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REGULAR SESSION, 1996



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Committee Substitute For
SENATE BILL NO. 87

(By Senators BITUMAR; ANDERSON)



PASSED MARCH 9, 1996
In Effect JULY 1, 1996 Passage

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SECRETARY OF STATE

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COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 87

(SENATORS DITTMAR AND ANDERSON, *original sponsors*)

[Passed March 9, 1996; to take effect July 1, 1996.]

AN ACT to amend and reenact section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two and four, article three of said chapter; to amend and reenact sections one, four and fifteen, article four-a of said chapter; to amend and reenact section one, article six of said chapter; and to amend and reenact section one, article six-c of said chapter, all relating to factory-built homes; definitions; requiring certificate of title for factory-built homes; criminal penalties; requiring certificate of titles to show lienholders; requiring factory-built home dealers to perfect lien on factory-built homes; extending the expiration date of liens on factory-built homes; automobile auctions; and clarifying that automobile auctions shall only sell to licensed motor vehicle dealers.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections two and four, article three of said chapter be amended and reenacted; that sections one, four and fifteen, article four-a of said chapter be amended and reenacted; that section one, article six of said chapter be amended and reenacted; and that section one, article six-c of said chapter 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 (1) "All-terrain vehicle" (ATV) means any motor
6 vehicle designed for off-highway use and designed for
7 operator use only with no passengers, having a seat or
8 saddle designed to be straddled by the operator, and
9 handlebars for steering control.

10 (2) "Bus" means every motor vehicle designed to carry
11 more than seven passengers and used to transport
12 persons; and every motor vehicle, other than a taxicab,
13 designed and used to transport persons for compensa-
14 tion.

15 (3) "Commissioner" means the commissioner of motor
16 vehicles of this state.

17 (4) "Dealer" or "dealers" is a general term meaning,
18 depending upon the context in which used, either a new
19 motor vehicle dealer, used motor vehicle dealer, factory-
20 built home dealer, recreational vehicle dealer, trailer
21 dealer or motorcycle dealer, as defined in section one,
22 article six of this chapter, or all of the dealers or a
23 combination thereof, and in some instances a new motor
24 vehicle dealer or dealers in another state.

25 (5) "Division" means the division of motor vehicles of
26 this state acting directly or through its duly authorized
27 officers and agents.

28 (6) "Essential parts" means all integral and body parts
29 of a vehicle of a type required to be registered hereunder,
30 the removal, alteration or substitution of which would
31 tend to conceal the identity of the vehicle or substan-
32 tially alter its appearance, model, type or mode of
33 operation.

34 (7) "Factory-built home" includes mobile homes, house
35 trailers and manufactured homes.

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

40 (9) "Fold down camping trailer" means every vehicle
41 consisting of a portable unit mounted on wheels and
42 constructed with collapsible partial sidewalls which fold
43 for towing by another vehicle and unfold at the camp site
44 to provide temporary living quarters for recreational,
45 camping or travel use.

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

51 (11) "House trailers" means all trailers designed
52 primarily for highway use, but used for human occu-
53 pancy on a continual nonrecreational basis, but shall not
54 include fold down camping and travel trailers, mobile
55 homes or manufactured homes.

56 (12) "Implement of husbandry" means every vehicle
57 which is designed for or adapted to agricultural purposes
58 and used by the owner thereof primarily in the conduct
59 of his agricultural operations, including, but not limited
60 to, trucks used for spraying trees and plants: *Provided,*

61 That the vehicle shall not be let for hire at any time.

62 (13) "Licensed dealer" or "licensed dealers" is a
63 general term meaning, depending upon the context in
64 which used, either a new motor vehicle dealer, used
65 motor vehicle dealer, factory-built home dealer, trailer
66 dealer, recreational vehicle dealer or motorcycle dealer,
67 or all of the dealers or a combination thereof, licensed
68 under the provisions of article six of this chapter.

69 (14) "Manufactured home" has the same meaning as
70 the term is defined in section two, article nine, chapter
71 twenty-one of this code which meets the National
72 Manufactured Housing Construction and Safety Stan-
73 dards Act of 1974 (42 U.S.C. §5401 et seq.), effective on
74 the fifteenth day of June, one thousand nine hundred
75 seventy-six, and the federal manufactured home con-
76 struction and safety standards and regulations promul-
77 gated by the secretary of the United States department
78 of housing and urban development.

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

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

89 (17) "Mobile home" means a transportable structure
90 that is wholly, or in substantial part, made, fabricated,
91 formed or assembled in manufacturing facilities for
92 installation or assembly and installation on a building
93 site and designed for long-term residential use and built
94 prior to enactment of the federal Manufactured Housing
95 Construction and Safety Standards Act of 1974 (42
96 U.S.C. §5401 et seq.), effective on the fifteenth day of
97 June, one thousand nine hundred seventy-six, and

98 usually built to the voluntary industry standard of the
99 American national standards institute (ANSI) — A119.1
100 standards for mobile homes.

101 (18) "Motorboat" means any vessel propelled by an
102 electrical, steam, gas, diesel or other fuel propelled or
103 driven motor, whether or not the motor is the principal
104 source of propulsion, but shall not include a vessel which
105 has a valid marine document issued by the bureau of
106 customs of the United States government or any federal
107 agency successor thereto.

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

114 (20) "Motor home" means every vehicle, designed to
115 provide temporary living quarters, built into an integral
116 part of or permanently attached to a self-propelled
117 motor vehicle, chassis or van including: (1) Type A
118 motor home built on an incomplete truck chassis with
119 the truck cab constructed by the second stage manufac-
120 turer; (2) Type B motor home consisting of a van-type
121 vehicle which has been altered to provide temporary
122 living quarters; and (3) Type C motor home built on an
123 incomplete van or truck chassis with a cab constructed
124 by the chassis manufacturer.

125 (21) "Motorboat trailer" means every vehicle designed
126 for or ordinarily used for the transportation of a motor-
127 boat.

