

No: 616

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



ENROLLED

COM. SUB. FOR COM. SUB. FOR
SENATE BILL NO. 616

(By Senator TUCKER, ET AL)



PASSED MARCH 12, 1988

In Effect 90 days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 616

(SENATORS TUCKER, CRAIGO AND MANCHIN, *original sponsors*)

[Passed March 12, 1988; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article one; sections two and four, article three; section one, article four-a; and sections one, two, three, four, five, six, ten and thirteen, article six, all of chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the registration of motor vehicles, including recreational vehicles and the licensing of motor vehicle dealers, including recreational vehicle dealers; defining certain terms; requiring the registration of recreational vehicles except for motor boats, all-terrain vehicles and snow mobiles, effective date of provisions regarding registration of recreational vehicles; subjecting recreational vehicles to certificate of title tax and exempting those acquired prior to a certain date; requiring certificates of title to show liens or encumbrances; providing legislative findings and declaration of public policy; requiring license certificates for dealers; requiring dealers to have an established place of business; increasing minimum levels of

insurance necessary to obtain a license certificate; providing license certificate exemption; refusal or issuance of license certificate; initial application and renewal fees for dealers and refund of fees; issuance of special plates; and use of special plates.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17A-1-1. Definitions.

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

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

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

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

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

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

27 than a taxicab, designed and used for the transportation of
28 persons for compensation.

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

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

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

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

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

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

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

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

67 (n) "Reconstructed vehicle" means every vehicle of a
68 type required to be registered hereunder materially altered

69 from its original construction by the removal, addition or
70 substitution of essential parts, new or used.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

151 (dd) "Transporter" means every person engaged in the
152 business of delivering vehicles of a type required to be

153 registered hereunder from a manufacturing, assembling or
154 distributing plant to dealers or sales agents of a
155 manufacturer.

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

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

167 (gg) "Motorboat" means any vessel propelled by an
168 electrical, steam, gas, diesel or other fuel propelled or
169 driven motor, whether or not such motor is the principal
170 source of propulsion, but shall not include a vessel which
171 has a valid marine document issued by the bureau of
172 customs of the United States government or any federal
173 agency successor thereto.

174 (hh) "Motorboat trailer" means every vehicle designed
175 for or ordinarily used for the transportation of a motorboat.

176 (ii) "All-terrain vehicle" (ATV) means any motor
177 vehicle designed for off-highway use and designed for
178 operator use only with no passengers, having a seat or
179 saddle designed to be straddled by the operator, and
180 handlebars for steering control.

181 (jj) "Travel trailer" means every vehicle, mounted on
182 wheels, designed to provide temporary living quarters for
183 recreational, camping or travel use of such size or weight as
184 not to require special highway movement permits when
185 towed by a motor vehicle and of gross trailer area less than
186 four hundred square feet.

187 (kk) "Fold down camping trailer" means every vehicle
188 consisting of a portable unit mounted on wheels and
189 constructed with collapsible partial sidewalls which fold
190 for towing by another vehicle and unfold at the camp site to
191 provide temporary living quarters for recreational,
192 camping or travel use.

193 (ll) "Motor home" means every vehicle, designed to
194 provide temporary living quarters, built into an integral

195 part of or permanently attached to a self-propelled motor
 196 vehicle, chassis or van including: (1) Type A motor home
 197 built on an incomplete truck chassis with the truck cab
 198 constructed by the second stage manufacturer; (2) Type B
 199 motor home consisting of a van-type vehicle which has been
 200 altered to provide temporary living quarters; and (3) Type C
 201 motor home built on an incomplete van or truck chassis
 202 with a cab constructed by the chassis manufacturer.

203 (mm) "Snowmobile" means a self-propelled vehicle
 204 intended for travel primarily on snow and driven by a track
 205 or tracks in contact with the snow and steered by a ski or
 206 skis in contact with the snow.

207 (nn) "Recreational vehicle" means a motorboat,
 208 motorboat trailer, all-terrain vehicle, travel trailer, fold
 209 down camping trailer, motor home or snowmobile.

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE
 OF CERTIFICATES OF TITLE.**

**§17A-3-2. Every motor vehicle, etc., subject to registration and
 certificate of title provisions; exceptions.**

1 Every motor vehicle, trailer, semitrailer, pole trailer, and
 2 recreational vehicle when driven or moved upon a highway
 3 shall be subject to the registration and certificate of title
 4 provisions of this chapter except:

5 (1) Any such vehicle driven or moved upon a highway in
 6 conformance with the provisions of this chapter relating to
 7 manufacturers, transporters, dealers, lienholders, or
 8 nonresidents or under a temporary registration permit
 9 issued by the department as hereinafter authorized;

10 (2) Any implement of husbandry upon which is securely
 11 attached a machine for spraying fruit trees and plants of the
 12 owner or lessee or for any other implement of husbandry
 13 which is used exclusively for agricultural or horticultural
 14 purposes on lands owned or leased by the owner thereof and
 15 which is not operated on or over any public highway of this
 16 state for any other purpose other than for the purpose of
 17 operating it across a highway or along a highway other than
 18 an expressway as designated by the state road
 19 commissioner from one point of the owner's land to another
 20 part thereof, irrespective of whether or not the tracts
 21 adjoin: *Provided*, That the distance between the points
 22 shall not exceed fifteen miles, or for the purpose of taking it

23 or other fixtures thereto attached, to and from a repair shop
24 for repairs. The foregoing exemption from registration and
25 license requirements shall also apply to any vehicle
26 hereinbefore described or to any farm trailer owned by the
27 owner or lessee of the farm on which such trailer is used,
28 when such trailer is used by the owner thereof for the
29 purpose of moving farm produce and livestock from such
30 farm along a public highway for a distance not to exceed ten
31 miles to a storage house or packing plant, when such use is a
32 seasonal operation.

