WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

ENROLLED

SENATE BILL NO. 47

(By Senators Dittmar, Craig, Hunter)

PASSED APRIL 12, 1997
In Effect NINETY DAYS FROM PASSAGE
ENROLLED

Senate Bill No. 47

(BY SENATORS DITTMAR, CRAIGO AND HUNTER)

[Passed April 12, 1997; in effect ninety days from passage.]

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 and fifteen, article four-a of said chapter; and to amend and reenact section one, article six of said chapter, all relating to factory-built homes, including house trailers, mobile homes and manufactured homes; redefining terms; requiring certificate of title, annual registration and license plates and providing exemptions therefrom; requiring certificate of title for factory-built homes; exempting mobile homes or manufactured homes from the requirements of annual registration, license plates and fees; allowing house trailers to be registered and licensed; providing for the crime of failing to provide a certificate of title and providing criminal
penalties therefor; revising the tax on the privilege of certificate of title; requiring certificate of titles to show lienholders; extending the expiration date of liens on mobile homes and manufactured homes; and revising certain terms.

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 and fifteen, article four-a of said chapter be amended and reenacted; and that section one, article six 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 following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this article:

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

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

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

(d) “School bus” means every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of
children to or from school.

(e) "Bus" means every motor vehicle designed to carry more than seven passengers and used to transport persons; and every motor vehicle, other than a taxicab, designed and used to transport persons for compensation.

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

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

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

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

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

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

(l) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
(m) "Specially constructed vehicles" means every vehicle of a type required to be registered hereunder not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

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

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

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

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

(r) "Special mobile equipment" means every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including, without limitation, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, graders, rollers, well-drillers, wood-sawing equipment, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, rock-drilling equipment and earth-moving equipment. The foregoing enumeration shall be deemed partial and may not operate to exclude other such vehicles which are within the general terms of
(s) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

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

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

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

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

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

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

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

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

(bb) "Registered dealer" or "registered dealers" is a general term meaning, depending upon the context in
which used, either a new motor vehicle dealer, used motor
vehicle dealer, house trailer dealer, trailer dealer, recre-
atational vehicle dealer or motorcycle dealer, or all of the
dealers or a combination thereof, licensed under the
provisions of article six of this chapter.

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

(dd) "Transporter" means every person engaged in the
business of delivering vehicles of a type required to be
registered hereunder from a manufacturing, assembling or
distributing plant to dealers or sales agents of a manufac-
turer.

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

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

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

(hh) "Motorboat trailer" means every vehicle designed
for or ordinarily used for the transportation of a motor-
boat.
(ii) “All-terrain vehicle” (ATV) means any motor vehicle designed for off-highway use and designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and handlebars for steering control.

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

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

(II) “Motor home” means every vehicle, designed to provide temporary living quarters, built into an integral part of or permanently attached to a self-propelled motor vehicle, chassis or van including: (1) Type A motor home built on an incomplete truck chassis with the truck cab constructed by the second stage manufacturer; (2) Type B motor home consisting of a van-type vehicle which has been altered to provide temporary living quarters; and (3) Type C motor home built on an incomplete van or truck chassis with a cab constructed by the chassis manufacturer.

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

(an) “Recreational vehicle” means a motorboat, motorboat trailer, all-terrain vehicle, travel trailer, fold down camping trailer, motor home or snowmobile.

(oo) “Mobile equipment” means every self-propelled vehicle not designed or used primarily for the transportation of persons or property over the highway but which may infrequently or incidentally travel over the highways.
among job sites, equipment storage sites or repair sites, including farm equipment, implements of husbandry, well-drillers, cranes and wood-sawing equipment.

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

(qq) "Manufactured home" has the same meaning as the term is defined in section two, article nine, chapter twenty-one of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §5401 et seq.), effective on the fifteenth day of June, one thousand nine hundred seventy-six, and the federal manufactured home construction and safety standards and regulations promulgated by the secretary of the United States department of housing and urban development.

(rr) "Mobile home" means a transportable structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site and designed for long-term residential use and built prior to enactment of the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §5401 et seq.), effective on the fifteenth day of June, one thousand nine hundred seventy-six, and usually built to the voluntary industry standard of the American national standards institute (ANSI) — A119.1 standards for mobile homes.

(ss) "House trailers" means all trailers designed and used for human occupancy on a continual nonrecreational basis, but may not include fold down camping and travel trailers, mobile homes or manufactured homes.