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

132 (23) "Nonresident" means every person who is not a
133 resident of this state.

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

144 (25) "Person" means every natural person, firm,
145 copartnership, association or corporation.

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

148 (27) "Pole trailer" means every vehicle without motive
149 power designed to be drawn by another vehicle and
150 attached to the towing vehicle by means of a reach, or
151 pole, or by being boomed or otherwise secured to the
152 towing vehicle, and ordinarily used for transporting long
153 or irregularly shaped loads such as poles, pipes, or
154 structural members capable, generally, of sustaining
155 themselves as beams between the supporting connec-
156 tions.

157 (28) "Recreational vehicle" means a motorboat, motor-
158 boat trailer, all-terrain vehicle, travel trailer, fold down
159 camping trailer, motor home or snowmobile.

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

164 (30) "Registered dealer" or "registered dealers" is a
165 general term meaning, depending upon the context in
166 which used, either a new motor vehicle dealer, used
167 motor vehicle dealer, factory-built home dealer, trailer
168 dealer, recreational vehicle dealer or motorcycle dealer,
169 or all of the dealers or a combination thereof, licensed
170 under the provisions of article six of this chapter.

171 (31) "Road tractor" means every motor vehicle de-
172 signed, used or maintained for drawing other vehicles
173 and not so constructed as to carry any load thereon
174 either independently or any part of the weight of a
175 vehicle or load so drawn.

176 (32) "School bus" means every motor vehicle owned by
177 a public governmental agency and operated for the
178 transportation of children to or from school or privately
179 owned and operated for compensation for the transpor-
180 tation of children to or from school.

181 (33) "Semitrailer" means every vehicle with or without
182 motive power designed for carrying persons or property
183 and for being drawn by a motor vehicle and so con-
184 structed that some part of its weight and that of its load
185 rests upon or is carried by another vehicle.

186 (34) "Snowmobile" means a self-propelled vehicle
187 intended for travel primarily on snow and driven by a
188 track or tracks in contact with the snow and steered by
189 a ski or skis in contact with the snow.

190 (35) "Solid tire" means every tire of rubber or other
191 resilient material which does not depend upon com-
192 pressed air for the support of the load.

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

199 (37) "Special mobile equipment" means every self-
200 propelled vehicle not designed or used primarily for the
201 transportation of persons or property and incidentally
202 operated or moved over the highways, including, without
203 limitation, farm equipment, implements of husbandry,
204 road construction or maintenance machinery, ditch-
205 digging apparatus, stone crushers, air compressors,
206 power shovels, cranes, graders, rollers, well-drillers,
207 wood-sawing equipment, asphalt spreaders, bituminous

208 mixers, bucket loaders, ditchers, leveling graders,
209 finishing machines, motor graders, road rollers, scarifi-
210 ers, earth-moving carryalls, scrapers, drag lines, rock-
211 drilling equipment and earth-moving equipment. The
212 foregoing enumeration shall be deemed partial and shall
213 not operate to exclude other such vehicles which are
214 within the general terms of this subdivision.

215 (38) "Street" or "highway" means the entire width
216 between boundary lines of every way publicly main-
217 tained when any part thereof is open to the use of the
218 public for purposes of vehicular travel.

219 (39) "Trailer" means every vehicle with or without
220 motive power designed for carrying persons or property
221 and for being drawn by a motor vehicle and so con-
222 structed that no part of its weight rests upon the towing
223 vehicle but excluding recreational vehicles.

224 (40) "Transporter" means every person engaged in the
225 business of delivering vehicles of a type required to be
226 registered hereunder from a manufacturing, assembling
227 or distributing plant to dealers or sales agents of a
228 manufacturer.

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

235 (42) "Truck" means every motor vehicle designed, used
236 or maintained primarily for the transportation of prop-
237 erty.

238 (43) "Truck tractor" means every motor vehicle de-
239 signed and used primarily for drawing other vehicles and
240 not so constructed as to carry a load other than a part of
241 the weight of the vehicle and load so drawn.

242 (44) "Vehicle" means every device in, upon or by which
243 any person or property is or may be transported or

244 drawn upon a highway, excepting devices moved by
245 human power or used exclusively upon stationary rails
246 or tracks.

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

5 (1) Any vehicle driven or moved upon a highway in
6 conformance with the provisions of this chapter relating
7 to 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 se-
11 curely attached a machine for spraying fruit trees and
12 plants of the owner or lessee or for any other implement
13 of husbandry which is used exclusively for agricultural
14 or horticultural purposes on lands owned or leased by
15 the owner thereof and which is not operated on or over
16 any public highway of this state for any other purpose
17 other than for the purpose of operating it across a
18 highway or along a highway other than an expressway as
19 designated by the commissioner of the division of
20 highways from one point of the owner's land to another
21 part thereof, irrespective of whether or not the tracts
22 adjoin: *Provided*, That the distance between the points
23 may not exceed twenty-five miles, or for the purpose of
24 taking it or other fixtures thereto attached, to and from
25 a repair shop for repairs. The foregoing exemption from
26 registration and license requirements shall also apply to
27 any vehicle hereinbefore described or to any farm trailer
28 owned by the owner or lessee of the farm on which the
29 trailer is used, when the trailer is used by the owner
30 thereof for the purpose of moving farm produce and
31 livestock from the farm along a public highway for a

32 distance not to exceed twenty-five miles to a storage
33 house or packing plant, when the use is a seasonal
34 operation:

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

41 (B) Any vehicle exempted hereunder from the require-
42 ments of annual registration certificate and license
43 plates and fees therefor shall not be permitted to use the
44 highways between sunset and sunrise.

45 (C) Any vehicle exempted hereunder from the require-
46 ments of annual registration certificate and license
47 plates shall be permitted to use the highways as herein
48 provided whether the exempt vehicle is self-propelled,
49 towed by another exempt vehicle or towed by another
50 vehicle for which registration is required.

