

HB 2143

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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2143

(By Delegate Warner)



Passed March 13, 1999

In Effect Ninety Days from Passage

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WEST VIRGINIA STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2143

(BY DELEGATE WARNER)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, six, seven, ten and thirteen, article six, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to motor vehicle dealers; changing the definition of an established place of business with respect to motor vehicle dealers; and clarifying the criteria for issuance of a dealer license and the use of dealer special license plates.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. LICENSING OF DEALERS AND WRECKERS OR DISMANTLERS; 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) "New motor vehicle dealer" means every person (other
4 than agents and employees, if any, while acting within the
5 scope of their authority or employment), engaged in, or held out
6 to the public to be engaged in, the business in this state of
7 selling five or more new motor vehicles or new and used motor
8 vehicles in any fiscal year of a type required to be registered
9 under the provisions of this chapter, except, for the purposes of
10 this article only, motorcycles.

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

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

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

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

36 (6) "Used parts dealer" means every person (other than
37 agents and employees, if any, while acting within the scope of

38 their authority or employment), engaged in, or held out to the
39 public to be engaged in, the business in this state of selling any
40 used appliance, accessory, member, portion or other part of any
41 vehicle.

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

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

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

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

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

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

70 (13) "Sell", "sale" or "selling," in addition to the ordinary
71 definitions of the terms, includes offering for sale, soliciting
72 sales of, negotiating for the sale of, displaying for sale or

73 advertising for sale, any vehicle, whether at retail, wholesale or
74 at auction. "Selling," in addition to the ordinary definition of
75 that term, also includes buying and exchanging.

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

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

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

84 (17) "Established place of business" means, in the case of
85 a new motor vehicle dealer, a permanent location, not a
86 temporary stand or other temporary quarters, owned or leased
87 by the licensee or applicant and actually occupied or to be
88 occupied by him or her, as the case may be, which is or is to be
89 used exclusively for the purpose of selling new motor vehicles
90 or new and used motor vehicles, which shall have space under
91 roof for the display of at least one new motor vehicle and
92 facilities and space therewith for the servicing and repair of at
93 least one motor vehicle, which servicing and repair facilities
94 and space is adequate and suitable to carry out servicing and to
95 make repairs necessary to keep and carry out all representa-
96 tions, warranties and agreements made or to be made by the
97 dealer with respect to motor vehicles sold by him or her, which
98 is easily accessible to the public, which conforms to all applica-
99 ble laws of this state and the ordinances of the municipality in
100 which it is located, if any, which displays thereon at least one
101 permanent sign, clearly visible from the principal public street
102 or highway nearest the location and clearly stating the business
103 which is or shall be conducted thereat, and which has adequate
104 facilities to keep, maintain and preserve records, papers and
105 documents necessary to carry on the business and to make the
106 business available to inspection by the commissioner at all
107 reasonable times: *Provided*, That each established place of
108 business shall have a display area which may be outside or
109 inside or a combination thereof of at least twelve hundred
110 square feet which is to be used exclusively for the display of

111 vehicles which are offered for sale by the dealer, office space
112 of at least one hundred forty-four square feet and a telephone
113 listed in the name of the dealership. Each established place of
114 business shall be open to the public a minimum of twenty hours
115 per week at least forty weeks per calendar year with at least ten
116 of those hours being between the hours of nine-thirty a.m. and
117 eight-thirty p.m., Monday through Saturday: *Provided, how-*
118 *ever,* That the requirement of exclusive use is met even though:
119 (A) Some new and any used motor vehicles sold or to be sold
120 by the dealer or sold or are to be sold at a different location or
121 locations not meeting the definition of an established place of
122 business of a new motor vehicle dealer, if each location is or is
123 to be served by other facilities and space of the dealer for the
124 servicing and repair of at least one motor vehicle, adequate and
125 suitable as aforesaid, and each location used for the sale of
126 some new and any used motor vehicles otherwise meets the
127 definition of an established place of business of a used motor
128 vehicle dealer; (B) house trailers, trailers or motorcycles are
129 sold or are to be sold thereat, if, subject to the provisions of
130 section five of this article, a separate license certificate is
131 obtained for each type of vehicle business, which license
132 certificate remains unexpired, unsuspended and unrevoked; (C)
133 farm machinery is sold thereat; (D) accessory, gasoline and oil,
134 or storage departments are maintained thereat, if the depart-
135 ments are operated for the purpose of furthering and assisting
136 in the licensed business or businesses; and (E) the established
137 place of business has an attached single residential rental unit
138 with an outside separate entrance and occupied by a person or
139 persons with no financial or operational interest in the dealer-
140 ship where the established place of business has space under
141 roof for the display of at least three new motor vehicles and
142 facilities and space therewith for the concurrent servicing and
143 repair of at least two motor vehicles and otherwise meets the
144 requirements set forth in this subdivision.

