

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

HOUSE BILL No. 4540

(By ~~SB~~ Delegate Anderson)



Passed March 10, 1990

In Effect 90 Days from Passage

ENROLLED
H. B. 4540

(By DELEGATE ANDERSON)

[Passed March 10, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact section ten, article four, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one, four, five, ten and fifteen, article six of said chapter; and to further amend said chapter by adding thereto a new article, designated article six-b, relating to motor vehicle administration; transfers of title; providing a definition of a total loss vehicle; providing for inspection of rebuilt motor vehicles by an inspector from the department of motor vehicles; setting fees; criminal penalties; licensing of wreckers/dismantlers/rebuilder; providing definitions; authorizing a special plate; setting fees; motor vehicles; licensing of license service businesses to issue temporary registration plates; requiring a bond; fees; creating a special fund; procedure for refusal to issue; form of license certificate; certified copies; license good for one year; renewals; investigations and confidentiality; suspension and revocation; violations and criminal penalties; injunctive relief; and promulgation of rules.

Be it enacted by the Legislature of West Virginia:

That section ten, article four, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections one, four, five, ten and fifteen, article six of said chapter be amended and reenacted; and that said chapter be further amended by

adding thereto a new article, designated article six-b, all to read as follows:

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
2 loss or otherwise designated as "totaled" by any
3 insurance company or insurer, and upon payment of an
4 agreed price as a claim settlement to any insured or
5 claimant owner for the purchase of the vehicle, the
6 insurance company or the insurer shall receive the
7 certificate of title and the vehicle. The insurance
8 company or insurer shall within ten days surrender the
9 certificate of title and a copy of the claim settlement to
10 the department of motor vehicles. The department shall
11 issue a "salvage certificate," on a form prescribed by the
12 commissioner, in the name of the insurance company or
13 the insurer. Such certificate shall contain on the reverse
14 thereof spaces for one successive assignment before a
15 new certificate at an additional fee is required. Upon the
16 sale of the vehicle the insurance company or insurer
17 shall endorse the assignment of ownership on the
18 salvage certificate and deliver it to the purchaser. The
19 vehicle shall not be titled or registered for operation on
20 the streets or highways of this state unless there is
21 compliance with subsection (b) of this section. In the
22 event a motor vehicle is determined to be damaged in
23 excess of seventy-five percent of its retail price as
24 described in the national automobile dealers association
25 official used car guide, a junk card will be issued in lieu
26 of a salvage certificate.

27 (a) Any owner, who scraps, compresses, dismantles or
28 destroys a vehicle for which a certificate of title or
29 salvage certificate has been issued, shall, within twenty
30 days, surrender the certificate of title or salvage
31 certificate to the department for cancellation. Any
32 person who purchases or acquires a vehicle as salvage
33 or scrap, to be dismantled, compressed or destroyed,
34 shall within twenty days surrender the certificate to the
35 department. Should a vehicle less than eight years old

36 be determined to be a complete fire, flood or basket, a
37 photograph of the vehicle shall accompany the surren-
38 dered certificate: *Provided*, That the term “basket”
39 means a vehicle which has been damaged more than
40 seventy-five percent of the retail price as described in
41 the national automobile dealers association official used
42 car guide. If the vehicle is to be reconstructed, the owner
43 must obtain a salvage certificate and comply with the
44 provisions of subsection (b) of this section.

45 (b) If the motor vehicle is a “reconstructed vehicle” as
46 defined in section one, article one of this chapter, it may
47 not be titled or registered for operation until it has been
48 inspected by an official state inspection station and by
49 a representative of the department of motor vehicles
50 who has been designated by the commissioner as an
51 investigator. Following an approved inspection, an
52 application for a new certificate of title may be
53 submitted to the department; however, the applicant
54 shall be required to retain all receipts for component
55 parts, equipment and materials used in the reconstruc-
56 tion. The salvage certificate must also be surrendered
57 to the department before a certificate of title may be
58 issued.

59 (c) The department shall charge a fee of fifteen
60 dollars for the issuance of each salvage certificate but
61 shall not require the payment of the five percent
62 privilege tax. However, upon application for a certifi-
63 cate of title for a reconstructed vehicle, the department
64 shall collect the five percent privilege tax on the fair
65 market value of the vehicle as determined by the
66 commissioner unless the applicant is otherwise exempt
67 from the payment of such privilege tax. A
68 wrecker/dismantler/rebuilder is exempt from the five
69 percent privilege tax upon titling a reconstructed
70 vehicle. The department shall collect a fee of thirty-five
71 dollars per vehicle for inspections of reconstructed
72 vehicles. These fees shall be deposited in a special fund
73 created in the state treasurer’s office and may be
74 expended by the department to carry out the provisions
75 of this article. Licensed wreckers/dismantler/rebuilders
76 may charge a fee not to exceed twenty-five dollars for

77 all vehicles owned by private rebuilders which are in-
78 spected at the place of business of a wrecker/
79 dismantler/rebuilder.