51 (D) Any vehicle used as an implement of husbandry
52 exempt hereunder must have the words "farm use"
53 affixed to both sides of the implement in ten inch letters.
54 Any vehicle which would be subject to registration as a
55 Class A or B vehicle if not exempted by this section shall
56 display a farm use exemption certificate on the lower
57 driver's side of the windshield:

58 (i) The farm use exemption certificate shall be pro-
59 vided by the commissioner and shall be issued annually
60 by the assessor of the applicant's county of residence.
61 The assessor shall issue a farm use exemption certificate
62 upon his or her determination pursuant to an examina-
63 tion of the property books or documentation provided by
64 the applicant that the vehicle has been properly assessed
65 as Class I personal property. The assessor shall charge
66 a fee of two dollars for each certificate, one dollar of the
67 fee shall be retained by the assessor and one dollar shall
68 be remitted by the assessor to the commissioner of the

69 division of motor vehicles to be deposited in a special
70 revolving fund to be used in the administration of this
71 section.

72 (ii) A farm use exemption certificate shall in no way
73 exempt the applicant from maintaining the security as
74 required by chapter seventeen-d of this code on any
75 vehicle being operated on the roads or highways of this
76 state.

77 (iii) No person charged with operating a vehicle
78 without a farm use exemption certificate, if required
79 under this section, shall be convicted if he or she pro-
80 duces in court or in the office of the arresting officer a
81 valid farm use exemption certificate for the vehicle in
82 question within five days;

83 (3) Any vehicle which is propelled exclusively by
84 electric power obtained from overhead trolley wires
85 though not operated upon rails;

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

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

91 (6) The following recreational vehicles shall be exempt
92 from the requirements of annual registration, license
93 plates and fees, unless otherwise specified by law, but
94 shall be subject to the certificate of title provisions of
95 this chapter regardless of highway use: Motorboats,
96 all-terrain vehicles and snowmobiles.

97 (b) The provisions of this article relating to recre-
98 ational vehicles shall become effective on the first day of
99 July, one thousand nine hundred eighty-nine.

100 (c) Notwithstanding the provisions of subsections (a)
101 and (b) of this section:

102 (1) Mobile homes or manufactured homes are exempt
103 from the requirements of annual registration, license

104 plates and fees;

105 (2) House trailers may be registered and licensed; and

106 (3) Factory-built homes are subject to the certificate of
107 title provisions of this chapter.

**§17A-3-4. Application for certificate of title; tax for privilege
of certification of title; exceptions; privilege
tax on payments for leased vehicles; revenue
allocations; transfers; penalty for false swear-
ing.**

1 (a) Certificates of registration of any vehicle or regis-
2 tration plates therefor, whether original issues or dupli-
3 cates, shall not be issued or furnished by the division of
4 motor vehicles or any other officer charged with the
5 duty, unless the applicant therefor already has received,
6 or at the same time makes application for and is granted,
7 an official certificate of title of the vehicle. The applica-
8 tion shall be upon a blank form to be furnished by the
9 division of motor vehicles and shall contain a full
10 description of the vehicle, which description shall
11 contain a manufacturer's serial or identification number
12 or other number as determined by the commissioner and
13 any distinguishing marks, together with a statement of
14 the applicant's title and of any liens or encumbrances
15 upon the vehicle, the names and addresses of the holders
16 of the liens and any other information as the division of
17 motor vehicles may require. The application shall be
18 signed and sworn to by the applicant.

19 (b) A tax is hereby imposed upon the privilege of
20 effecting the certification of title of each vehicle in the
21 amount equal to five percent of the value of the motor
22 vehicle at the time of the certification, to be assessed as
23 follows:

24 (1) (A) If the vehicle is new, the actual purchase price
25 or consideration to the purchaser thereof is the value of
26 the vehicle.

27 (B) If the vehicle is a used or secondhand vehicle, the

28 present market value at time of transfer or purchase is
29 the value thereof for the purposes of this section:
30 *Provided*, That so much of the purchase price or consid-
31 eration as is represented by the exchange of other
32 vehicles on which the tax imposed by this section has
33 been paid by the purchaser shall be deducted from the
34 total actual price or consideration paid for the vehicle,
35 whether the vehicle be new or secondhand.

36 (C) If the vehicle is acquired through gift, or by any
37 manner whatsoever, unless specifically exempted in this
38 section, the present market value of the vehicle at the
39 time of the gift or transfer is the value thereof for the
40 purposes of this section.

41 (2) No certificate of title for any vehicle may be issued
42 to any applicant unless the applicant has paid to the
43 division of motor vehicles the tax imposed by this section
44 which is five percent of the true and actual value of the
45 vehicle whether the vehicle is acquired through pur-
46 chase, by gift or by any other manner whatsoever except
47 gifts between husband and wife or between parents and
48 children: *Provided*, That the husband or wife, or the
49 parents or children previously have paid the tax on the
50 vehicles transferred to the state of West Virginia.

51 (3) The division of motor vehicles may issue a certifi-
52 cate of registration and title to an applicant if the
53 applicant provides sufficient proof to the division of
54 motor vehicles that the applicant has paid the taxes and
55 fees required by this section to a motor vehicle dealer-
56 ship that has gone out of business or has filed bank-
57 ruptcy proceedings in the United States bankruptcy
58 court and the taxes and fees so required to be paid by the
59 applicant have not been sent to the division by the motor
60 vehicle dealership or have been impounded due to the
61 bankruptcy proceedings: *Provided*, That the applicant
62 makes an affidavit of the same and assigns all rights to
63 claims for money the applicant may have against the
64 motor vehicle dealership to the division of motor vehi-
65 cles.