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

147 (19) "Established place of business," in the case of a used
148 motor vehicle dealer, means a permanent location, not a

149 temporary stand or other temporary quarters, owned or leased
150 by the licensee or applicant and actually occupied or to be
151 occupied by him or her, as the case may be, which is or is to be
152 used exclusively for the purpose of selling used motor vehicles,
153 which shall have facilities and space therewith for the servicing
154 and repair of at least one motor vehicle, which servicing and
155 repair facilities and space shall be adequate and suitable to
156 carry out servicing and to make repairs necessary to keep and
157 carry out all representations, warranties and agreements made
158 or to be made by the dealer with respect to used motor vehicles
159 sold by him or her, which is easily accessible to the public,
160 conforms to all applicable laws of this state, and the ordinances
161 of the municipality in which it is located, if any, which displays
162 thereon at least one permanent sign, clearly visible from the
163 principal public street or highway nearest the location and
164 clearly stating the business which is or shall be conducted
165 thereat, and which has adequate facilities to keep, maintain and
166 preserve records, papers and documents necessary to carry on
167 the business and to make the business available to inspection by
168 the commissioner at all reasonable times: *Provided*, That each
169 established place of business shall have a display area which
170 may be outside or inside or a combination thereof of at least
171 twelve hundred square feet which is to be used exclusively for
172 the display of vehicles which are offered for sale by the dealer,
173 office space of at least one hundred forty-four square feet and
174 a telephone listed in the name of the dealership. Each estab-
175 lished place of business shall be open to the public a minimum
176 of twenty hours per week at least forty weeks per calendar year
177 with at least ten of those hours being between the hours of nine-
178 thirty a.m. and eight-thirty p.m., Monday through Saturday:
179 *Provided, however*, That if a used motor vehicle dealer has
180 entered into a written agreement or agreements with a person or
181 persons owning or operating a servicing and repair facility or
182 facilities adequate and suitable as aforesaid, the effect of which
183 agreement or agreements is to provide the servicing and repair
184 services and space in like manner as if the servicing and repair
185 facilities and space were located in or on the dealer's place of
186 business, then, so long as the agreement or agreements are in
187 effect, it is not necessary for the dealer to maintain the servicing

188 and repair facilities and space at the place of business in order
189 for the place of business to be an established place of business
190 as herein defined: *Provided further*, That the requirement of
191 exclusive use is met even though: (A) House trailers, trailers or
192 motorcycles are sold or are to be sold thereat, if, subject to the
193 provisions of section five of this article, a separate license
194 certificate is obtained for each type of vehicle business, which
195 license certificate remains unexpired, unsuspended and
196 unrevoked; (B) farm machinery is sold thereat; (C) accessory,
197 gasoline and oil, or storage departments are maintained thereat,
198 if the departments are operated for the purpose of furthering and
199 assisting in the licensed business or businesses; and (D) the
200 established place of business has an attached single residential
201 rental unit with an outside separate entrance and occupied by a
202 person or persons with no financial or operational interest in the
203 dealership where the established place of business has space
204 under roof for the display of at least three motor vehicles and
205 facilities and space therewith for the concurrent servicing and
206 repair of at least two motor vehicles and otherwise meets the
207 requirements set forth herein.

208 (20) "Established place of business," in the case of a house
209 trailer dealer, trailer dealer, recreational vehicle dealer, motor-
210 cycle dealer, used parts dealer and wrecker or dismantler,
211 means a permanent location, not a temporary stand or other
212 temporary quarters, owned or leased by the licensee or appli-
213 cant and actually occupied or to be occupied by the licensee, as
214 the case may be, which is easily accessible to the public, which
215 conforms to all applicable laws of this state and the ordinances
216 of the municipality in which it is located, if any, which displays
217 thereon at least one permanent sign, clearly visible from the
218 principal public street or highway nearest the location and
219 clearly stating the business which is or shall be conducted
220 thereat, and which has adequate facilities to keep, maintain and
221 preserve records, papers and documents necessary to carry on
222 the business and to make the business available to inspection by
223 the commissioner at all reasonable times.