80 (d) A certificate of title issued by the department for
81 a reconstructed vehicle shall contain markings in bold
82 print on the face of the title that it is for a reconstructed
83 vehicle: *Provided*, That if the application for a certifi-
84 cate of title is accompanied a certificate of inspection
85 certifying that no more than two major components (as
86 that term is defined in section one of article six of this
87 chapter) were replaced, the boldface markings "recon-
88 structed vehicle" shall not appear on the title.

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

**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
2 a 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
5 acting within the scope of their authority or employ-
6 ment), engaged in, or who holds himself out to the public
7 to be engaged in, the business in this state of selling five
8 or more new motor vehicles or new and used motor
9 vehicles in any fiscal year of a type required to be
10 registered under the provisions of this chapter, except,
11 for the purposes of this article only, motorcycles.

12 (2) "Used motor vehicle dealer" means every person
13 (other than his agents and employees, if any, while
14 acting within the scope of their authority or employ-
15 ment), engaged in, or holds himself out to the public to

16 be engaged in, the business in this state of selling five
17 or more used motor vehicles in any fiscal year of a type
18 required to be registered under the provisions of this
19 chapter, except, for the purposes of this article only,
20 motorcycles.

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

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

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

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

47 (7) "Wrecker/dismantler/rebuilder" means every
48 person (other than his agents and employees, if any,
49 while acting within the scope of their authority or
50 employment), engaged in, or who holds himself out to
51 the public to be engaged in, the business in this state
52 of dealing in wrecked or damaged motor vehicles or
53 motor vehicle parts for the purpose of selling the parts
54 thereof or scrap therefrom or who are in the business
55 of rebuilding salvage motor vehicles for the purpose of

56 resale to the public.

57 (8) "New motor vehicles" means all motor vehicles,
58 except motorcycles and used motor vehicles, of a type
59 required to be registered under the provisions of this
60 chapter.

61 (9) "Used motor vehicles" means all motor vehicles,
62 except motorcycles, of a type required to be registered
63 under the provisions of this chapter which have been
64 sold and operated, or which have been registered or
65 titled, in this or any other state or jurisdiction.

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

70 (11) "Trailers" means all types of trailers other than
71 house trailers, and shall include, but not be limited to,
72 pole trailers and semitrailers but excluding recreational
73 vehicles.

74 (12) "Sales instrument" means any document result-
75 ing from the sale of a vehicle, which shall include, but
76 not be limited to, a bill of sale, invoice, conditional sales
77 contract, chattel mortgage, chattel trust deed, security
78 agreement or similar document.

79 (13) "Sell," "sale" or "selling" shall, in addition to the
80 ordinary definitions of such terms, include offering for
81 sale, soliciting sales of, negotiating for the sale of,
82 displaying for sale, or advertising for sale, any vehicle,
83 whether at retail, wholesale or at auction. "Selling"
84 shall, in addition to the ordinary definition of that term,
85 also include buying and exchanging.

86 (14) "Applicant" means any person making applica-
87 tion for an original or renewal license certificate under
88 the provisions of this article.

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

91 (16) "Predecessor" means the former owner or owners
92 or operator or operators of any new motor vehicle dealer
93 business or used motor vehicle dealer business.

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

136 a separate license certificate is obtained for each such
137 type of vehicle business, which license certificate
138 remains unexpired, unsuspended and unrevoked; (iii)
139 farm machinery is sold thereat; and (iv) accessory,
140 gasoline and oil, or storage departments are maintained
141 thereat, if such departments are operated for the
142 purpose of furthering and assisting in the licensed
143 business or businesses.

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

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

177 agreements is to provide such servicing and repair
178 services and space in like manner as if said servicing
179 and repair facilities and space were located in or on said
180 dealer's place of business, then, so long as such an
181 agreement or agreements are in effect, it shall not be
182 necessary for such dealer to maintain such servicing and
183 repair facilities and space at his place of business in
184 order for such place of business to be an established
185 place of business as herein defined: *Provided, however,*
186 That the requirement of exclusive use shall be met even
187 though (i) house trailers, trailers and/or motorcycles are
188 sold or are to be sold thereat, if, subject to the provisions
189 of section five of this article, a separate license
190 certificate is obtained for each such type of vehicle
191 business, which license certificate remains unexpired,
192 unsuspended and unrevoked; (ii) farm machinery is sold
193 thereat; and (iii) accessory, gasoline and oil, or storage
194 departments are maintained thereat, if such depart-
195 ments are operated for the purpose of furthering and
196 assisting in the licensed business or businesses.

197 (20) "Established place of business" shall, in the case
198 of a house trailer dealer, trailer dealer, recreational
199 vehicle dealer, motorcycle dealer, used parts dealer and
200 wrecker or dismantler, mean a permanent location, not
201 a temporary stand or other temporary quarters, owned
202 or leased by the licensee or applicant and actually
203 occupied or to be occupied by him, as the case may be,
204 which shall be easily accessible to the public, which
205 shall conform to all applicable laws of the state of West
206 Virginia and the ordinances of the municipality in
207 which it is located, if any, which shall display thereon
208 at least one permanent sign, clearly visible from the
209 principal public street or highway nearest said location
210 and clearly stating the business which is or shall be
211 conducted thereat, and which shall have adequate
212 facilities to keep, maintain and preserve records, papers
213 and documents necessary to carry on such business and
214 to make the same available to inspection by the
215 commissioner at all reasonable times.