66 (4) The division of motor vehicles shall issue a certifi-
67 cate of registration and title to an applicant without
68 payment of the tax imposed by this section if the appli-
69 cant is a corporation, partnership or limited liability
70 company transferring the vehicle to another corporation,
71 partnership or limited liability company when the
72 entities involved in the transfer are members of the same
73 controlled group and the transferring entity has previ-
74 ously paid the tax on the vehicle transferred. For the
75 purposes of this section, "control" means ownership,
76 directly or indirectly, of stock or equity interests pos-
77 sessing fifty percent or more of the total combined voting
78 power of all classes of the stock of a corporation or
79 equity interests of a partnership or limited liability
80 company entitled to vote or ownership, directly or
81 indirectly, of stock or equity interests possessing fifty
82 percent or more of the value of the corporation, partner-
83 ship or limited liability company.

84 (5) The tax imposed by this section does not apply to
85 vehicles to be registered as Class H vehicles or Class S
86 vehicles, as defined in section one, article ten of this
87 chapter, which are used or to be used in interstate
88 commerce. Nor does the tax imposed by this section
89 apply to the titling of Class B, Class K or Class E vehi-
90 cles registered at a gross weight of fifty-five thousand
91 pounds or more, or to the titling of Class C or Class L
92 semitrailers, full trailers, pole trailers and converter
93 gear: *Provided*, That if an owner of a vehicle has previ-
94 ously titled the vehicle at a declared gross weight of
95 fifty-five thousand pounds or more and the title was
96 issued without the payment of the tax imposed by this
97 section, then before the owner may obtain registration
98 for the vehicle at a gross weight less than fifty-five
99 thousand pounds, the owner shall surrender to the
100 commissioner the exempted registration, the exempted
101 certificate of title, and pay the tax imposed by this
102 section based upon the current market value of the
103 vehicle: *Provided, however*, That notwithstanding the
104 provisions of section nine, article fifteen, chapter eleven

105 of this code, the exemption from tax under this section
106 for Class B, Class K or Class E vehicles in excess of
107 fifty-five thousand pounds and Class C or Class L
108 semitrailers, full trailers, pole trailers and converter gear
109 shall not subject the sale or purchase of the vehicles to
110 the consumers sales tax.

111 (6) The tax imposed by this section does not apply to
112 titling of vehicles leased by residents of West Virginia.
113 A tax is hereby imposed upon the monthly payments for
114 the lease of any motor vehicle leased by a resident of
115 West Virginia, which tax is equal to five percent of the
116 amount of the monthly payment, applied to each pay-
117 ment, and continuing for the entire term of the initial
118 lease period. The tax shall be remitted to the division of
119 motor vehicles on a monthly basis by the lessor of the
120 vehicle.

121 (7) The tax imposed by this section does not apply to
122 titling of vehicles by a registered dealer of this state for
123 resale only, nor does the tax imposed by this section
124 apply to titling of vehicles by this state or any political
125 subdivision thereof or by any volunteer fire department
126 or duly chartered rescue or ambulance squad organized
127 and incorporated under the laws of the state of West
128 Virginia as a nonprofit corporation for protection of life
129 or property. The total amount of revenue collected by
130 reason of this tax shall be paid into the state road fund
131 and expended by the commissioner of highways for
132 matching federal funds allocated for West Virginia. In
133 addition to the tax, there is a charge of five dollars for
134 each original certificate of title or duplicate certificate
135 of title so issued: *Provided*, That this state or any
136 political subdivision thereof, or any volunteer fire
137 department or duly chartered rescue squad is exempt
138 from payment of the charge.

139 (8) The certificate is good for the life of the vehicle, so
140 long as the vehicle is owned or held by the original
141 holder of the certificate and need not be renewed annu-
142 ally, or any other time, except as provided in this section.

143 (9) If, by will or direct inheritance, a person becomes
144 the owner of a motor vehicle and the tax imposed by this
145 section previously has been paid, to the division of motor
146 vehicles, on that vehicle, he or she is not required to pay
147 the tax.

148 (10) A person who has paid the tax imposed by this
149 section is not required to pay the tax a second time for
150 the same motor vehicle, but is required to pay a charge
151 of five dollars for the certificate of retitle of that motor
152 vehicle, except that the tax shall be paid by the person
153 when the title to the vehicle has been transferred either
154 in this or another state from the person to another
155 person and transferred back to the person.

156 (c) Notwithstanding any provisions of this code to the
157 contrary, the owners of trailers, semitrailers, recre-
158 ational vehicles and other vehicles not subject to the
159 certificate of title tax prior to the enactment of this
160 chapter are subject to the privilege tax imposed by this
161 section: *Provided*, That the certification of title of any
162 recreational vehicle owned by the applicant on the
163 thirtieth day of June, one thousand nine hundred
164 eighty-nine, is not subject to the tax imposed by this
165 section: *Provided, however*, That factory-built homes,
166 modular homes and similar nonmotive propelled vehi-
167 cles, except recreational vehicles, susceptible of being
168 moved upon the highways but primarily designed for
169 habitation and occupancy, rather than for transporting
170 persons or property, or any vehicle operated on a non-
171 profit basis and used exclusively for the transportation
172 of mentally retarded or physically handicapped children
173 when the application for certificate of registration for
174 the vehicle is accompanied by an affidavit stating that
175 the vehicle will be operated on a nonprofit basis and
176 used exclusively for the transportation of mentally
177 retarded and physically handicapped children, are not
178 subject to the tax imposed by this section, but are
179 taxable under the provisions of articles fifteen and
180 fifteen-a, chapter eleven of this code.

181 (d) Any person making any affidavit required under
182 any provision of this section, who knowingly swears
183 falsely, or any person who counsels, advises, aids or
184 abets another in the commission of false swearing is on
185 the first offense guilty of a misdemeanor, and, upon
186 conviction thereof, shall be fined not more than five
187 hundred dollars or be imprisoned in the county or
188 regional jail for a period not to exceed six months, or, in
189 the discretion of the court, both fined and imprisoned.
190 For a second or any subsequent conviction within five
191 years, that person is guilty of a felony, and, upon conviction
192 thereof, shall be fined not more than five thousand
193 dollars or be committed to the custody of the division of
194 corrections for not less than one year nor more than five
195 years or, in the discretion of the court, or fined and
196 imprisoned.