224 (21) "Manufacturer" means every person engaged in the
225 business of reconstructing, assembling or reassembling vehicles

226 with a special type body required by the purchaser if the vehicle
227 is subject to the title and registration provisions of this code.

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

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

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

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

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

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

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

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

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

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

278 (32) "Major component" means any one of the following
279 subassemblies of a motor vehicle: (A) Front clip assembly
280 consisting of fenders, grille, hood, bumper and related parts; (B)
281 engine; (C) transmission; (D) rear clip assembly consisting of
282 quarter panels and floor panel assembly; or (E) two or more
283 doors.

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

286 (34) "Manufactured home" has the same meaning as the
287 term is defined in section two, article nine, chapter twenty-one
288 of this code which meets the National Manufactured Housing
289 Construction and Safety Standards Act of 1974 (42 U.S.C.
290 §5401 et seq.), effective on the fifteenth day of June, one
291 thousand nine hundred seventy-six, and the federal manufac-
292 tured home construction and safety standards and regulations
293 promulgated by the secretary of the United States department
294 of housing and urban development.

295 (35) "Mobile home" means a transportable structure that is
296 wholly, or in substantial part, made, fabricated, formed or

297 assembled in manufacturing facilities for installation or
298 assembly and installation on a building site and designed for
299 long-term residential use and built prior to enactment of the
300 federal manufactured housing construction and safety standards
301 institute (ANSI) — A119.1 standards for mobile homes.

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

317 (c) It is recognized that throughout this code the term
318 “trailer” or “trailers” is used to include, among other types of
319 trailers, house trailers. It is also recognized that throughout this
320 code the term “trailer” or “trailers” is seldom used to include
321 semitrailers or pole trailers. However, for the purposes of this
322 article only, the term “trailers” has the meaning ascribed to it in
323 subsection (a) of this section.”

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

1 (a) Upon the basis of the application and all other informa-
2 tion before him or her, the commissioner shall make and enter
3 an order denying the application for a license certificate and
4 refusing the license certificate sought, which denial and refusal
5 are final and conclusive unless an appeal is taken in accordance
6 with the provisions of section twenty-one of this article, if the
7 commissioner finds that the applicant (individually, if an
8 individual, or the partners, if a copartnership, or the officers and
9 directors, if a corporation):

- 10 (1) Has failed to furnish the required bond;
- 11 (2) Has failed to furnish the required certificate of insur-
12 ance;
- 13 (3) Has knowingly made false statement of a material fact
14 in his or her application;
- 15 (4) Has habitually defaulted on financial obligations in this
16 state or any other state or jurisdiction;
- 17 (5) Has been convicted of a felony: *Provided*, That upon
18 appeal, the motor vehicle dealers advisory board established
19 pursuant to the provisions of section eighteen-a of this article
20 has the authority to grant as exemption of this restriction if the
21 felony did not involve financial matters, the motor vehicle
22 industry or matters of moral turpitude.
- 23 (6) So far as can be ascertained, has not complied with and
24 will not comply with the registration and title laws of this state
25 or any other state or jurisdiction;
- 26 (7) Does not or will not have or maintain at each place of
27 business (subject to the qualification contained in subdivision
28 (17), subsection (a), section one of this article with respect to a
29 new motor vehicle dealer) an established place of business as
30 defined for the business in question in said section one;
- 31 (8) Has been convicted of any fraudulent act in connection
32 with the business of new motor vehicle dealer, used motor
33 vehicle dealer, house trailer dealer, trailer dealer, recreational
34 vehicle dealer, motorcycle dealer, used parts dealer, or wrecker
35 or dismantler in this state or any other state or jurisdiction;
- 36 (9) Has done any act or has failed or refused to perform any
37 duty for which the license certificate sought could be suspended
38 or revoked were it then issued and outstanding;
- 39 (10) Is not age eighteen years or older;
- 40 (11) Is delinquent in the payment of any taxes owed to the
41 United States, the state of West Virginia or any political
42 subdivision thereof;

43 (12) Has been denied a license in another state or has been
44 the subject of license revocation or suspension in another state;
45 or

46 (13) Has committed any action in another state which, if it
47 had been committed in this state, would be grounds for denial
48 and refusal of the application for a license certificate.

49 (14) Has failed to pay any civil penalty assessed by this
50 state or any other state.