(tt) "Parking Enforcement Vehicle" means a motor vehicle which does not fit into any other classification of vehicle in this chapter, has three or four wheels and is designed for use in an incorporated municipality by a city, county, state or other governmental entity primarily for parking enforcement or other governmental purposes with an operator area with sides permanently enclosed with rigid construction and a top which may be convertible, sealed beam headlights, turn signals, brake lights, horn, at
least one rear view mirror on each side and such other equipment that will enable it to pass a standard motorcy-
icle vehicle inspection.

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.

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

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

(2) Any implement of husbandry upon which is securely attached a machine for spraying fruit trees and plants of the owner or lessee or for any other implement of husbandry which is used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner thereof and which is not operated on or over any public highway of this state for any other purpose other than for the purpose of operating it across a highway or along a highway other than an expressway as designated by the commissioner of the division of highways from one point of the owner's land to another part thereof, irrespective of whether or not the tracts adjoin: Provided, That the distance between the points may not exceed twenty-five miles, or for the purpose of taking it or other fixtures thereto attached, to and from a repair shop for repairs. The foregoing exemption from registration and license requirements shall also apply to any vehicle hereinbefore described or to any farm trailer owned by the owner or lessee of the farm on which the trailer is used, when the trailer is used by the owner thereof for the purpose of moving farm produce and livestock from the farm along a public highway for a distance not to exceed twenty-five miles to a storage house or packing plant, when the use is a seasonal operation:
(A) The exemptions contained in this section shall also apply to farm machinery and tractors: Provided, That the machinery and tractors may use the highways in going from one tract of land to another tract of land regardless of whether the land be owned by the same or different persons.

(B) Any vehicle exempted hereunder from the requirements of annual registration certificate and license plates and fees therefor may not be permitted to use the highways between sunset and sunrise.

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

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

(i) The farm use exemption certificate shall be provided by the commissioner and shall be issued annually by the assessor of the applicant’s county of residence. The assessor shall issue a farm use exemption certificate upon his or her determination pursuant to an examination of the property books or documentation provided by the applicant that the vehicle has been properly assessed as Class I personal property. The assessor shall charge a fee of two dollars for each certificate, one dollar of the fee shall be retained by the assessor and one dollar shall be remitted by the assessor to the commissioner of the division of motor vehicles to be deposited in a special revolving fund to be used in the administration of this section.

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

(ii) No person charged with operating a vehicle without
a farm use exemption certificate, if required under this
section, shall be convicted if he or she produces in court,
or in the office of the arresting officer, a valid farm use
exemption certificate for the vehicle in question within
five days;

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

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

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

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

(7) Any special mobile equipment as defined in subsec-
tion (r), section one, article one of this chapter.

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

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

(1) Mobile homes or manufactured homes are exempt
from the requirements of annual registration, license
plates and fees;

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

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

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

(a) Certificates of registration of any vehicle or registration plates therefor, whether original issues or duplicates, may not be issued or furnished by the division of motor vehicles or any other officer charged with the duty, unless the applicant therefor already has received, or at the same time makes application for and is granted, an official certificate of title of the vehicle. The application shall be upon a blank form to be furnished by the division of motor vehicles and shall contain a full description of the vehicle, which description shall contain a manufacturer's serial or identification number or other number as determined by the commissioner and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, the names and addresses of the holders of the liens and any other information as the division of motor vehicles may require. The application shall be signed and sworn to by the applicant.

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

(1) If the vehicle is new, the actual purchase price or consideration to the purchaser thereof is the value of the vehicle. If the vehicle is a used or secondhand vehicle, the present market value at time of transfer or purchase is the value thereof for the purposes of this section: Provided, That so much of the purchase price or consideration as is represented by the exchange of other vehicles on which the tax imposed by this section has been paid by the purchaser shall be deducted from the total actual price or consideration paid for the vehicle, whether the vehicle be new or secondhand. If the vehicle is acquired through gift, or by any manner whatsoever, unless specifically exempted in this section, the present market value of the vehicle at the time of the gift or transfer is the value thereof for the purposes of this section.

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

(3) The division of motor vehicles may issue a certificate
of registration and title to an applicant if the applicant
provides sufficient proof to the division of motor vehicles
that the applicant has paid the taxes and fees required by
this section to a motor vehicle dealership that has gone out
of business or has filed bankruptcy proceedings in the
United States bankruptcy court and the taxes and fees so
required to be paid by the applicant have not been sent to
the division by the motor vehicle dealership or have been
impounded due to the bankruptcy proceedings: Provided,
That the applicant makes an affidavit of the same and
assigns all rights to claims for money the applicant may
have against the motor vehicle dealership to the division
of motor vehicles.