197 (e) Notwithstanding any other provisions of this
198 section, any person in the military stationed outside
199 West Virginia, or his or her dependents who possess a
200 motor vehicle with valid registration, are exempt from
201 the provisions of this article for a period of nine months
202 from the date that person returns to this state or the date
203 his or her dependent returns to this state, whichever is
204 later.

205 (f) After the first day of July, one thousand nine
206 hundred ninety-five, no person may transfer, purchase or
207 sell a factory-built home without a certificate of title
208 issued by the commissioner in accordance with the
209 provisions of this article.

210 (1) Any person who fails to provide a certificate of title
211 upon the transfer, purchase or sale of a factory-built
212 home is guilty of a misdemeanor, and, upon conviction
213 thereof, shall for the first offense be fined not less than
214 one hundred dollars nor more than one thousand dollars,
215 or be imprisoned in the county or regional jail for not
216 more than one year, or, in the discretion of the court,
217 both fined and imprisoned. For each subsequent offense,
218 the fine may be increased to not more than two thousand

219 dollars, with imprisonment in the county or regional jail
220 for not more than one year, or, in the discretion of the
221 court, the person may be both fined and imprisoned.

222 (2) Failure of the seller to transfer a certificate of title
223 upon sale or transfer of the factory-built home gives rise
224 to a cause of action, upon prosecution thereof, allows for
225 the recovery of damages, costs and attorney fees.

**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 division upon receiving an application for a
2 certificate of title to a vehicle, trailer, semitrailer, pole
3 trailer, factory-built home or recreational vehicle for
4 which a certificate of title is required under article three
5 of this chapter, all of which are hereinafter in this article
6 referred to as vehicles, showing liens or encumbrances
7 upon the vehicle, shall, upon issuing to the owner thereof
8 a certificate of title therefor, show upon the face of the
9 certificate of title all liens or encumbrances disclosed by
10 the application. All liens or encumbrances shall be
11 shown in the order of their priority being according to
12 the information contained in the application.

13 When an application shows liens and encumbrances,
14 the information as evidence of the lien in connection
15 therewith as the division may deem necessary shall also
16 be furnished. The information shall include the name
17 and address of the lienholder, the nature and kind of the
18 lien, the date thereof, and the amount thereby secured.
19 However, only the name and address of the lienholder
20 will be endorsed on the title certificate. Upon issuing
21 the certificate, the division shall thereupon send or
22 deliver it to the holder of the first lien.

**§17A-4A-4. Deferred purchase money lien or encumbrance
may be filed within sixty days after purchase;
effective date of lien; dealer to record lien;
fees.**

1 (a) A deferred purchase money lien or encumbrance
2 upon any motor vehicle and factory-built home may be
3 perfected by recording the name and address of the
4 lienholder upon the face of the certificate of title for
5 such motor vehicle and factory-built home. If an appli-
6 cation for such a certificate of title is filed with the
7 division of motor vehicles within sixty days after the
8 date of purchase of the motor vehicle and factory-built
9 home, the effective date of the lien or encumbrance shall
10 be the date the lien or encumbrance was created. If an
11 application for such a certificate of title is not filed
12 within such sixty-day period, the lien shall be perfected
13 from the date it was filed with the division of motor
14 vehicles.

15 (b) In all transactions involving a deferred purchase
16 money lien or encumbrance upon a motor vehicle and
17 factory-built home, the motor vehicle dealer and the
18 factory-built home dealer shall collect and remit to the
19 division of motor vehicles the title, tax and registration
20 fees required under section four, article three of this
21 chapter and file and record with the division of motor
22 vehicles any lien created as a result of such transaction:
23 *Provided*, That a motor vehicle dealer may remit the
24 title, tax and registration fees through any license
25 service that is licensed by the division of motor vehicles.

26 (c) No fee may be charged by a motor vehicle dealer or
27 a factory-built home dealer for its services required
28 under this section, except that fee authorized by subdivi-
29 sion (6), subsection (a), section one hundred nine, article
30 three, chapter forty-six-a of this code.

§17A-4A-15. Expiration of lien or encumbrance; refiling.

1 The filing of any lien or encumbrance and its recorda-
2 tion upon the face of a certificate of title to any vehicle
3 as provided in this article shall be valid for a period of
4 ten years only from the date of filing, unless the lien or
5 encumbrance is refiled in the manner provided in this
6 article for filing and recordation in the first instance, in
7 which event the lien or encumbrance shall be valid for

8 successive additional periods of two years from the date
9 of each refiling: *Provided*, That in the case of a factory-
10 built home, the filing of any lien or encumbrance and its
11 recordation upon the face of a certificate of title to the
12 factory-built home shall be valid for a period of
13 thirty-three years from the date of filing.

14 When the last lien or encumbrance shown on a certifi-
15 cate of title becomes invalid by the passage of time as
16 provided in this section, the commissioner of motor
17 vehicles shall not be required to maintain a lien index as
18 to the certificate of title.

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

§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) "All-terrain vehicle" (ATV) means any motor
4 vehicle designed for off-highway use and designed for
5 operator use only with no passengers, having a seat or
6 saddle designed to be straddled by the operator and
7 handlebars for steering control.

8 (2) "Applicant" means any person making application
9 for an original or renewal license certificate under the
10 provisions of this article.

11 (3) "Established place of business" shall, in the case of
12 a factory-built home dealer, trailer dealer, recreational
13 vehicle dealer, motorcycle dealer, used parts dealer and
14 wrecker or dismantler, mean a permanent location, not
15 a temporary stand or other temporary quarters, owned
16 or leased by the licensee or applicant and actually
17 occupied or to be occupied by the licensee, as the case
18 may be, which shall be easily accessible to the public,
19 which shall conform to all applicable laws of this state
20 and the ordinances of the municipality in which it is
21 located, if any, which shall display thereon at least one
22 permanent sign, clearly visible from the principal public

23 street or highway nearest the location and clearly stating
24 the business which is or shall be conducted thereat, and
25 which shall have adequate facilities to keep, maintain
26 and preserve records, papers and documents necessary
27 to carry on the business and to make the business
28 available to inspection by the commissioner at all
29 reasonable times.