51 Otherwise, the commissioner shall issue to the applicant the
52 appropriate license certificate which shall entitle the licensee to
53 engage in the business of new motor vehicle dealer, used motor
54 vehicle dealer, house trailer dealer, trailer dealer, recreational
55 vehicle dealer, motorcycle dealer, used parts dealer, or wrecker
56 or dismantler, as the case may be, during the period, unless
57 sooner suspended or revoked, for which the license certificate
58 is issued.

59 (b) A license certificate issued in accordance with the
60 provisions of this article is not transferable.

**§17A-6-7. When application to be made; expiration of license
certificate; renewal.**

1 (a) Every license certificate issued in accordance with the
2 provisions of this article shall, unless sooner suspended or
3 revoked, expire on June thirtieth next following the issuance
4 thereof.

5 (b) A license certificate may be renewed each year in the
6 same manner, for the same fee as prescribed in section ten of
7 this article and upon the same basis as an original license
8 certificate is issued under section six of this article. All applica-
9 tions for the renewal of any license certificate shall be filed
10 with the commissioner at least thirty days before the expiration
11 thereof. Any application for renewal of any license certificate
12 not filed at least thirty days before the expiration may not be
13 renewed except upon payment of the same fee as an original
14 license certificate as prescribed in subsection (a), section ten of
15 this article. The commissioner may allow the delinquent

16 applicant to complete an abbreviated application for renewal in
17 lieu of an original application.

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

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

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

34 certificate he or she will sell at retail and wholesale during the
35 ensuing fiscal year. The licensee may revise his or her estimate
36 if actual sales of new and used motor vehicles in the initial year
37 exceed the estimate by filing an amended application for his or
38 her license certificate. Additional Class D plates shall be issued
39 for the remaining portion of the fiscal year only on a formula
40 basis of one additional Class D plate per twenty new and used
41 vehicles in the revised estimate. A licensee may receive no
42 more than five additional Class D special license plates upon a
43 showing that the licensee's new vehicle retail sale business
44 requires more special license plates than authorized under the
45 formula established under the provisions of this section. Such
46 showing shall include evidence of the geographical divergence
47 of the licensee's customer base and the number of licensees
48 holding similar franchises of a particular brand of a motor
49 vehicle to show the need for additional Class D special plates.

50 (c) The annual renewal fee required for a license certificate
51 to engage in the business of used motor vehicle dealer is one
52 hundred dollars. This fee also entitles the licensee to one
53 dealer's special plate which shall be known as a Class D-U/C
54 special plate. Up to two additional Class D-U/C special plates
55 shall be issued to the licensee upon application on a form
56 prescribed by the commissioner for such purpose and the
57 payment of a fee of five dollars for each additional Class D-U/C
58 special plate. Any licensee is also entitled to receive additional
59 Class D-U/C special plates on a formula basis, that is, one
60 additional Class D-U/C special plate per twenty used motor
61 vehicles sold at retail and/or wholesale by the licensee or his or
62 her predecessor during the preceding fiscal year, upon applica-
63 tion therefor on a form prescribed by the commissioner for such
64 purpose and the payment of a fee of five dollars for each
65 additional Class D-U/C special plate: *Provided*, That in the case
66 of a licensee who did not own or operate the business during the
67 preceding fiscal year and who has no predecessor who owned
68 or operated the business during the preceding fiscal year,
69 additional Class D-U/C plates shall be issued for the ensuing
70 fiscal year only on a formula basis of one additional Class D-
71 U/C plate per twenty used motor vehicles which the licensee

72 estimates on his or her application for the license certificate he
73 or she will sell at retail and/or wholesale during the ensuing
74 fiscal year. The licensee may revise his or her estimate if actual
75 sales of used motor vehicles in the ensuing fiscal year exceed
76 the estimate by filing an amended application for his or her
77 license certificate. Additional Class D-U/C plates shall be
78 issued for the remaining portion of the fiscal year only on a
79 formula basis of one additional Class D-U/C plate per twenty
80 used vehicles in the revised estimate.

81 (d) The annual renewal fee required for a license certificate
82 to engage in the business of house trailer dealer or trailer dealer,
83 as the case may be, is twenty-five dollars. This fee also entitles
84 the licensee to four dealer's special plates which shall be known
85 as Class D-T/R special plates. Additional Class D-T/R special
86 plates shall be issued to any licensee upon application therefor
87 on a form prescribed by the commissioner for such purpose and
88 the payment of a fee of five dollars for each such additional
89 Class D-T/R special plate.