(4) The division of motor vehicles shall issue a certificate
of registration and title to an applicant without payment
of the tax imposed by this section if the applicant is a
corporation, partnership or limited liability company
transferring the vehicle to another corporation, partner-
ship or limited liability company when the entities
involved in the transfer are members of the same con-
trolled group and the transferring entity has previously
paid the tax on the vehicle transferred. For the purposes
of this section, control means ownership, directly or
indirectly, of stock or equity interests possessing fifty
percent or more of the total combined voting power of all
classes of the stock of a corporation or equity interests of
a partnership or limited liability company entitled to vote
or ownership, directly or indirectly, of stock or equity
interests possessing fifty percent or more of the value of
the corporation, partnership or limited liability company.

(5) The tax imposed by this section does not apply to
vehicles to be registered as Class H vehicles or Class M
vehicles, as defined in section one, article ten of this
chapter, which are used or to be used in interstate com-
merce. Nor does the tax imposed by this section apply to
the titling of Class B, Class K or Class E vehicles regis-
tered at a gross weight of fifty-five thousand pounds or
more, or to the titling of Class C or Class L semitrailers,
full trailers, pole trailers and converter gear: Provided,
That if an owner of a vehicle has previously titled the
vehicle at a declared gross weight of fifty-five thousand
pounds or more and the title was issued without the
payment of the tax imposed by this section, then before
the owner may obtain registration for the vehicle at a
gross weight less than fifty-five thousand pounds, the
owner shall surrender to the commissioner the exempted
registration, the exempted certificate of title, and pay the
tax imposed by this section based upon the current market
value of the vehicle: Provided, however, That notwith-
standing the provisions of section nine, article fifteen,
chapter eleven of this code, the exemption from tax under
this section for Class B, Class K or Class E vehicles in
excess of fifty-five thousand pounds and Class C or Class
L semitrailers, full trailers, pole trailers and converter
gear may not subject the sale or purchase of the vehicles
to the consumers sales tax.

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

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

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

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

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

(c) Notwithstanding any provisions of this code to the contrary, the owners of trailers, semitrailers, recreational vehicles and other vehicles not subject to the certificate of title tax prior to the enactment of this chapter are subject to the privilege tax imposed by this section: Provided, That the certification of title of any recreational vehicle owned by the applicant on the thirtieth day of June, one thousand nine hundred eighty-nine, is not subject to the tax imposed by this section: Provided, however, That mobile homes, manufactured homes, modular homes and similar nonmotive propelled vehicles, except recreational vehicles and house trailers, susceptible of being moved upon the highways but primarily designed for habitation
and occupancy, rather than for transporting persons or property, or any vehicle operated on a nonprofit basis and used exclusively for the transportation of mentally retarded or physically handicapped children when the application for certificate of registration for the vehicle is accompanied by an affidavit stating that the vehicle will be operated on a nonprofit basis and used exclusively for the transportation of mentally retarded and physically handicapped children, are not subject to the tax imposed by this section, but are taxable under the provisions of articles fifteen and fifteen-a, chapter eleven of this code.

(d) Any person making any affidavit required under any provision of this section, who knowingly swears falsely, or any person who counsels, advises, aids or abets another in the commission of false swearing is on the first offense guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or be imprisoned in the county or regional jail for a period not to exceed six months or, in the discretion of the court, both fined and imprisoned. For a second or any subsequent conviction within five years, that person is guilty of a felony and, upon conviction thereof, shall be fined not more than five thousand dollars or be imprisoned in the penitentiary for not less than one year nor more than five years or, in the discretion of the court, fined and imprisoned.

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

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

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

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

The department upon receiving an application for a certificate of title to a vehicle, trailer, semitrailer, pole trailer, factory-built home or recreational vehicle for which a certificate of title is required under article three of this chapter, all of which are hereinafter in this article referred to as vehicles, showing liens or encumbrances upon the vehicle, shall, upon issuing to the owner thereof a certificate of title therefor, show upon the face of the certificate of title all liens or encumbrances disclosed by the application. All liens or encumbrances shall be shown in the order of their priority being according to the information contained in the application. When an application shows liens and encumbrances, the information as evidence of the lien in connection therewith as the department may deem necessary shall also be furnished. The information shall include the name and address of the lienholder, the nature and kind of the lien, the date thereof and the amount thereby secured. However, only the name and address of the lienholder will be endorsed on the title certificate. Upon issuing the certificate, the department shall thereupon send or deliver it to the holder of the first lien.
§17A-4A-15. Expiration of lien or encumbrance; refiling.