216 (21) "Manufacturer" means every person engaged in
217 the business of reconstructing, assembling or reassem-

218 bling vehicles with a special type body required by the
219 purchaser if said vehicle is subject to the title and
220 registration provision of the code.

221 (22) "Transporter" means every person engaged in the
222 business of transporting vehicles to or from a manufac-
223 turing, assembling or distributing plant to dealers or
224 sales agents of a manufacturer, or purchasers.

225 (23) "Recreational vehicle dealer" means every person
226 (other than his agents and employees, if any, while
227 acting within the scope of their authority or employ-
228 ment), engaged in, or who holds himself out to the public
229 to be engaged in, the business in this state of selling new
230 and/or used recreational vehicles.

231 (24) "Motorboat" means any vessel propelled by an
232 electrical, steam, gas, diesel or other fuel propelled or
233 driven motor, whether or not such motor is the principal
234 source of propulsion, but shall not include a vessel which
235 has a valid marine document issued by the bureau of
236 customs of the United States government or any federal
237 agency successor thereto.

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

241 (26) "All-terrain vehicle" (ATV) means any motor
242 vehicle designed for off-highway use and designed for
243 operator use only with no passengers, having a seat or
244 saddle designed to be straddled by the operator, and
245 handlebars for steering control.

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

252 (28) "Fold down camping trailer" means every vehicle
253 consisting of a portable unit mounted on wheels and
254 constructed with collapsible partial sidewalls which fold
255 for towing by another vehicle and unfold at the camp
256 site to provide temporary living quarters for recrea-

257 tional, camping or travel use.

258 (29) "Motor home" means every vehicle, designed to
259 provide temporary living quarters, built into an integral
260 part of or permanently attached to a self-propelled
261 motor vehicle, chassis or van including: (1) Type A
262 motor home built on an incomplete truck chassis with
263 the truck cab constructed by the second stage manufac-
264 turer; (2) Type B motor home consisting of a van-type
265 vehicle which has been altered to provide temporary
266 living quarters; and (3) Type C motor home built on an
267 incomplete van or truck chassis with a cab constructed
268 by the chassis manufacturer.

269 (30) "Snowmobile" means a self-propelled vehicle
270 intended for travel primarily on snow and driven by a
271 track or tracks in contact with the snow and steered by
272 a ski or skis in contact with the snow.

273 (31) "Recreational vehicle" means a motorboat,
274 motorboat trailer, all-terrain vehicle, travel trailer, fold
275 down camping trailer, motor home or snowmobile.

276 (32) "Major component" means any one of the follow-
277 ing subassemblies of a motor vehicle: (i) Front clip
278 assembly consisting of fenders, grille, hood, bumper and
279 related parts; (ii) engine; (iii) transmission; (iv) rear clip
280 assembly consisting of quarter panels and floor panel
281 assembly; or (v) two or more doors.

282 (b) Under no circumstances whatever shall the terms
283 "new motor vehicle dealer," "used motor vehicle dealer,"
284 "house trailer dealer," "trailer dealer," "recreational
285 vehicle dealer," "motorcycle dealer," "used parts dealer"
286 or "wrecker/dismantler/rebuilder" be construed or
287 applied under this article in such a way as to include
288 a banking institution, insurance company, finance
289 company, or other lending or financial institution, or
290 other person, the state or any agency or political
291 subdivision thereof, or any municipality, who or which
292 owns or shall come in possession or ownership of, or
293 acquire contract rights, or security interests in or to, any
294 vehicle or vehicles or any part thereof and shall sell such
295 vehicle or vehicles or any part thereof for purposes other
296 than engaging in and holding himself or itself out to the

297 public to be engaged in the business of selling vehicles
298 or any part thereof.

299 (c) It is recognized that throughout this code the term
300 "trailer" or "trailers" is used to include, among other
301 types of trailers, house trailers. It is also recognized that
302 throughout this code the term "trailer" or "trailers" is
303 seldom used to include semitrailers or pole trailers.
304 However, for the purposes of this article only, the term
305 "trailers" shall have the meaning ascribed to it in
306 subsection (a) of this section.

**§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
3 as may be prescribed by the commissioner. There shall
4 be 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
8 other person, as insured, using any vehicle or vehicles
9 owned by the applicant with the express or implied
10 permission of such named insured, against loss from the
11 liability imposed by law for damages arising out of the
12 ownership, operation, maintenance or use of such vehicle
13 or vehicles, subject to minimum limits, exclusive of
14 interest and costs, with respect to each such vehicle, as
15 follows: Twenty thousand dollars because of bodily
16 injury to or death of one person in any one accident and,
17 subject to said limit for one person, forty thousand
18 dollars because of bodily injury to or death of two or
19 more persons in any one accident, and ten thousand
20 dollars because of injury to or destruction of property
21 of others in any one accident.