30 (4) "Established place of business" means, in the case
31 of a new motor vehicle dealer, a permanent location, not
32 a temporary stand or other temporary quarters, owned
33 or leased by the licensee or applicant and actually
34 occupied or to be occupied by him or her, as the case
35 may be, which is or is to be used exclusively for the
36 purpose of selling new motor vehicles or new and used
37 motor vehicles, which shall have space under roof for the
38 display of at least one new motor vehicle and facilities
39 and space therewith for the servicing and repair of at
40 least one motor vehicle, which servicing and repair
41 facilities and space shall be adequate and suitable to
42 carry out servicing and to make repairs necessary to
43 keep and carry out all representations, warranties and
44 agreements made or to be made by the dealer with
45 respect to motor vehicles sold by him or her, which shall
46 be easily accessible to the public, which shall conform to
47 all applicable laws of this state and the ordinances of the
48 municipality in which it is located, if any, which shall
49 display thereon at least one permanent sign, clearly
50 visible from the principal public street or highway
51 nearest said location and clearly stating the business
52 which is or shall be conducted thereat, and which shall
53 have adequate facilities to keep, maintain and preserve
54 records, papers and documents necessary to carry on the
55 business and to make the business available to inspec-
56 tion by the commissioner at all reasonable times:
57 *Provided*, That each established place of business shall
58 have a display area which may be outside or inside or a
59 combination thereof of at least twelve hundred square
60 feet which is to be used exclusively for the display of
61 vehicles which are offered for sale by the dealer, office

62 space of at least one hundred forty-four square feet and
63 a telephone listed in the name of the dealership. Each
64 established place of business shall be open to the public
65 a minimum of twenty hours per week at least forty weeks
66 per calendar year with at least ten of those hours being
67 between the hours of nine-thirty a.m. and eight-thirty
68 p.m., Monday through Saturday: *Provided, however,*
69 That the requirement of exclusive use shall be met even
70 though: (A) Some new and any used motor vehicles sold
71 or to be sold by the dealer or sold or are to be sold at a
72 different location or locations not meeting the definition
73 of an established place of business of a new motor
74 vehicle dealer, if each location is or is to be served by
75 other facilities and space of the dealer for the servicing
76 and repair of at least one motor vehicle, adequate and
77 suitable as aforesaid, and each location used for the sale
78 of some new and any used motor vehicles otherwise
79 meets the definition of an established place of business
80 of a used motor vehicle dealer; (B) house trailers, trailers
81 and/or motorcycles are sold or are to be sold thereat, if,
82 subject to the provisions of section five of this article, a
83 separate license certificate is obtained for each type of
84 vehicle business, which license certificate remains
85 unexpired, unsuspended and unrevoked; (C) farm
86 machinery is sold thereat; and (D) accessory, gasoline
87 and oil, or storage departments are maintained thereat,
88 if the departments are operated for the purpose of
89 furthering and assisting in the licensed business or
90 businesses.

91 (5) "Established place of business" shall, in the case of
92 a used motor vehicle dealer, mean a permanent location,
93 not a temporary stand or other temporary quarters,
94 owned or leased by the licensee or applicant and actually
95 occupied or to be occupied by him or her, as the case
96 may be, which is or is to be used exclusively for the
97 purpose of selling used motor vehicles, which shall have
98 facilities and space therewith for the servicing and
99 repair of at least one motor vehicle, which servicing and
100 repair facilities and space shall be adequate and suitable

101 to carry out servicing and to make repairs necessary to
102 keep and carry out all representations, warranties and
103 agreements made or to be made by the dealer with
104 respect to used motor vehicles sold by him or her, which
105 shall be easily accessible to the public, shall conform to
106 all applicable laws of this state and the ordinances of the
107 municipality in which it is located, if any, which shall
108 display thereon at least one permanent sign, clearly
109 visible from the principal public street or highway
110 nearest the location and clearly stating the business
111 which is or shall be conducted thereat, and which shall
112 have adequate facilities to keep, maintain and preserve
113 records, papers and documents necessary to carry on the
114 business and to make the business available to inspec-
115 tion by the commissioner at all reasonable times:
116 *Provided*, That each established place of business shall
117 have a display area which may be outside or inside or a
118 combination thereof of at least twelve hundred square
119 feet which is to be used exclusively for the display of
120 vehicles which are offered for sale by the dealer, office
121 space of at least one hundred forty-four square feet and
122 a telephone listed in the name of the dealership. Each
123 established place of business shall be open to the public
124 a minimum of twenty hours per week at least forty weeks
125 per calendar year with at least ten of those hours being
126 between the hours of nine-thirty a.m. and eight-thirty
127 p.m., Monday through Saturday: *Provided, however*,
128 That if a used motor vehicle dealer has entered into a
129 written agreement or agreements with a person or
130 persons owning or operating a servicing and repair
131 facility or facilities adequate and suitable as aforesaid,
132 the effect of which agreement or agreements is to
133 provide the servicing and repair services and space in
134 like manner as if the servicing and repair facilities and
135 space were located in or on the dealer's place of business,
136 then, so long as the agreement or agreements are in
137 effect, it shall not be necessary for the dealer to maintain
138 the servicing and repair facilities and space at the place
139 of business in order for the place of business to be an
140 established place of business as herein defined: *Pro-*

141 *vided further*, That the requirement of exclusive use
142 shall be met even though: (A) House trailers, trailers
143 and/or motorcycles are sold or are to be sold thereat, if,
144 subject to the provisions of section five of this article, a
145 separate license certificate is obtained for each type of
146 vehicle business, which license certificate remains
147 unexpired, unsuspended and unrevoked; (B) farm
148 machinery is sold thereat; and (C) accessory, gasoline
149 and oil, or storage departments are maintained thereat,
150 if the departments are operated for the purpose of
151 furthering and assisting in the licensed business or
152 businesses.