The filing of any lien or encumbrance and its recordation upon the face of a certificate of title to any vehicle as provided in this article shall be valid for a period of ten years only from the date of filing, unless the lien or encumbrance is refilled in the manner provided in this article for filing and recordation in the first instance, in which event the lien or encumbrance shall be valid for successive additional periods of two years from the date of each refiling: Provided, That in the case of a mobile home or manufactured home, the filing of any lien or encumbrance and its recordation upon the face of a certificate of title to the mobile home or manufactured home shall be valid for a period of thirty-three years from the date of filing.

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

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

§17A-6-1. Definitions.

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

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

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

(3) "House trailer dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling new and/or used house trailers, or new or used or both house trailers and trailers or new or used, or both manufactured homes and mobile homes.

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

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

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

(7) "Wrecker/dismantler/rebuilder" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of dealing in wrecked or damaged motor vehicles or motor vehicle parts for the purpose of selling the parts thereof or scrap therefrom or who is in the business of rebuilding salvage motor vehicles for the purpose of resale to the public.

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

(10) "House trailers" means all trailers designed and used for human occupancy on a continual nonrecreational basis, but may not include fold down camping and travel trailers, mobile homes or manufactured homes.

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

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

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

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

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

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

(17) "Established place of business" means, in the case of a new motor vehicle dealer, a permanent location, not a temporary stand or other temporary quarters, owned or
leased by the licensee or applicant and actually occupied
or to be occupied by him or her, as the case may be, which
is or is to be used exclusively for the purpose of selling
new motor vehicles or new and used motor vehicles, which
shall have space under roof for the display of at least one
new motor vehicle and facilities and space therewith for
the servicing and repair of at least one motor vehicle,
which servicing and repair facilities and space shall be
adequate and suitable to carry out servicing and to make
repairs necessary to keep and carry out all representa-
tions, warranties and agreements made or to be made by
the dealer with respect to motor vehicles sold by him or
her, which shall be easily accessible to the public, which
shall conform to all applicable laws of this state and the
ordinances of the municipality in which it is located, if
any, which shall display thereon at least one permanent
sign, clearly visible from the principal public street or
highway nearest the location and clearly stating the
business which is or shall be conducted thereat, and which
shall have adequate facilities to keep, maintain and
preserve records, papers and documents necessary to carry
on the business and to make the business available to
inspection by the commissioner at all reasonable times:
Provided, That each established place of business shall
have a display area which may be outside or inside or a
combination thereof of at least twelve hundred square feet
which is to be used exclusively for the display of vehicles
which are offered for sale by the dealer, office space of at
least one hundred forty-four square feet and a telephone
listed in the name of the dealership. Each established
place of business shall be open to the public a minimum of
twenty hours per week at least forty weeks per calendar
year with at least ten of those hours being between the
hours of nine-thirty a.m. and eight-thirty p.m., Monday
through Saturday: Provided, however, That the require-
ment of exclusive use shall be met even though: (A) Some
new and any used motor vehicles sold or to be sold by the
dealer or sold or are to be sold at a different location or
locations not meeting the definition of an established
place of business of a new motor vehicle dealer, if each
location is or is to be served by other facilities and space
of the dealer for the servicing and repair of at least one
motor vehicle, adequate and suitable as aforesaid, and each location used for the sale of some new and any used motor vehicles otherwise meets the definition of an established place of business of a used motor vehicle dealer; (B) house trailers, trailers or motorcycles are sold or are to be sold thereat, if, subject to the provisions of section five of this article, a separate license certificate is obtained for each type of vehicle business, which license certificate remains unexpired, unsuspended and unrevoke; (C) farm machinery is sold thereat; and (D) accessory, gasoline and oil, or storage departments are maintained thereat, if the departments are operated for the purpose of furthering and assisting in the licensed business or businesses.