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

27 (1) The type of business for which a license certificate

28 is sought;

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

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

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

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

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

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

55 (8) A statement of previous general business experi-
56 ence and past history of the applicant; and

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

65 (c) In the case of an application for a license certif-

66 icate to engage in the business of new motor vehicle
67 dealer, such application shall, in addition to the matters
68 outlined in subsection (b) of this section disclose:

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

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

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

92 (e) In the case of an application for a license certifi-
93 cate to engage in the business of trailer dealer,
94 recreational vehicle dealer, motorcycle dealer, used
95 parts dealer, or wrecker/dismantler/rebuilder, such
96 application shall disclose such information as the
97 commissioner may reasonably require.

98 (f) Such application shall be verified by the oath or
99 affirmation of the applicant, if an individual, or if the
100 applicant is a copartnership or corporation, by a partner
101 or officer thereof, as the case may be. Such application
102 must be accompanied by a bond of the applicant in the
103 penal sum of two thousand dollars, in such form as may
104 be prescribed by the commissioner, conditioned that the
105 applicant will not in the conduct of his business practice

106 any fraud which, or make any fraudulent representation
 107 which, shall cause a financial loss to any purchaser,
 108 seller or financial institution or agency, or the state of
 109 West Virginia, with a corporate surety thereon autho-
 110 rized to do business in this state, which bond shall be
 111 effective as of the date on which the license certificate
 112 sought is issued.

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

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

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

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

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

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

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

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

78 (d) The annual renewal fee required for a license
79 certificate to engage in the business of house trailer
80 dealer or trailer dealer, as the case may be, shall be

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

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

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

109 (g) The annual renewal fee required for a license
110 certificate to engage in the business of
111 wrecker/dismantler/rebuilder, shall be fifteen dollars.
112 Upon payment of the fee for said license certificate, a
113 licensee shall be entitled to up to four special license
114 plates which shall be known as Class WD special plates.
115 Such plates shall be issued to any such licensee upon
116 application therefor on a form prescribed by the
117 commissioner for such purpose and the payment of a fee
118 of twenty-five dollars for each such plate. Such plate
119 issued under the provisions of this subsection shall have
120 the words "Towing Only" affixed thereon. A
121 wrecker/dismantler/rebuilder is entitled to one special

122 plate known as a Class WD/Demo special plate upon
123 payment of a twenty-five dollar fee. This plate shall only
124 be used for demonstrating rebuilt automobiles owned by
125 the wrecker/dismantler/rebuilder.

126 (h) All of the special plates provided for in this section
127 shall be of such form and design and contain such other
128 distinguishing marks or characteristics as the commis-
129 sioner may prescribe.

§17A-6-15. Temporary registration plates or markers.

1 (a) In order to permit a vehicle which is sold to a
2 purchaser by a dealer to be operated on the streets and
3 highways pending receipt of the annual registration
4 plate from the department for such vehicle, the commis-
5 sioner may, subject to the limitations and conditions
6 hereinafter set forth, deliver temporary vehicle registra-
7 tion plates or markers to dealers who in turn may,
8 subject to the limitations and conditions hereinafter set
9 forth, issue the same to purchasers of vehicles, but such
10 purchasers must comply with the pertinent provisions
11 of this section.

12 (b) Application by a dealer to the commissioner for
13 such temporary registration plates or markers shall be
14 made on the form prescribed and furnished by the
15 commissioner for such purpose and shall be accompan-
16 ied by a fee of three dollars for each such temporary
17 registration plate or marker. No refund or credit of fees
18 paid by dealers to the commissioner for temporary
19 registration plates or markers shall be allowed, except
20 that in the event the commissioner discontinues the
21 issuance of such temporary plates or markers, dealers
22 returning temporary registration plates or markers to
23 the commissioner may petition for and be entitled to a
24 refund or a credit thereof. No temporary registration
25 plates or markers shall be delivered by the commis-
26 sioner to any dealer in house trailers only, and no such
27 temporary plates or markers shall be issued for or used
28 on any house trailer for any purpose.

29 (c) Every dealer who has made application for and
30 received temporary registration plates or markers shall
31 maintain in permanent form a record of all temporary

32 registration plates or markers delivered to him, a record
33 of all temporary registration plates or markers issued
34 by him, and a record of any other information pertain-
35 ing to the receipt or the issuance of temporary registra-
36 tion plates or markers which the commissioner may
37 require. Each such record shall be kept for a period of
38 at least three years from the date of the making thereof.
39 Every dealer who issues a temporary registration plate
40 or marker shall, within five working days after he issues
41 such plate or marker, send to the department a copy of
42 the temporary registration plate or marker certificate
43 properly executed by such dealer and the purchaser. No
44 temporary registration plates or markers may be
45 delivered to any dealer until such dealer has fully
46 accounted to the commissioner for the temporary
47 registration plates or markers last delivered to such
48 dealer, by showing the number issued to purchasers by
49 such dealer and any on hand.