33 The exemptions contained in this section shall also apply
34 to farm machinery and tractors: *Provided*, That such
35 machinery and tractors may use the highways in going from
36 one tract of land to another tract of land regardless of
37 whether such land be owned by the same or different
38 persons.

39 Any vehicle exempted hereunder from the requirements
40 of annual registration certificate and license plates shall be
41 permitted to use the highways as herein provided whether
42 such exempt vehicle is self-propelled, towed by another
43 exempt vehicle or towed by another vehicle for which
44 registration is required.

45 Any vehicle used as an implement of husbandry exempt
46 hereunder must have the words "farm use" affixed to both
47 sides of the implement in ten inch letters;

48 (3) Any vehicle which is propelled exclusively by
49 electric power obtained from overhead trolley wires though
50 not operated upon rails;

51 (4) Any vehicle of a type subject to registration owned
52 by the government of the United States;

53 (5) Any wrecked or disabled vehicle which is being
54 towed by a licensed wrecker or dealer on the public
55 highways of this state;

56 (6) The following recreational vehicles shall be exempt
57 from the requirements of annual registration, license plates
58 and fees, unless otherwise specified by law, but shall be
59 subject to the certificate of title provisions of this chapter
60 regardless of highway use: motorboats, all-terrain vehicles
61 and snowmobiles.

62 The provisions of this article relating to recreational
63 vehicles shall become effective on the first day of July, one
64 thousand nine hundred eighty-nine.

§17A-3-4. Application for certificate of title; tax for privilege of certification of title; penalty for false swearing.

1 Certificates of registration of any vehicle or registration
2 plates therefor, whether original issues or duplicates, shall
3 not be issued or furnished by the department of motor
4 vehicles or any other officer charged with the duty, unless
5 the applicant therefor already has received, or shall at the
6 same time make application for and be granted, an official
7 certificate of title of the vehicle. The application shall be
8 upon a blank form to be furnished by the department of
9 motor vehicles and shall contain a full description of the
10 vehicle, which description shall contain a manufacturer's
11 serial or identification number or other number as
12 determined by the commissioner and any distinguishing
13 marks, together with a statement of the applicant's title and
14 of any liens or encumbrances upon the vehicle, the names
15 and addresses of the holders of the liens and any other
16 information as the department of motor vehicles may
17 require. The application shall be signed and sworn to by the
18 applicant. A tax is hereby imposed upon the privilege of
19 effecting the certification of title of each vehicle in the
20 amount equal to five percent of the value of said motor
21 vehicle at the time of such certification. If the vehicle is new,
22 the actual purchase price or consideration to the purchaser
23 thereof shall be the value of the vehicle; if the vehicle is a
24 used or secondhand vehicle, the present market value at
25 time of transfer or purchase shall be considered the value
26 thereof for the purposes of this section: *Provided*, That so
27 much of the purchase price or consideration as is
28 represented by the exchange of other vehicles on which the
29 tax herein imposed has been paid by the purchaser shall be
30 deducted from the total actual price or consideration paid
31 for the vehicle, whether the same be new or secondhand; if
32 the vehicle be acquired through gift, or by any manner
33 whatsoever, unless specifically exempted in this section,
34 the present market value of the vehicle at the time of the gift
35 or transfer shall be considered the value thereof for the
36 purposes of this section. No certificate of title for any
37 vehicle shall be issued to any applicant unless the applicant
38 shall have paid to the department of motor vehicles the tax

39 imposed by this section which shall be five percent of the
40 true and actual value of said vehicle whether the vehicle be
41 acquired through purchase, by gift or by any other manner
42 whatsoever except gifts between husband and wife or
43 between parents and children: *Provided, however,* That the
44 husband or wife, or the parents or children previously have
45 paid the tax on the vehicles so transferred to the state of
46 West Virginia: *Provided further,* That the department of
47 motor vehicles may issue a certificate of registration and
48 title to an applicant if the applicant provides sufficient
49 proof to the department of motor vehicles that the applicant
50 has paid the taxes and fees required by this section to a
51 motor vehicle dealership that has filed bankruptcy
52 proceedings in the United States bankruptcy court and the
53 taxes and fees so required to be paid by the applicant have
54 been impounded due to the bankruptcy proceedings: *And*
55 *provided further,* That the applicant makes an affidavit of
56 the same and assigns all rights to claims for money the
57 applicant may have against the motor vehicle dealership to
58 the department of motor vehicles.