153 (6) "Factory-built home" includes mobile homes, house
154 trailers and manufactured homes.

155 (7) "Factory-built home dealer" means every person
156 (other than agents and employees, if any, while acting
157 within the scope of their authority or employment)
158 engaged in, or held out to the public to be engaged in, the
159 business in this state of selling new and/or used house
160 trailers, new and/or used manufactured homes, or new
161 and/or used mobile homes.

162 (8) "Farm machinery" means all machines and tools
163 used in the production, harvesting or care of farm
164 products.

165 (9) "Fold down camping trailer" means every vehicle
166 consisting of a portable unit mounted on wheels and
167 constructed with collapsible partial sidewalls which fold
168 for towing by another vehicle and unfold at the camp site
169 to provide temporary living quarters for recreational,
170 camping or travel use.

171 (10) "House trailers" means all trailers designed
172 primarily for highway use, but used for human occu-
173 pancy on a continual nonrecreational basis, but shall not
174 include fold down camping and travel trailers, mobile
175 homes or manufactured homes.

176 (11) "Licensee" means any person holding any license
177 certificate issued under the provisions of this article.

178 (12) "Major component" means any one of the follow-
179 ing subassemblies of a motor vehicle: (A) Front clip
180 assembly consisting of fenders, grille, hood, bumper and
181 related parts; (B) engine; (C) transmission; (D) rear clip
182 assembly consisting of quarter panels and floor panel
183 assembly; or (E) two or more doors.

184 (13) "Manufactured home" has the same meaning as
185 the term is defined in section two, article nine, chapter
186 twenty-one of this code which meets the National
187 Manufactured Housing Construction and Safety Stan-
188 dards Act of 1974 (42 U.S.C. §5401 et seq.), effective on
189 the fifteenth day of June, one thousand nine hundred
190 seventy-six, and the federal manufactured home con-
191 struction and safety standards and regulations promul-
192 gated by the secretary of the United States department
193 of housing and urban development.

194 (14) "Manufacturer" means every person engaged in
195 the business of reconstructing, assembling or reassem-
196 bling vehicles with a special type body required by the
197 purchaser if said vehicles are subject to the title and
198 registration provisions of this code.

199 (15) "Mobile home" means a transportable structure
200 that is wholly, or in substantial part, made, fabricated,
201 formed or assembled in manufacturing facilities for
202 installation or assembly and installation on a building
203 site and designed for long-term residential use and built
204 prior to enactment of the federal manufactured housing
205 construction and safety standards institute (ANSI) —
206 A119.1 standards for mobile homes.

207 (16) "Motorboat" means any vessel propelled by an
208 electrical, steam, gas, diesel or other fuel propelled or
209 driven motor, whether or not the motor is the principal
210 source of propulsion, but shall not include a vessel which
211 has a valid marine document issued by the bureau of
212 customs of the United States government or any federal
213 agency successor thereto.

214 (17) "Motorboat trailer" means every vehicle designed

215 for or ordinarily used for the transportation of a motor-
216 boat.

217 (18) "Motorcycle dealer" means every person (other
218 than agents and employees, if any, while acting within
219 the scope of their authority or employment), engaged in,
220 or held out to the public to be engaged in, the business in
221 this state of selling new and/or used motorcycles.

222 (19) "Motor home" means every vehicle, designed to
223 provide temporary living quarters, built into an integral
224 part of or permanently attached to a self-propelled
225 motor vehicle, chassis or van including: (A) Type A
226 motor home built on an incomplete truck chassis with
227 the truck cab constructed by the second stage manufac-
228 turer; (B) Type B motor home consisting of a van-type
229 vehicle which has been altered to provide temporary
230 living quarters; and (C) Type C motor home built on an
231 incomplete van or truck chassis with a cab constructed
232 by the chassis manufacturer.

233 (20) "New motor vehicles" means all motor vehicles,
234 except motorcycles and used motor vehicles, of a type
235 required to be registered under the provisions of this
236 chapter.

237 (21) "New motor vehicle dealer" means every person
238 (other than agents and employees, if any, while acting
239 within the scope of their authority or employment)
240 engaged in, or held out to the public to be engaged in, the
241 business in this state of selling five or more new motor
242 vehicles or new and used motor vehicles in any fiscal
243 year of a type required to be registered under the provi-
244 sions of this chapter, except, for the purposes of this
245 article only, motorcycles.

246 (22) "Predecessor" means the former owner or owners
247 or operator or operators of any new motor vehicle dealer
248 business or used motor vehicle dealer business.

249 (23) "Recreational vehicle" means a motorboat, motor-
250 boat trailer, all-terrain vehicle, travel trailer, fold down
251 camping trailer, motor home or snowmobile.

252 (24) "Recreational vehicle dealer" means every person
253 (other than agents and employees, if any, while acting
254 within the scope of their authority or employment)
255 engaged in, or held out to the public to be engaged in, the
256 business in this state of selling new and/or used recre-
257 ational vehicles.

258 (25) "Sales instrument" means any document resulting
259 from the sale of a vehicle, which shall include, but not be
260 limited to, a bill of sale, invoice, conditional sales
261 contract, chattel mortgage, chattel trust deed, security
262 agreement or similar document.

263 (26) "Sell", "sale" or "selling" shall, in addition to the
264 ordinary definitions of the terms, include offering for
265 sale, soliciting sales of, negotiating for the sale of,
266 displaying for sale, or advertising for sale, any vehicle,
267 whether at retail, wholesale or at auction. "Selling"
268 shall, in addition to the ordinary definition of that term,
269 also include buying and exchanging.

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

274 (28) "Trailers" means all types of trailers other than
275 house trailers, and shall include, but not be limited to,
276 pole trailers and semitrailers but excluding recreational
277 vehicles.