50 (d) A dealer shall not issue, assign, transfer or deliver
51 a temporary registration plate or marker to anyone
52 other than the bona fide purchaser of the vehicle to be
53 registered; nor shall a dealer issue a temporary
54 registration plate or marker to anyone possessed of an
55 annual registration plate for a vehicle which has been
56 sold or exchanged, except a dealer may issue a tempor-
57 ary registration plate or marker to the bona fide
58 purchaser of a vehicle to be registered who possesses an
59 annual registration plate of a different class and makes
60 application to the department to exchange such annual
61 registration plate of a different class in accordance with
62 the provisions of section one, article four of this chapter;
63 nor shall a dealer lend to anyone, or use on any vehicle
64 which he may own, a temporary registration plate or
65 marker. It shall be unlawful for any dealer to issue any
66 temporary registration plate or marker knowingly
67 containing any misstatement of fact, or knowingly to
68 insert any false information upon the face thereof.

69 (e) Every dealer who issues temporary registration
70 plates or markers shall affix or insert clearly and
71 indelibly on the face of each temporary registration
72 plate or marker the date of issuance and expiration

73 thereof, and the make and motor or serial number of the
74 vehicle for which issued.

75 (f) If the commissioner finds that the provisions of this
76 section or his directions are not being complied with by
77 a dealer, he may suspend the right of such dealer to
78 issue temporary registration plates or markers.

79 (g) Every person to whom a temporary registration
80 plate or marker has been issued shall permanently
81 destroy such temporary registration plate or marker
82 immediately upon receiving the annual registration
83 plate for such vehicle from the department: *Provided,*
84 That if the annual registration plate is not received
85 within sixty days of the issuance of the temporary
86 registration plate or marker, the owner shall, notwith-
87 standing the fact that the annual registration plate has
88 not been received, immediately and permanently
89 destroy the temporary registration plate or marker:
90 *Provided, however,* That not more than one temporary
91 registration plate or marker shall be issued to the same
92 bona fide purchaser for the same vehicle.

93 (h) A temporary registration plate or marker shall
94 expire and become void upon the receipt of the annual
95 registration plate from the department or upon the
96 rescission of the contract to purchase the vehicle in
97 question, or upon the expiration of sixty days from the
98 date of issuance, depending upon whichever event shall
99 first occur.

100 (i) For the purpose of this section, the term "dealer"
101 includes a wrecker/dismantler/rebuilder.

ARTICLE 6B. LICENSE SERVICES.

§17A-6B-1. License certificate required; application.

1 No person shall engage in the license service business
2 in West Virginia without a license certificate. For
3 purposes of this article, the term "license service or
4 services" shall mean any person processing department
5 of motor vehicle documents for compensation when such
6 service or services are offered to the general public.

7 Application for a license certificate shall be made on

8 a form prescribed by the commissioner and shall
9 disclose such information the commissioner requires.
10 Such application shall be verified by an oath or
11 affirmation of the applicant, if an individual, or if the
12 applicant is a copartnership or corporation, by a partner
13 or officer thereof.

§17A-6B-2. Applicant must be bonded.

1 An application for a license certificate must be
2 accompanied by a bond in the penal sum of twenty-five
3 thousand dollars and have a corporate surety authorized
4 to do business in this state, to insure that the applicant
5 will not, in the conduct of his or her business, make any
6 fraudulent representation which shall cause a financial
7 loss to any purchaser, seller, financial institution,
8 agency, or the state of West Virginia. The bond shall be
9 effective on the date the license certificate is issued.

10 A licensee shall keep the bond in full force and effect
11 at all times. The aggregate liability of the surety in no
12 event shall exceed the principal sum of the bond. The
13 surety on such bond shall have the right to cancel such
14 bond upon giving thirty days notice to the commissioner
15 and thereafter shall be relieved of liability for any
16 breach of condition occurring after the effective date of
17 said cancellation.

§17A-6B-3. Fee required for license certificate; special fund created.

1 (a) The initial application fee for a certificate to
2 engage in the license service business is twenty-five
3 dollars. The renewal fee for such certificate is twenty-
4 five dollars.

5 (b) There is hereby created in the treasury a special
6 fund, named the "motor vehicle license service admin-
7 istration fund," into which shall be paid all of the initial
8 licensing fees, the renewal licensing fees, and certified
9 copies fees. The commissioner of motor vehicles shall use
10 the moneys in this account to administer and enforce the
11 provisions of this article.

§17A-6B-4. Investigation prior to issuance of license certificate; information confidential.

1 Upon receipt of a completed application, the required
2 bond, and the application fee, the commissioner may
3 conduct such investigation, as necessary, to determine
4 the accuracy of any statements contained in the
5 application and the existence of any other facts relevant
6 in considering such application. To facilitate such
7 investigation, the commissioner may withhold issuance
8 or refusal of the license certificate for a period not to
9 exceed twenty days.

10 Any application for a license certificate under the
11 provisions of this article and any information submitted
12 therewith shall be confidential for the use of the
13 department. No person shall divulge any information
14 contained in any application or any information submit-
15 ted therewith, except in response to a valid subpoena or
16 subpoena duces tecum issued pursuant to law.