59 The tax imposed by this section shall not apply to vehicles
60 to be registered as Class H vehicles, or Class S vehicles, as
61 defined in section one, article ten of this chapter, which are
62 used or to be used in interstate commerce, nor shall the tax
63 imposed by this section apply to titling of vehicles by a
64 registered dealer of this state for resale only, nor shall the
65 tax imposed by this section apply to titling of vehicles by
66 this state or any political subdivision thereof, or by any
67 volunteer fire department or duly chartered rescue or
68 ambulance squad organized and incorporated under the
69 laws of the state of West Virginia as a nonprofit corporation
70 for protection of life or property. The total amount of
71 revenue collected by reason of this tax shall be paid into the
72 state road fund and expended by the commissioner of
73 highways for matching federal funds allocated for West
74 Virginia. In addition to said tax, there shall be a charge of
75 five dollars for each original certificate of title or duplicate
76 certificate of title so issued: *Provided,* That this state or any
77 political subdivision thereof, or any volunteer fire
78 department, or duly chartered rescue squad, shall be
79 exempted from payment of such charge.

80 Such certificate shall be good for the life of the vehicle, so
81 long as the same is owned or held by the original holder of
82 such certificate, and need not be renewed annually, or any
83 other time, except as herein provided.

84 If, by will or direct inheritance, a person becomes the
85 owner of a motor vehicle and the tax herein imposed
86 previously has been paid, to the department of motor
87 vehicles, on that vehicle, he shall not be required to pay such
88 tax.

89 A person who has paid the tax imposed by this section
90 shall not be required to pay the tax a second time for the
91 same motor vehicle, but he shall be required to pay a charge
92 of five dollars for the certificate of retitling of that motor
93 vehicle, except that the tax shall be paid by the person when
94 the title to the vehicle has been transferred either in this or
95 another state from such person to another person and
96 transferred back to such person.

97 Notwithstanding any provisions of this code to the
98 contrary, the owners of trailers, semitrailers, recreational
99 vehicles and other vehicles not subject to the certificate of
100 title tax prior to the enactment of this chapter shall be
101 subject to the privilege tax imposed by this section:
102 *Provided*, That the certification of title of any recreational
103 vehicle owned by the applicant on the thirtieth day of June,
104 one thousand nine hundred eighty-nine, shall not be subject
105 to the tax imposed by this section: *Provided, however*, That
106 mobile homes, house trailers, modular homes and similar
107 nonmotive propelled vehicles, except recreational vehicles,
108 susceptible of being moved upon the highways but
109 primarily designed for habitation and occupancy, rather
110 than for transporting persons or property, or any vehicle
111 operated on a nonprofit basis and used exclusively for the
112 transportation of mentally retarded or physically
113 handicapped children when the application for certificate
114 of registration for such vehicle is accompanied by an
115 affidavit stating that such vehicle will be operated on a
116 nonprofit basis and used exclusively for the transportation
117 of mentally retarded and physically handicapped children,
118 shall not be subject to the tax imposed by this section, but
119 shall be taxable under the provisions of articles fifteen and
120 fifteen-a, chapter eleven of this code.

121 If any person making any affidavit required under any
122 provision of this section, shall therein knowingly swear
123 falsely, or if any person shall counsel, advise, aid or abet
124 another in the commission of false swearing, he shall on
125 first offense be guilty of a misdemeanor, and, upon
126 conviction thereof, shall be fined not more than five
127 hundred dollars or be imprisoned in the county jail for a
128 period not to exceed six months, or in the discretion of the
129 court be subject to both such fine and imprisonment; for a
130 second or any subsequent conviction within five years he
131 shall be guilty of a felony, and, upon conviction thereof,
132 shall be fined not more than five thousand dollars or be
133 imprisoned in the penitentiary for not less than one year nor
134 more than five years or in the discretion of the court be
135 subject to both fine and imprisonment.

**ARTICLE 4A. LIENS AND ENCUMBRANCES ON VEHICLES TO BE
SHOWN ON CERTIFICATE OF TITLE; NOTICE TO
CREDITORS AND PURCHASERS.**

§17A-4A-1. Certificate to show liens or encumbrances.

1 The department upon receiving an application for a
2 certificate of title to a vehicle, trailer, semitrailer, pole
3 trailer or recreational vehicle for which a certificate of title
4 is required under article three of this chapter, all of which
5 are hereinafter in this article referred to as vehicles,
6 showing liens or encumbrances upon such vehicle, shall,
7 upon issuing to the owner thereof a certificate of title
8 therefor, show upon the face of the certificate of title all
9 liens or encumbrances disclosed by such application. All
10 such liens or encumbrances shall be shown in the order of
11 their priority being according to the information contained
12 in such application. When such an application shows liens
13 and encumbrances, such information as evidence of the lien
14 in connection therewith as the department may deem
15 necessary shall also be furnished. Such information shall
16 include the name and address of the lienholder, the nature
17 and kind of his lien, the date thereof, and the amount
18 thereby secured. However, only the name and address of the
19 lienholder will be endorsed on the title certificate. Upon
20 issuing the certificate, the department shall thereupon send
21 or deliver it to the holder of the first lien.

