C special
plates, in addition, to the five plates authorized above and any
authorized on a formula basis, but the cost of each such Class
D-U/C special plate shall be thirty dollars.

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

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

(e) The annual fee required for a license certificate to engage
in the business of used parts dealer, or wrecker, or dismantler,
as the case may be, shall be fifteen dollars. Upon payment of
the fee for said license certificate, a licensee shall be entitled
to up to four special license plates which shall be known as
Class WD special plates. Such plates shall be issued to any
such licensee upon application therefor on a form prescribed
by the commissioner for such purpose and the payment of a
fee of twenty-five dollars for each such plate. Such plate issued
under the provisions of this subsection shall have the words
"Towing Only" affixed thereon.

(f) All of the special plates provided for in this section shall
be of such form and design and contain such other distinguish-
ing marks or characteristics as the commissioner may
prescribe.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1985.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 22nd day of April, 1985.

Governor
PRESENTED TO THE
GOVERNOR

Date 24/12/85
Time 11:19 A.M.