§17A-6B-5. Refusal of license certificate.

1 If the commissioner finds that the applicant:

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

3 (2) Has knowingly made a false statement of a
4 material fact in the application;

5 (3) Has habitually defaulted on financial obligations;

6 (4) Has been convicted of a felony within five years
7 immediately preceding receipt of the application by the
8 commissioner;

9 (5) So far as can be ascertained, has not complied with
10 and will not comply with the registration and title laws
11 of this state;

12 (6) Has been guilty of any fraudulent act in connec-
13 tion with the business of licensing service; or

14 (7) Has done any act or has failed or refused to
15 perform any duty for which the license certificate
16 sought could be suspended or revoked were it then
17 issued and outstanding.

18 Then, upon the basis of the application, such findings,
19 and all other information, the commissioner shall make
20 and enter an order denying the application for a license

21 certificate, which denial is final and conclusive unless
22 an appeal is taken. Otherwise, the commissioner shall
23 issue to the applicant the license certificate which shall
24 entitle the licensee to engage in the license service
25 business.

**§17A-6B-6. When application to be made; expiration of
license certificate; renewal.**

1 (a) The initial application for a license certificate to
2 engage in a license service business shall be made thirty
3 days prior to the first day of January, one thousand nine
4 hundred ninety-one. This license shall be valid for one
5 year.

6 (b) Any initial application made after the first day of
7 January, one thousand nine hundred ninety-one, and any
8 year thereafter, shall expire on the thirty-first day of
9 December of that year.

10 (c) A license certificate may be renewed by paying the
11 renewal fee and after review by the commissioner.

12 (d) A license certificate issued in accordance with the
13 provisions of this article shall not be transferable.

**§17A-6B-7. Form and display of license certificate;
certified copies of license.**

1 (a) The commissioner shall prescribe the form of the
2 license certificate for a license service business. Each
3 license certificate shall have printed thereon the seal of
4 the department, the location of each place of business
5 of the licensee, the year for which the license is issued,
6 the serial number, and such other information the
7 commissioner may prescribe. The license certificate
8 shall be delivered or mailed to the licensee.

9 (b) When a licensee conducts his or her licensed
10 business at more than one location, he or she shall, upon
11 application therefor, obtain from the commissioner, for
12 each such place of business, one certified copy of the
13 license certificate. A fee of one dollar shall be paid for
14 each such certified copy. Each licensee shall keep his or
15 her license certificate or certified copy thereof conspic-
16 uously posted at each place of business.

17 (c) In the event of the loss or destruction of a license
18 certificate or a certified copy thereof, the licensee shall
19 immediately make application for a certified copy of the
20 license certificate. A fee of one dollar shall be required
21 for any such certified copy.

§17A-6B-8. Changes in business; action required.

1 Every license service business shall notify the commis-
2 sioner within sixty days from the date on which any of
3 the following changes in the business occur:

4 (1) A change of the location of any place of business;

5 (2) A change of the name or trade name under which
6 the licensee engages or will engage in the business;

7 (3) The death of the licensee or any partner or
8 partners thereof;

9 (4) A change in any partners, officers or directors;

10 (5) A change in ownership of the business;

11 (6) A change in the type of legal entity by and through
12 which the licensee engages or will engage in the
13 business; or

14 (7) The appointment of any trustee in bankruptcy,
15 trustee under an assignment for the benefit of creditors,
16 master or receiver.

17 When any change specified in subdivision (1), (2), (3),
18 (4), (5) or (6) occurs, an application for a new license
19 certificate shall immediately be filed with the commis-
20 sioner: *Provided*, That when a subdivision (3) change is
21 involved, an application for a new license certificate
22 need not be filed during the balance of the license year
23 if a member of the family of such deceased person
24 succeeds to the interest in the business. Upon receipt
25 and review of the application, a new license certificate
26 shall be issued incorporating the changes. No additional
27 fee for the balance of the license year shall be required
28 for the issuance of any new license certificate issued as
29 a result of any change specified in this section.

30 No new license certificate shall be required for any
31 trustee in bankruptcy, trustee under an assignment for

32 the benefit of creditors, receiver or master, appointed
33 pursuant to law, who shall take charge of or operate
34 such business for the purpose of winding up the affairs
35 of such business or protecting the interests of the
36 creditors of such business.

**§17A-6B-9. Investigation; grounds for suspending or
revoking license certificate; notice of
refusal, suspension or revocation of license
certificate; relinquishing license certifi-
cate and temporary plates or markers.**

1 The commissioner may conduct an investigation to
2 determine whether any provisions of this chapter have
3 been violated by a licensee. Any investigation shall be
4 kept in strictest confidence by the commissioner, the
5 department, the licensee, any complainant and all other
6 persons, unless and until the commissioner suspends or
7 revokes the license certificate of the licensee involved.