**ARTICLE 6. LICENSING OF DEALERS AND WRECKERS OR
DISMANTLERS; SPECIAL PLATES; TEMPORARY
PLATES OR MARKERS, ETC.**

**PART I. DEFINITIONS; LEGISLATIVE FINDINGS AND
PUBLIC POLICY.**

§17A-6-1. Definitions.

1 (a) Unless the context in which used clearly requires a
2 different meaning, as used in this article:

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

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

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

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

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

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

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

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

53 (9) "Used motor vehicles" means all motor vehicles,
54 except motorcycles, of a type required to be registered
55 under the provisions of this chapter which have been sold
56 and operated, or which have been registered or titled, in this
57 or any other state or jurisdiction.

58 (10) "House trailers" means all trailers designed or
59 intended for human occupancy and commonly referred to
60 as mobile homes or house trailers, but shall not include fold
61 down camping and travel trailers.

62 (11) "Trailers" means all types of trailers other than
63 house trailers, and shall include, but not be limited to, pole
64 trailers and semitrailers but excluding recreational
65 vehicles.

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

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

78 (14) "Applicant" means any person making application
79 for an original or renewal license certificate under the
80 provisions of this article.

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

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

86 (17) "Established place of business" shall, in the case of
87 a new motor vehicle dealer, mean a permanent location, not
88 a temporary stand or other temporary quarters, owned or
89 leased by the licensee or applicant and actually occupied or
90 to be occupied by him, as the case may be, which is or is to be
91 used exclusively for the purpose of selling new motor
92 vehicles or new and used motor vehicles, which shall have
93 space under roof for the display of at least one new motor
94 vehicle and facilities and space therewith for the servicing
95 and repair of at least one motor vehicle, which servicing and
96 repair facilities and space shall be adequate and suitable to
97 carry out servicing and to make repairs necessary to keep
98 and carry out all representations, warranties and
99 agreements made or to be made by such dealer with respect
100 to motor vehicles sold by him, which shall be easily
101 accessible to the public, which shall conform to all
102 applicable laws of the state of West Virginia and the
103 ordinances of the municipality in which it is located, if any,
104 which shall display thereon at least one permanent sign,
105 clearly visible from the principal public street or highway
106 nearest said location and clearly stating the business which
107 is or shall be conducted thereat, and which shall have
108 adequate facilities to keep, maintain and preserve records,
109 papers and documents necessary to carry on such business
110 and to make the same available to inspection by the
111 commissioner at all reasonable times: *Provided*, That the
112 requirement of exclusive use shall be met even though (i)
113 some new and any used motor vehicles sold or to be sold by
114 such dealer or sold or are to be sold at a different location or
115 locations not meeting the definition of an established place
116 of business of a new motor vehicle dealer, if each such
117 location is or is to be served by other facilities and space of
118 such dealer for the servicing and repair of at least one motor
119 vehicle, adequate and suitable as aforesaid, and each such

120 location used for the sale of some new and any used motor
121 vehicles otherwise meets the definition of an established
122 place of business of a used motor vehicle dealer; (ii) house
123 trailers, trailers and/or motorcycles are sold or are to be
124 sold thereat, if, subject to the provisions of section five of
125 this article, a separate license certificate is obtained for
126 each such type of vehicle business, which license certificate
127 remains unexpired, unsuspended and unrevoked; (iii) farm
128 machinery is sold thereat; and (iv) accessory, gasoline and
129 oil, or storage departments are maintained thereat, if such
130 departments are operated for the purpose of furthering and
131 assisting in the licensed business or businesses.

132 (18) "Farm machinery" means all machines and tools
133 used in the production, harvesting or care of farm products.

134 (19) "Established place of business" shall, in the case of
135 a used motor vehicle dealer, mean a permanent location, not
136 a temporary stand or other temporary quarters, owned or
137 leased by the licensee or applicant and actually occupied or
138 to be occupied by him, as the case may be, which is or is to be
139 used exclusively for the purpose of selling used motor
140 vehicles, which shall have facilities and space therewith for
141 the servicing and repair of at least one motor vehicle, which
142 servicing and repair facilities and space shall be adequate
143 and suitable to carry out servicing and to make repairs
144 necessary to keep and carry out all representations,
145 warranties and agreements made or to be made by such
146 dealer with respect to used motor vehicles sold by him,
147 which shall be easily accessible to the public, shall conform
148 to all applicable laws of the state of West Virginia, and the
149 ordinances of the municipality in which it is located, if any,
150 which shall display thereon at least one permanent sign,
151 clearly visible from the principal public street or highway
152 nearest said location and clearly stating the business which
153 is or shall be conducted thereat, and which shall have
154 adequate facilities to keep, maintain and preserve records,
155 papers and documents necessary to carry on such business
156 and to make the same available to inspection by the
157 commissioner at all reasonable times: *Provided*, That if a
158 used motor vehicle dealer has entered into a written
159 agreement or agreements with a person or persons owning
160 or operating a servicing and repair facility or facilities
161 adequate and suitable as aforesaid, the effect of which

162 agreement or agreements is to provide such servicing and
163 repair services and space in like manner as if said servicing
164 and repair facilities and space were located in or on said
165 dealer's place of business, then, so long as such an
166 agreement or agreements are in effect, it shall not be
167 necessary for such dealer to maintain such servicing and
168 repair facilities and space at his place of business in order
169 for such place of business to be an established place of
170 business as herein defined: *Provided, however,* That the
171 requirement of exclusive use shall be met even though (i)
172 house trailers, trailers and/or motorcycles are sold or are to
173 be sold thereat, if, subject to the provisions of section five of
174 this article, a separate license certificate is obtained for
175 each such type of vehicle business, which license certificate
176 remains unexpired, unsuspended and unrevoked; (ii) farm
177 machinery is sold thereat; and (iii) accessory, gasoline and
178 oil, or storage departments are maintained thereat, if such
179 departments are operated for the purpose of furthering and
180 assisting in the licensed business or businesses.