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

(19) "Established place of business" shall, in the case of a used motor vehicle dealer, mean a permanent location, not a temporary stand or other temporary quarters, owned or leased by the licensee or applicant and actually occupied or to be occupied by him or her, as the case may be, which is or is to be used exclusively for the purpose of selling used motor vehicles, which shall have facilities and space therewith for the servicing and repair of at least one motor vehicle, which servicing and repair facilities and space shall be adequate and suitable to carry out servicing and to make repairs necessary to keep and carry out all representations, warranties and agreements made or to be made by the dealer with respect to used motor vehicles sold by him or her, which shall be easily accessible to the public, shall conform to all applicable laws of this state, and the ordinances of the municipality in which it is located, if any, which shall display thereon at least one permanent sign, clearly visible from the principal public street or highway nearest the location and clearly stating the business which is or shall be conducted thereat, and which shall have adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on the business and to make the business available to inspection by the commissioner at all reasonable times:
Provided, That each established place of business shall have a display area which may be outside or inside or a combination thereof of at least twelve hundred square feet which is to be used exclusively for the display of vehicles which are offered for sale by the dealer, office space of at least one hundred forty-four square feet and a telephone listed in the name of the dealership. Each established place of business shall be open to the public a minimum of twenty hours per week at least forty weeks per calendar year with at least ten of those hours being between the hours of nine-thirty a.m. and eight-thirty p.m., Monday through Saturday: Provided, however, That if a used motor vehicle dealer has entered into a written agreement or agreements with a person or persons owning or operating a servicing and repair facility or facilities adequate and suitable as aforesaid, the effect of which agreement or agreements is to provide the servicing and repair services and space in like manner as if the servicing and repair facilities and space were located in or on the dealer’s place of business, then, so long as the agreement or agreements are in effect, it shall not be necessary for the dealer to maintain the servicing and repair facilities and space at the place of business in order for the place of business to be an established place of business as herein defined: Provided further, That the requirement of exclusive use shall be met even though: (A) House trailers, trailers or motorcycles are sold or are to be sold thereat, if, subject to the provisions of section five of this article, a separate license certificate is obtained for each type of vehicle business, which license certificate remains unexpired, unsuspended and unrevoked; (B) farm machinery is sold thereat; and (C) accessory, gasoline and oil, or storage departments are maintained thereat, if the departments are operated for the purpose of furthering and assisting in the licensed business or businesses.

(20) "Established place of business" shall, in the case of a house trailer dealer, trailer dealer, recreational vehicle dealer, motorcycle dealer, used parts dealer and wrecker or dismantler, mean a permanent location, not a temporary stand or other temporary quarters, owned or leased by the licensee or applicant and actually occupied or to be
occupied by the licensee, as the case may be, which shall be easily accessible to the public, which shall conform to all applicable laws of this state and the ordinances of the municipality in which it is located, if any, which shall display thereon at least one permanent sign, clearly visible from the principal public street or highway nearest the location and clearly stating the business which is or shall be conducted thereat, and which shall have adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on the business and to make the business available to inspection by the commissioner at all reasonable times.

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

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

(23) "Recreational vehicle dealer" means every person (other than agents and employees, if any, while acting within the scope of their authority or employment), engaged in, or held out to the public to be engaged in, the business in this state of selling new or used recreational vehicles, or both.

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

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

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

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

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

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

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

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

(32) "Major component" means any one of the following
subassemblies of a motor vehicle: (A) Front clip assembly
consisting of fenders, grille, hood, bumper and related
parts; (B) engine; (C) transmission; (D) rear clip assembly
consisting of quarter panels and floor panel assembly; or
(E) two or more doors.
(33) "Factory-built home" includes mobile homes, house trailers and manufactured homes.

(34) "Manufactured home" has the same meaning as the term is defined in section two, article nine, chapter twenty-one of this code which meets the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §5401 et seq.), effective on the fifteenth day of June, one thousand nine hundred seventy-six, and the federal manufactured home construction and safety standards and regulations promulgated by the secretary of the United States department of housing and urban development.

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

(b) Under no circumstances whatever may the terms "new motor vehicle dealer", "used motor vehicle dealer", "house trailer dealer", "trailer dealer", "recreational vehicle dealer", "motorcycle dealer", "used parts dealer" or "wrecker/dismantler/rebuilder" be construed or applied under this article in such a way as to include a banking institution, insurance company, finance company, or other lending or financial institution, or other person, the state or any agency or political subdivision thereof, or any municipality, who or which owns or comes in possession or ownership of, or acquires contract rights, or security interests in or to, any vehicle or vehicles or any part thereof and sells the vehicle or vehicles or any part thereof for purposes other than engaging in and holding out to the public to be engaged in the business of selling vehicles or any part thereof.

(c) It is recognized that throughout this code the term "trailer" or "trailers" is used to include, among other types of trailers, house trailers. It is also recognized that throughout this code the term "trailer" or "trailers" is
seldom used to include semitrailers or pole trailers. However, for the purposes of this article only, the term “trailers” has the meaning ascribed to it in subsection (a) of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the day of 1997.

Governor