8 (a) The commissioner may suspend or revoke a license
9 certificate if the commissioner finds that the licensee:

10 (1) Has failed or refused to comply with the laws of
11 this state relating to the registration and titling of
12 vehicles and the giving of notices of transfers;

13 (2) Has failed or refused to comply with the provisions
14 and requirements of this article, and the promulgated
15 rules and regulations authorized in section nine, article
16 two of this chapter which were implemented, by the
17 commissioner in accordance with the provisions of
18 article three, chapter twenty-nine-a of this code, to
19 enforce the provisions of this article; or

20 (b) The commissioner shall suspend or revoke a
21 license certificate if the commissioner finds that the
22 licensee:

23 (1) Has knowingly made a false statement of a
24 material fact in his or her application for the license
25 certificate then issued and outstanding;

26 (2) Has habitually defaulted on financial obligations.

27 (3) Has been guilty of any fraudulent act in connec-
28 tion with the license service business;

29 (4) Has defrauded or is attempting to defraud the
30 state or any political subdivision of the state of any taxes
31 or fees in connection with the sale or transfer of any
32 vehicle;

33 (5) Has committed fraud in the registration of a
34 vehicle;

35 (6) Has knowingly purchased, sold or otherwise dealt
36 in a stolen vehicle or vehicles;

37 (7) Has advertised by any means, with intent to
38 defraud, any material representation or statement of
39 fact which is untrue, misleading or deceptive in any
40 particular, relating to the conduct of the licensed
41 business;

42 (8) Has a license certificate to which he is not lawfully
43 entitled; or

44 (9) The existence of any other ground upon which the
45 license certificate could have been refused, or any
46 ground which would be cause for refusing a license
47 certificate to such licensee were he then applying for the
48 same.

49 (c) Whenever a licensee fails or refuses to keep the
50 bond required by section two of this article in full force
51 and effect, the license certificate of such licensee shall
52 automatically be suspended unless and until the re-
53 quired bond is furnished to the commissioner, in which
54 event, the suspension shall be vacated.

55 (d) Whenever the commissioner shall refuse to issue
56 a license certificate, or shall suspend or revoke a license
57 certificate, or shall suspend the right of a licensee to
58 issue temporary plates or markers under the provisions
59 of section fifteen of article six of this chapter, he or she
60 shall make and enter an order to that effect and shall
61 cause a copy of such order to be served in person or by
62 certified mail, return receipt requested, on the applicant
63 or licensee, as the case may be.

64 (e) Suspensions hereunder shall continue until the
65 cause therefor has been eliminated or corrected.
66 Whenever a license certificate and the right of a licensee

67 to issue temporary registration plates or markers is
68 suspended or revoked, the commissioner shall, in the
69 order of suspension or revocation, direct the licensee to
70 return to the department his or her license certificate
71 and any temporary registration plates or markers still
72 in the licensee's possession and issued in conjunction
73 with the issuance of such license service certificate. It
74 is the duty of the licensee to comply with the order.
75 Whenever a licensee fails or refuses to comply with any
76 order herein specified, the commissioner shall proceed
77 as provided in section seven, article nine of this chapter.

78 (f) Any applicant whose request for a license certifi-
79 cate is refused, and any licensee whose license certifi-
80 cate is suspended or revoked may appeal such order in
81 accordance with the procedures set by the
82 commissioner.

83 (g) Revocation of a license certificate shall not
84 preclude application for a new license certificate, which
85 application shall be processed in the same manner. The
86 license certificate shall be issued or refused on the same
87 grounds as any other application for a license certificate,
88 except that any previous suspension and revocation may
89 be considered in deciding whether to issue or refuse
90 such license certificate.

§17A-6B-10. Temporary registration plates or markers.

1 (a) In order to permit a vehicle which is to be titled
2 and registered to be operated on the streets and
3 highways pending receipt of the annual registration
4 plate from the department for such vehicle, the commis-
5 sioner may, subject to the limitations and conditions
6 hereinafter set forth, deliver temporary vehicle registra-
7 tion plates or markers to persons engaged in license
8 service businesses who in turn may, subject to the
9 limitations and conditions hereinafter set forth, issue the
10 same to applicants for title and registration of vehicles,
11 but such applicants must comply with the pertinent
12 provisions of this section.

13 (b) Application by a license service business to the
14 commissioner for such temporary registration plates or
15 markers shall be made on the form prescribed and

16 furnished by the commissioner for such purpose and
17 shall be accompanied by a fee of three dollars for each
18 such temporary registration plate or marker. No refund
19 or credit of fees paid by license services to the commis-
20 sioner for temporary registration plates or markers
21 shall be allowed, except that in the event the commis-
22 sioner discontinues the issuance of such temporary
23 plates or markers, license services returning temporary
24 registration plates or markers to the commissioner may
25 petition for and be entitled to a refund or a credit
26 thereof.

27 (c) Every license service who has made application for
28 and received temporary registration plates or markers
29 shall maintain in permanent form a record of all
30 temporary registration plates or markers delivered to
31 the licensee, a record of all temporary registration
32 plates or markers issued, and a record of any other
33 information pertaining to the receipt or the issuance of
34 temporary registration plates or markers which the
35 commissioner may require. Each such record shall be
36 kept for a period of at least three years from the date
37 of the making thereof.