181 (20) "Established place of business" shall, in the case of
182 a house trailer dealer, trailer dealer, recreational vehicle
183 dealer, motorcycle dealer, used parts dealer and wrecker or
184 dismantler, mean a permanent location, not a temporary
185 stand or other temporary quarters, owned or leased by the
186 licensee or applicant and actually occupied or to be
187 occupied by him, as the case may be, which shall be easily
188 accessible to the public, which shall conform to all
189 applicable laws of the state of West Virginia and the
190 ordinances of the municipality in which it is located, if any,
191 which shall display thereon at least one permanent sign,
192 clearly visible from the principal public street or highway
193 nearest said location and clearly stating the business which
194 is or shall be conducted thereat, and which shall have
195 adequate facilities to keep, maintain and preserve records,
196 papers and documents necessary to carry on such business
197 and to make the same available to inspection by the
198 commissioner at all reasonable times.

199 (21) "Manufacturer" means every person engaged in the
200 business of reconstructing, assembling or reassembling
201 vehicles with a special type body required by the purchaser
202 if said vehicle is subject to the title and registration
203 provision of the code.

204 (22) "Transporter" means every person engaged in the
205 business of transporting vehicles to or from a
206 manufacturing, assembling or distributing plant to dealers
207 or sales agents of a manufacturer, or purchasers.

208 (23) "Recreational vehicle dealer" means every person
209 (other than his agents and employees, if any, while acting
210 within the scope of their authority or employment), engaged
211 in, or who holds himself out to the public to be engaged in,
212 the business in this state of selling new and/or used
213 recreational vehicles.

214 (24) "Motorboat" means any vessel propelled by an
215 electrical, steam, gas, diesel or other fuel propelled or
216 driven motor, whether or not such motor is the principal
217 source of propulsion, but shall not include a vessel which
218 has a valid marine document issued by the bureau of
219 customs of the United States government or any federal
220 agency successor thereto.

221 (25) "Motorboat trailer" means every vehicle designed
222 for or ordinarily used for the transportation of a motorboat.

223 (26) "All-terrain vehicle" (ATV) means any motor
224 vehicle designed for off-highway use and designed for
225 operator use only with no passengers, having a seat or
226 saddle designed to be straddled by the operator, and
227 handlebars for steering control.

228 (27) "Travel trailer" means every vehicle, mounted on
229 wheels, designed to provide temporary living quarters for
230 recreational, camping or travel use of such size or weight as
231 not to require special highway movement permits when
232 towed by a motor vehicle and of gross trailer area less than
233 four hundred square feet.

234 (28) "Fold down camping trailer" means every vehicle
235 consisting of a portable unit mounted on wheels and
236 constructed with collapsible partial sidewalls which fold
237 for towing by another vehicle and unfold at the camp site to
238 provide temporary living quarters for recreational,
239 camping or travel use.

240 (29) "Motor home" means every vehicle, designed to
241 provide temporary living quarters, built into an integral
242 part of or permanently attached to a self-propelled motor
243 vehicle, chassis or van including: (1) Type A motor home
244 built on an incomplete truck chassis with the truck cab
245 constructed by the second stage manufacturer; (2) Type B

246 motor home consisting of a van-type vehicle which has been
 247 altered to provide temporary living quarters; and (3) Type C
 248 motor home built on an incomplete van or truck chassis
 249 with a cab constructed by the chassis manufacturer.

250 (30) "Snowmobile" means a self-propelled vehicle
 251 intended for travel primarily on snow and driven by a track
 252 or tracks in contact with the snow and steered by a ski or
 253 skis in contact with the snow.

254 (31) "Recreational vehicle" means a motorboat,
 255 motorboat trailer, all-terrain vehicle, travel trailer, fold
 256 down camping trailer, motor home or snowmobile.

257 (b) Under no circumstances whatever shall the terms
 258 "new motor vehicle dealer," "used motor vehicle dealer,"
 259 "house trailer dealer," "trailer dealer," "recreational
 260 vehicle dealer," "motorcycle dealer," "used parts dealer" or
 261 "wrecker or dismantler" be construed or applied under this
 262 article in such a way as to include a banking institution,
 263 insurance company, finance company, or other lending or
 264 financial institution, or other person, the state or any
 265 agency or political subdivision thereof, or any municipality,
 266 who or which owns or shall come in possession or ownership
 267 of, or acquire contract rights, or security interests in or to,
 268 any vehicle or vehicles or any part thereof and shall sell
 269 such vehicle or vehicles or any part thereof for purposes
 270 other than engaging in and holding himself or itself out to
 271 the public to be engaged in the business of selling vehicles or
 272 any part thereof.