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

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

107 (g) The annual renewal fee required for a license certificate
108 to engage in the business of wrecker/dismantler/rebuilder is

109 fifteen dollars. Upon payment of the fee for the license certifi-
110 cate, a licensee is entitled to up to four special license plates
111 which shall be known as Class WD special plates. The plates
112 shall be issued to any licensee upon application therefor on a
113 form prescribed by the commissioner for such purpose and the
114 payment of a fee of twenty-five dollars for each plate. The plate
115 issued under the provisions of this subsection shall have the
116 words "Towing Only" affixed thereon. A wrecker/dismantler/
117 rebuilder is entitled to one special plate known as a Class
118 WD/Demo special plate upon payment of a twenty-five dollar
119 fee. This plate shall only be used for demonstrating rebuilt
120 automobiles owned by the wrecker/dismantler/rebuilder.

121 (h) All of the special plates provided for in this section shall
122 be of such form and design and contain such other distinguish-
123 ing marks or characteristics as the commissioner may prescribe.

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

1 (a) The Class D special plates and the Class D-U/C special
2 plates authorized in this article may be used for any purpose on
3 any motor vehicle owned by the dealer to whom issued and
4 which is being operated with his or her knowledge and consent
5 and not otherwise: *Provided*, That under no circumstances
6 whatever may a Class D special plate or Class D-U/C special
7 plate be used on any work or service vehicle owned by a dealer,
8 on any vehicle owned by a dealer and offered for hire or lease,
9 or on any vehicle which has been sold by a dealer to a cus-
10 tomer: *Provided, however*, That a dealer is authorized to use a
11 Class D or Class D-U/C special plate on no more than one
12 courtesy vehicle per dealership: *Provided, further*, That a Class
13 D licensee is authorized to use a Class D special plate on no
14 more than one Class A type pickup truck or van which is
15 specifically identified as a parts truck for the Class D licensee
16 and which is used exclusively for the transportation of parts for
17 the dealership.

18 (b) Under no circumstances whatever may a Class D-T/R
19 special plate be used for the purpose of operating a motor
20 vehicle upon the streets and highways, or on any house trailer

21 or other trailer owned by a dealer and offered for hire or lease,
22 or on any house trailer or other trailer which has been sold by
23 a dealer to a customer: *Provided*, That notwithstanding the sale
24 or any provision of this code to the contrary, a Class D-T/R
25 special plate may be used in moving a house trailer sold by a
26 house trailer dealer to a customer for one trip only from the
27 house trailer dealer's established place of business to a place
28 designated by the customer.

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

39 (d) Under no circumstances whatever may a Class F special
40 plate be used for the purpose of operating any type of motor
41 vehicle other than a motorcycle on the streets and highways, or
42 on a motorcycle owned by a dealer and offered for hire or lease,
43 or on any motorcycle which has been sold by a dealer to a
44 customer.

45 (e) Under no circumstances whatever may a special plate
46 authorized under the provisions of this section be subcon-
47 tracted, brokered, leased or rented.

48 (f) Every dealer entitled to and issued a special plate or
49 plates under the provisions of this article shall keep a written
50 record of the salesman, mechanic, employee, agent, officer or
51 other person to whom a special plate or plates have been
52 assigned by the dealer. Every record shall be open to inspection
53 by the commissioner or his or her representatives or any law
54 enforcement officer.

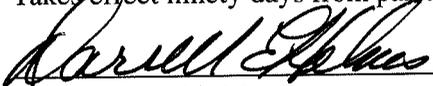
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

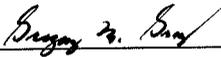

Chairman Senate Committee

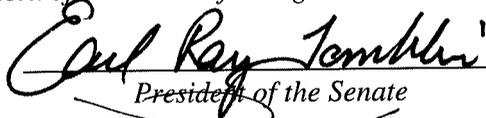

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

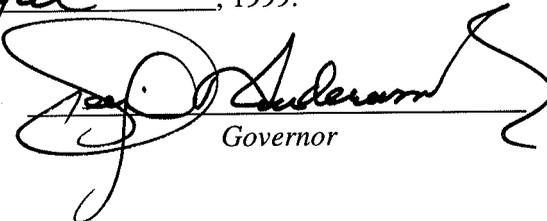

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 7th
day of April, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/99

Time 2:30 pm