38 Every licensee who issues a temporary registration
39 plate or marker shall, within five working days after the
40 issuance of such plate or marker, send to the department
41 a copy of the temporary registration plate or marker
42 certificate properly executed by the license service and
43 the purchaser.

44 No temporary registration plates or markers may be
45 delivered to any license service until such license service
46 has fully accounted to the commissioner for the tempor-
47 ary registration plates or markers last delivered to such
48 license service, by showing the number issued to
49 purchasers by such license service and any on hand.

50 (d) A license service shall not issue, assign, or deliver
51 a temporary registration plate or marker to anyone
52 other than the bona fide applicant for title and regis-
53 tration of the vehicle to be registered. Not more than
54 one temporary registration plate or marker shall be
55 issued to the same bona fide applicant for the same

56 vehicle. A license service shall not issue a temporary
57 registration plate or marker to anyone possessed of an
58 annual registration plate for a vehicle which has been
59 sold or exchanged, except a license service may issue a
60 temporary registration plate or marker to the bona fide
61 applicant of a vehicle to be registered who possesses an
62 annual registration plate of a different class and makes
63 application to the department to exchange such annual
64 registration plate of a different class in accordance with
65 the provisions of section one, article four of this chapter.
66 A license service shall not lend to anyone, or use on any
67 vehicle which he may own, a temporary registration
68 plate or marker.

69 It is unlawful for any license service to issue any
70 temporary registration plate or marker which contains
71 a misstatement of fact or false information.

72 No license service shall issue, assign or deliver a
73 temporary registration plate or marker to anyone unless
74 and until the license service has physical possession of
75 the application and appropriate fees and taxes of the
76 vehicle to be titled and registered. Such application,
77 fees, and taxes shall be postmarked to the issuing
78 agency or submitted to the department of motor vehicles
79 within forty-eight hours after issuance of the temporary
80 plate or marker.

81 (e) Every license service who issues temporary
82 registration plates or markers shall affix or insert
83 clearly and indelibly on the face of each temporary
84 registration plate or marker the date of issuance and
85 expiration thereof, and the make, model, and serial
86 number of the vehicle for which issued.

87 (f) If the commissioner finds that the provisions of this
88 section or his or her directions are not being complied
89 with by a license service, he or she may suspend the
90 right of such license service to issue temporary regis-
91 tration plates or markers.

92 (g) A temporary registration plate or marker shall
93 expire upon the receipt of the annual registration plate
94 from the department, or upon the rescission of the
95 contract to purchase the vehicle in question, or upon the

96 expiration of sixty days from the date of issuance,
97 depending upon which event occurs first.

98 (h) A license service may charge a fee not to exceed
99 five dollars for issuing a temporary registration plate or
100 marker.

§17A-6B-11. Inspections; violations and penalties.

1 (a) The commissioner and all law-enforcement offic-
2 ers of the state, acting at the commissioner's request, are
3 hereby authorized to inspect the place of business and
4 pertinent records, documents and papers of any person
5 required to be licensed under the provisions of this
6 article to the extent deemed reasonably necessary to
7 determine compliance with and violations of this article.
8 For the purpose of making any such inspection, the
9 commissioner and such law-enforcement officers are
10 authorized, at reasonable times, to enter in and upon any
11 such place of business.

12 (b) Any person who shall violate any provision of this
13 article or any final order of the commissioner or board
14 hereunder shall be guilty of a misdemeanor, and the
15 provisions of article eleven of this chapter governing
16 violations of this chapter generally shall be fully
17 applicable thereto.

§17A-6B-12. Injunctive relief.

1 (a) Whenever it appears to the commissioner that any
2 person or licensee has violated any provision of this
3 article or any final order of the commissioner, the
4 commissioner may petition, in the name of the state, the
5 circuit court of the county in which the violation or
6 violations occurred, for an injunction against such
7 person or licensee. A violation or violations resulting in
8 prosecution or conviction under the provisions of article
9 eleven of this chapter shall not prohibit injunctive relief.

10 The circuit court may, by mandatory or prohibitory
11 injunction, compel compliance with the provisions of this
12 article and all final orders of the commissioner. The
13 court may also issue temporary injunctions.

14 (b) The judgment by the circuit court shall be final

15 unless reversed, vacated or modified on appeal to the
16 supreme court of appeals. Any such appeal shall be
17 sought in the manner and within the time provided by
18 law for appeals from circuit courts in other civil cases.

§17A-6B-13. Promulgation of rules.

1 The commissioner shall promulgate rules in accor-
2 dance with chapter twenty-nine-a of this code in order
3 to effect the provisions of this article.

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

Frederic L. Parker
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Marcell E. Malone
Clerk of the Senate

Donald G. Kopp
Clerk of the House of Delegates

Kathy Bennett
President of the Senate

Pat Carroll
Speaker of the House of Delegates

The within *is approved* this the *30th*
day of *March*, 1990.

Anton Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 3/29/90

Time 11:59 am

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