273 (c) It is recognized that throughout this code the term
 274 "trailer" or "trailers" is used to include, among other types
 275 of trailers, house trailers. It is also recognized that
 276 throughout this code the term "trailer" or "trailers" is
 277 seldom used to include semitrailers or pole trailers.
 278 However, for the purposes of this article only, the term
 279 "trailers" shall have the meaning ascribed to it in
 280 subsection (a) of this section.

§17A-6-2. Legislative findings and declaration of public policy.

1 The Legislature hereby determines and finds that in the
 2 past some few persons engaged in the business of selling
 3 new or used motor vehicles, house trailers, trailers,
 4 recreational vehicles, motorcycles, or used motor vehicle

5 parts, and in the business of wrecking or dismantling motor
6 vehicles, have not had the necessary qualifications, staff,
7 equipment or facilities to adequately serve the public; that
8 some few persons engaged in said businesses have made
9 false and deceptive claims and advertisements to the public
10 and have engaged in fraud and other illegal conduct; that
11 certain citizens of this state have sustained financial losses
12 as a result thereof; and that in some of said cases there has
13 been no adequate means to prevent said conduct or protect
14 the interests of the citizens of West Virginia. It is, therefore,
15 declared to be the public policy of this state that the
16 business of new motor vehicle dealer, used motor vehicle
17 dealer, house trailer dealer, trailer dealer, recreational
18 vehicle dealer, motorcycle dealer, used parts dealer, or
19 wrecker or dismantler, affects the general welfare of this
20 state and its citizens; that persons without the necessary
21 qualifications, staff, equipment or facilities to adequately
22 serve the public, and persons not of good character or who
23 have or are likely to attempt to misrepresent their product
24 or engage in fraudulent or other illegal conduct should not
25 engage in such businesses; and that such evils may best be
26 prevented and the interests of the public best served by
27 requiring persons in such businesses to meet the
28 qualifications set forth in this article and to be licensed by
29 the commissioner of motor vehicles as provided in this
30 article.

31 The provisions of this article relating to recreational
32 vehicles and recreational vehicle dealers shall become
33 effective on the first day of July, one thousand nine hundred
34 eighty-nine.

PART II. LICENSE CERTIFICATE PROVISIONS.

§17A-6-3. License certificate required; engaging in more than one business; established place of business required; existing licenses.

1 (a) No person shall engage or represent or advertise that
2 he is engaged or intends to engage in the business of new
3 motor vehicle dealer, used motor vehicle dealer, house
4 trailer dealer, trailer dealer, recreational vehicle dealer,
5 motorcycle dealer, used parts dealer, or wrecker or
6 dismantler, in this state, unless and until he shall first
7 obtain a license certificate therefor as provided in this

8 article, which license certificate remains unexpired,
 9 unsuspended and unrevoked. Any person desiring to engage
 10 in more than one such business must, subject to the
 11 provisions of section five of this article, apply for and obtain
 12 a separate license certificate for each such business.

13 (b) Except for the qualification contained in
 14 subdivision (17), subsection (a), section one of this article
 15 with respect to a new motor vehicle dealer, each place of
 16 business of a new motor vehicle dealer, used motor vehicle
 17 dealer, house trailer dealer, trailer dealer, recreational
 18 vehicle dealer, motorcycle dealer, used parts dealer and
 19 wrecker or dismantler, must be an established place of
 20 business as defined for such business in said section one.

21 (c) Any license certificate and special plates issued by
 22 the commissioner under the former provisions of article six
 23 or article seven or section six, article ten of this chapter, and
 24 which have not been canceled, suspended or revoked prior
 25 to the effective date of this article shall be governed by the
 26 provisions of this article and shall remain valid until their
 27 expiration, unless such license certificate is sooner
 28 suspended or revoked in accordance with the provisions of
 29 this article.

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

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

18 of two or more persons in any one accident, and ten
19 thousand dollars because of injury to or destruction of
20 property of others in any one accident.

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

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

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

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

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

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

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

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

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

54 (9) Such other information as the commissioner may
55 reasonably require which may include information relating
56 to any contracts, agreements or understandings between
57 the applicant and other persons respecting the transaction
58 of said business, and any criminal record of the applicant if

59 an individual, or of each partner if a copartnership, or of
60 each officer and director, if a corporation.

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

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

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

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

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

92 (f) Such application shall be verified by the oath or
93 affirmation of the applicant, if an individual, or if the
94 applicant is a copartnership or corporation, by a partner or
95 officer thereof, as the case may be. Such application must be
96 accompanied by a bond of the applicant in the penal sum of
97 two thousand dollars, in such form as may be prescribed by
98 the commissioner, conditioned that the applicant will not in
99 the conduct of his business practice any fraud which, or
100 make any fraudulent representation which, shall cause a

101 financial loss to any purchaser, seller or financial
102 institution or agency, or the state of West Virginia, with a
103 corporate surety thereon authorized to do business in this
104 state, which bond shall be effective as of the date on which
105 the license certificate sought is issued.

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

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

§17A-6-5. License certificate exemption.