278 (29) "Trailer dealer" means every person (other than
279 agents and employees, if any, while acting within the
280 scope of their authority or employment) engaged in, or
281 held out to the public to be engaged in, the business in
282 this state of selling new and/or used trailers.

283 (30) "Transporter" means every person engaged in the
284 business of transporting vehicles to or from a manufac-
285 turing, assembling or distributing plant to dealers or
286 sales agents of a manufacturer or purchasers.

287 (31) "Travel trailer" means every vehicle, mounted on

288 wheels, designed to provide temporary living quarters
289 for recreational, camping or travel use of such size or
290 weight as not to require special highway movement
291 permits when towed by a motor vehicle and of gross
292 trailer area less than four hundred square feet.

293 (32) "Used motor vehicles" means all motor vehicles,
294 except motorcycles, of a type required to be registered
295 under the provisions of this chapter which have been
296 sold and operated, or which have been registered or
297 titled, in this or any other state or jurisdiction.

298 (33) "Used motor vehicle dealer" means every person
299 (other than agents and employees, if any, while acting
300 within the scope of their authority or employment)
301 engaged in, held out to the public to be engaged in, the
302 business in this state of selling five or more used motor
303 vehicles in any fiscal year of a type required to be
304 registered under the provisions of this chapter, except,
305 for the purposes of this article only, motorcycles.

306 (34) "Used parts dealer" means every person (other
307 than agents and employees, if any, while acting within
308 the scope of their authority or employment) engaged in,
309 or held out to the public to be engaged in, the business in
310 this state of selling any used appliance, accessory,
311 member, portion or other part of any vehicle.

312 (35) "Wrecker/dismantler/rebuilder" means every
313 person (other than agents and employees, if any, while
314 acting within the scope of their authority or employ-
315 ment) engaged in, or held out to the public to be engaged
316 in, the business in this state of dealing in wrecked or
317 damaged motor vehicles or motor vehicle parts for the
318 purpose of selling the parts thereof or scrap therefrom or
319 who is in the business of rebuilding salvage motor
320 vehicles for the purpose of resale to the public.

321 (b) Under no circumstances whatever shall the terms
322 "new motor vehicle dealer", "used motor vehicle dealer",
323 "factory-built home dealer", "trailer dealer", "recre-
324 ational vehicle dealer", "motorcycle dealer", "used parts

325 dealer” or “wrecker/dismantler/rebuilder” be construed
326 or applied under this article in such a way as to include
327 a banking institution, insurance company, finance
328 company or other lending or financial institution, or
329 other person, the state or any agency or political subdivi-
330 sion thereof, or any municipality, who or which owns or
331 comes in possession or ownership of, or acquires contract
332 rights, or security interests in or to, any vehicle or
333 vehicles or any part thereof and sells the vehicle or
334 vehicles or any part thereof for purposes other than
335 engaging in and holding out to the public to be engaged
336 in the business of selling vehicles or any part thereof.

337 (c) It is recognized that throughout this code the term
338 “trailer” or “trailers” is used to include, among other
339 types of trailers, house trailers. It is also recognized that
340 throughout this code the term “trailer” or “trailers” is
341 seldom used to include semitrailers or pole trailers.
342 However, for the purposes of this article only, the term
343 “trailers” has the meaning ascribed to it in subsection (a)
344 of this section.

ARTICLE 6C. AUTOMOBILE AUCTION BUSINESSES.

**§17A-6C-1. License certificate required; application form;
prohibited acts; reassignment of title; and
exemption from privilege tax.**

1 (a) A person, partnership or corporation may not
2 engage in, represent or advertise that he, she or it is in
3 the business of conducting automobile auctions without
4 first obtaining a license certificate from the office of the
5 commissioner. The commissioner shall provide an
6 application form for applicants seeking a license certifi-
7 cate. The applicant shall provide full information
8 required by the commissioner on the application form.
9 The applicant, if a person, shall verify the information on
10 the form by oath or affirmation. If the applicant is a
11 partnership or corporation, the oath or affirmation shall
12 be made by a partner or an officer of the corporation.

13 (b) For the purposes of this article, the term “automo-
14 bile auction” means an auction or other sale where

15 twenty or more used motor vehicles are offered for sale
16 by auction within a license year, but does not include a
17 sale or auction of surplus vehicles by an agency of this
18 state, a municipality of this state or of the federal
19 government or a sale or auction of repossessed vehicles
20 by a financial institution or a sale or auction by a
21 licensed motor vehicle dealer of vehicles owned by said
22 dealer. For purposes of this definition, a used motor
23 vehicle does not mean a vehicle for which a salvage
24 certificate has been issued.

25 (c) The automobile auction may auction or sell vehicles
26 owned by the auction or may auction vehicles which are
27 owned by others, but only to dealers licensed by the
28 division of motor vehicles under article six of this
29 chapter. The automobile auction may not sell or auction
30 a vehicle for which a salvage certificate has been issued.

31 (d) When the transferee of a vehicle is an automobile
32 auction which holds the same for resale and lawfully
33 operates the same under Class AA plates, such automo-
34 bile auction shall not be required to obtain a new
35 registration of said vehicle or be required to forward the
36 certificate of title to the division, but upon transfer of
37 title or interest to another person the automobile auction
38 shall execute and acknowledge an assignment and
39 warranty of title upon the certificate of title and deliver
40 the same not later than sixty days from date of sale to
41 the person to whom such transfer is made.

42 (e) The tax imposed by section four, article three of this
43 chapter does not apply to the titling of vehicles pur-
44 chased for resale by an automobile auction.

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

Randy Schoonover
.....
Chairman Senate Committee

Rudy Seacrest
.....
Chairman House Committee

Originated in the Senate.
To take effect July 1, 1996.

Russell B. White
.....
Clerk of the Senate

Bryan W. Boy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Paul Abner
.....
Speaker House of Delegates

The within *is desapproved* this the *1st*.....
day of *April*..... 1996.

Winston Caperton
.....
Governor

Pr. TO THE
FOR
Date 3/29/96
Time 9:55 AM