

No. 1280

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



ENROLLED

Com. Sub. for
HOUSE BILL No. 1280

(By Mr. Del. Yanni & Del. Burke)



Passed April 5, 1985

In Effect July 1, 1985 Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1280
(By DELEGATE YANNI AND DELEGATE 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,
2 operated or maintained without a state license. The commis-
3 sioner shall have the sole authority to issue such a state license,
4 and he shall charge therefor a fee of two hundred dollars
5 payable annually in advance. All licenses issued under this
6 section shall expire on the first day of January following the
7 date of issuance. A license may be renewed from year to year
8 upon paying the commissioner the sum of two hundred dollars
9 for each such renewal. All such renewal license fees collected
10 under the provisions of this article shall be deposited in the
11 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
2 or otherwise designated as "totaled" by any insurance company
3 or insurer, and upon payment of an agreed price as a claim
4 settlement to any insured or claimant owner for the purchase
5 of the vehicle, the insurance company or the insurer shall
6 receive the certificate of title and the vehicle. The insurance
7 company or insurer shall within ten days surrender the
8 certificate of title and a copy of the claim settlement to the
9 department of motor vehicles. The department shall issue a
10 "salvage certificate," on a form prescribed by the commis-
11 sioner, in the name of the insurance company or the insurer.
12 Such certificate shall contain on the reverse thereof spaces for
13 one successive assignment before a new certificate at an
14 additional fee is required. Upon the sale of the vehicle the
15 insurance company or insurer shall endorse the assignment of

16 ownership on the salvage certificate and deliver it to the
17 purchaser who shall also apply for a salvage certificate, even
18 if the insured or claimant owner is the purchaser. The vehicle
19 shall not be titled or registered for operation on the streets
20 or highways of this state unless there is compliance with
21 subsection (b) of this section:

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

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

52 (c) The department shall charge a fee of fifteen dollars for
53 the issuance of each salvage certificate but shall not require
54 the payment of the five percent privilege tax. However, upon
55 application for a certificate of title for a reconstructed vehicle,
56 the department shall collect the five percent privilege tax on

57 the fair market value of the vehicle as determined by the
58 commissioner unless the applicant is otherwise exempt from
59 the payment of such privilege tax.

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

69 Any person who violates the provisions of this section shall
70 be guilty of a misdemeanor, and, upon conviction thereof,
71 shall be fined not less than five hundred dollars nor more than
72 one thousand dollars, or imprisoned in the county jail for not
73 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.**

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

18 thousand dollars because of injury to or destruction of
19 property of others in any one accident.

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

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

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

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

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

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

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

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

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

52 (9) Such other information as the commissioner may
53 reasonably require which may include information relating to
54 any contracts, agreements or understandings between the

55 applicant and other persons respecting the transaction of said
56 business, and any criminal record of the applicant if an
57 individual, or of each partner if a copartnership, or of each
58 officer and director, if a corporation.

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

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

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

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

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

90 (f) Such application shall be verified by the oath or
91 affirmation of the applicant, if an individual, or if the
92 applicant is a copartnership or corporation, by a partner or
93 officer thereof, as the case may be. Such application must be

94 accompanied by a bond of the applicant in the penal sum of
95 two thousand dollars, in such form as may be prescribed by
96 the commissioner, conditioned that the applicant will not in
97 the conduct of his business practice any fraud which, or make
98 any fraudulent representation which, shall cause a financial
99 loss to any purchaser, seller, or financial institution or agency,
100 or the state of West Virginia, with a corporate surety thereon
101 authorized to do business in this state, which bond shall be
102 effective as of the date on which the license certificate sought
103 is issued.

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

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

PART III. FEES AND DEALER SPECIAL PLATES GENERALLY.

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

1 (a) The annual fee required for a license certificate to
2 engage in the business of new motor vehicle dealer shall be
3 one hundred dollars. This fee shall also entitle such licensee
4 to one dealer's special plate which shall be known as a Class
5 D special plate. Up to nine additional Class D special plates
6 shall be issued to any such licensee upon application therefor
7 on a form prescribed by the commissioner for such purpose
8 and the payment of a fee of five dollars for each additional
9 Class D special plate. Any such licensee who obtains a total
10 of ten Class D special plates as aforesaid shall be entitled to
11 receive additional Class D special plates on a formula basis,

12 that is, one additional Class D special plate per twenty new
13 motor vehicles sold at retail in this state by such licensee or
14 his predecessor during the preceding fiscal year, upon
15 application therefor on a form prescribed by the commissioner
16 for such purpose and the payment of a fee of five dollars for
17 each such additional Class D special plate: *Provided*, That in
18 the case of a licensee who did not own or operated such
19 business during such preceding fiscal year and who has no
20 predecessor who owned or operated such business during the
21 preceding fiscal year, additional Class D special plates shall
22 be issued, for the ensuing fiscal year only, on a formula basis
23 of one additional Class D special plate per twenty new motor
24 vehicles which such licensee estimates on his application for
25 his license certificate he will sell at retail in this state during
26 said ensuing fiscal year. Any such licensee may obtain Class
27 D special plates in addition to the ten plates authorized above
28 and any authorized on a formula basis, but the cost of each
29 such Class D special plate shall be thirty dollars.

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E.N.
D.X.

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

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

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

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

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

88 (f) All of the special plates provided for in this section shall
89 be of such form and design and contain such other distinguish-
90 ing marks or characteristics as the commissioner may
91 prescribe.

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

Bruce O. Willis

Chairman Senate Committee

Floyd Fuller

Chairman House Committee

Originating in the House.

Takes effect July 1, 1985.

Todd C. Mathis

Clerk of the Senate

Donald G. Stopp

Clerk of the House of Delegates

Dan Tomson

President of the Senate

Joseph P. Albright

Speaker of the House of Delegates

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

Archa Prange Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 4/12/85

Time 11:19 A.M.