1 Any new motor vehicle dealer, used motor vehicle dealer,
2 house trailer dealer, trailer dealer, recreational vehicle
3 dealer or motorcycle dealer receiving a vehicle in trade of a
4 type other than that he is licensed to sell hereunder may sell
5 such vehicle without obtaining a license certificate to
6 engage in the business of selling vehicles of such type and
7 without being considered to be a dealer in vehicles of such
8 type.

§17A-6-6. Refusal or issuance of license certificate; license certificate not transferable.

1 (a) Upon the basis of the application and all other
2 information before him, the commissioner shall make and
3 enter an order denying the application for a license
4 certificate and refusing the license certificate sought, which
5 denial and refusal shall be final and conclusive unless an

6 appeal is taken in accordance with the provisions of section
7 twenty-one of this article, if the commissioner finds that the
8 applicant (individually, if an individual, or the partners, if a
9 copartnership, or the officers and directors, if a
10 corporation):

11 (1) Has failed to furnish the required bond;

12 (2) Has failed to furnish the required certificate of
13 insurance;

14 (3) Has knowingly made false statement of a material
15 fact in his application;

16 (4) Has habitually defaulted on financial obligations;

17 (5) Has been convicted of a felony within five years
18 immediately preceding receipt of the application by the
19 commissioner;

20 (6) So far as can be ascertained, has not complied with
21 and will not comply with the registration and title laws of
22 this state;

23 (7) Does not or will not have and/or maintain at each
24 place of business (subject to the qualification contained in
25 subdivision (17), subsection (a), section one of this article
26 with respect to a new motor vehicle dealer) and established
27 place of business as defined for the business in question in
28 said section one;

29 (8) Has been guilty of any fraudulent act in connection
30 with the business of new motor vehicle dealer, used motor
31 vehicle dealer, house trailer dealer, trailer dealer,
32 recreational vehicle dealer, motorcycle dealer, used parts
33 dealer, or wrecker or dismantler; or

34 (9) Has done any act or has failed or refused to perform
35 any duty for which the license certificate sought could be
36 suspended or revoked were it then issued and outstanding.

37 Otherwise, the commissioner shall issue to the applicant
38 the appropriate license certificate which shall entitle the
39 licensee to engage in the business of new motor vehicle
40 dealer, used motor vehicle dealer, house trailer dealer,
41 trailer dealer, recreational vehicle dealer, motorcycle
42 dealer, used parts dealer, or wrecker or dismantler, as the
43 case may be, during the period, unless sooner suspended or
44 revoked, for which the license certificate is issued.

45 (b) A license certificate issued in accordance with the
46 provisions of this article shall not be transferable.

PART III. FEES AND DEALER SPECIAL PLATES
GENERALLY.

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

1 (a) The initial application fee for a license certificate to
2 engage in the business of a new motor vehicle dealer, used
3 motor vehicle dealer, house trailer dealer, trailer dealer,
4 motorcycle dealer, recreational vehicle dealer, or used parts
5 dealer, or wrecker, or dismantler, shall be two hundred and
6 fifty dollars: *Provided*, That if an application for a license
7 certificate is denied or refused in accordance with section
8 six of this article, one hundred twenty-five dollars shall be
9 refunded to the applicant. The initial application fee shall
10 entitle the licensee to dealer special plates as prescribed by
11 subsections (b), (c), (d) and (e) of this section.

12 (b) The annual renewal fee required for a license
13 certificate to engage in the business of new motor vehicle
14 dealer shall be one hundred dollars. This fee shall also
15 entitle such licensee to one dealer's special plate which shall
16 be known as a Class D special plate. Up to nine additional
17 Class D special plates shall be issued to any such licensee
18 upon application therefor on a form prescribed by the
19 commissioner for such purpose and the payment of a fee of
20 five dollars for each additional Class D special plate. Any
21 such licensee who obtains a total of ten Class D special
22 plates as aforesaid shall be entitled to receive additional
23 Class D special plates on a formula basis, that is, one
24 additional Class D special plate per twenty new motor
25 vehicles sold at retail in this state by such licensee or his
26 predecessor during the preceding fiscal year, upon
27 application therefor on a form prescribed by the
28 commissioner for such purpose and the payment of a fee of
29 five dollars for each such additional Class D special plate:
30 *Provided*, That in the case of a licensee who did not own or
31 operate such business during such preceding fiscal year and
32 who has no predecessor who owned or operated such
33 business during the preceding fiscal year, additional Class
34 D special plates shall be issued, for the ensuing fiscal year
35 only, on a formula basis of one additional Class D special
36 plate per twenty new motor vehicles which such licensee
37 estimates on his application for his license certificate he

38 will sell at retail in this state during said ensuing fiscal year.
39 Any such licensee may obtain Class D special plates in
40 addition to the ten plates authorized above and any
41 authorized on a formula basis, but the cost of each such
42 Class D special plate shall be thirty dollars.

43 (c) The annual renewal fee required for a license
44 certificate to engage in the business of used motor vehicle
45 dealer shall be one hundred dollars. This fee shall also
46 entitle such licensee to one dealer's special plate which shall
47 be known as a Class D-U/C special plate. Up to four
48 additional Class D-U/C special plates shall be issued to any
49 such licensee upon application therefor on a form
50 prescribed by the commissioner for such purpose and the
51 payment of a fee of five dollars for each additional Class
52 D-U/C special plate. Any such licensee who obtains a total
53 of five Class D-U/C special plates as aforesaid shall be
54 entitled to receive additional Class D-U/C special plates on
55 a formula basis, that is, one additional Class D-U/C special
56 plate per thirty used motor vehicles sold at retail in this
57 state by such licensee or his predecessor during the
58 preceding fiscal year, upon application therefor on a form
59 prescribed by the commissioner for such purpose and the
60 payment of a fee of five dollars for each such additional
61 Class D-U/C special plate: *Provided*, That in the case of a
62 licensee who did not own or operate such business during
63 such preceding fiscal year and who has no predecessor who
64 owned or operated such business during the preceding
65 fiscal year, additional Class D-U/C special plates shall be
66 issued, for the ensuing fiscal year only, on a formula basis of
67 one additional Class D-U/C special plate per thirty used
68 motor vehicles which such licensee estimates on his
69 application for his license certificate he will sell at retail in
70 this state during said ensuing fiscal year. Any such licensee
71 may obtain Class D-U/C special plates, in addition, to the
72 five plates authorized above and any authorized on a
73 formula basis, but the cost of each such Class D-U/C special
74 plate shall be thirty dollars.

75 (d) The annual renewal fee required for a license
76 certificate to engage in the business of house trailer dealer
77 or trailer dealer, as the case may be, shall be twenty-five
78 dollars. This fee shall also entitle such licensee to four

79 dealer's special plates which shall be known as Class D-T/R
80 special plates. Additional Class D-T/R special plates shall
81 be issued to any such licensee upon application therefor on
82 a form prescribed by the commissioner for such purpose
83 and the payment of a fee of five dollars for each such
84 additional Class D-T/R special plate.

85 (e) The annual renewal fee required for a license
86 certificate to engage in the business of recreational vehicle
87 dealer shall be one hundred dollars. This fee shall also
88 entitle such licensee to four dealer's special plates which
89 shall be known as Class D-R/V special plates. Additional
90 Class D-R/V special plates shall be issued to any such
91 licensee upon application therefor on a form prescribed by
92 the commissioner for such purpose on the payment of a fee
93 of twenty-five dollars for each such additional Class D-R/V
94 special plate.

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

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

116 (h) All of the special plates provided for in this section
117 shall be of such form and design and contain such other
118 distinguishing marks or characteristics as the
119 commissioner may prescribe.

§17A-6-13. Use of special plates; records to be maintained by dealer.

1 (a) The Class D special plates and the Class D-U/C
2 special plates herein authorized may be used for any
3 purpose on any motor vehicle owned by the dealer to whom
4 issued and which is being operated with his knowledge and
5 consent and not otherwise: *Provided*, That under no
6 circumstances whatever shall a Class D special plate or
7 Class D-U/C special plate be used on any work or service
8 vehicle owned by a dealer, on any vehicle owned by a dealer
9 and offered for hire or lease, or on any vehicle which has
10 been sold by a dealer to a customer.

11 (b) Under no circumstances whatever shall a Class D-T/
12 R special plate be used for the purpose of operating a motor
13 vehicle upon the streets and highways, or on any house
14 trailer or other trailer owned by a dealer and offered for hire
15 or lease, or on any house trailer or other trailer which has
16 been sold by a dealer to a customer: *Provided*, That
17 notwithstanding such sale or any provision of this code to
18 the contrary, a Class D-T/R special plate may be used in
19 moving a house trailer sold by a house trailer dealer to a
20 customer for one trip only from the house trailer dealer's
21 established place of business to a place designated by such
22 customer.

23 (c) Under no circumstances whatever shall a Class D-R/
24 V special plate be used for the purpose of operating a motor
25 vehicle upon the streets and highways, or on any
26 recreational vehicle owned by a dealer and offered for hire
27 or lease, or on any recreational vehicle which has been sold
28 by a dealer to a customer: *Provided*, That notwithstanding
29 any provision of this code to the contrary, a Class D-R/V
30 special plate may be used upon the streets and highways for
31 demonstration purposes only on those recreational vehicles
32 that are subject to registration under article three of this
33 chapter.

34 (d) Under no circumstances whatever shall a Class F
35 special plate be used for the purpose of operating any type
36 of motor vehicle other than a motorcycle on the streets and
37 highways, or on a motorcycle owned by a dealer and offered
38 for hire or lease, or on any motorcycle which has been sold
39 by a dealer to a customer.

40 (e) Every dealer entitled to and issued a special plate or
41 plates under the provisions of this article shall keep a
42 written record of the salesman, mechanic, employee, agent,
43 officer, or other person, to whom a special plate or plates
44 have been assigned by such dealer. Every such record shall
45 be open to inspection by the commissioner or his
46 representatives or any law-enforcement officer.

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

James O. Williams
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Donald C. Mathis
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Sam Tonkin
President of the Senate

Robert A. Hall
Speaker House of Delegates

The within *Approved* this the *29th*
March day of 1988.

Robert A. Hall, Jr.
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/88

Time 3:09 p.m.

RECEIVED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE