WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000

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ENROLLED

Committee Substitute for

SENATE BILL NO. 651

(By Senator Wooton, et al)

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PASSED March 11, 2000

In Effect July 1, 2000
AN ACT to amend and reenact section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section twenty-five-a, article six of said chapter; and to further amend said chapter by adding thereto a new article, designated article six-d, all relating to tax on motor vehicle rentals; authorizing commissioner of motor vehicles to establish by rule a rate for motor vehicle daily rental tax; authorizing emergency rule; providing for civil penalties; requiring license certificate for businesses engaged in daily passenger car rental; providing for collection of daily passenger car rental tax; requiring filing of certain forms;
authorizing denial, suspension or revocation of license for failure to pay tax; establishing liability of officers of corporation; requiring annual returns; requiring applicants to be bonded; establishing fee for licensure; authorizing investigation of applicants; providing for confidentiality of applicant information; establishing criteria for refusal to issue license; requiring licenses to be renewed annually; requiring license to be displayed; authorizing duplicate license; requiring licensee to notify commissioner of certain changes in the business; providing for issuance of new license upon certain changes in business; authorizing investigation of licensees; providing grounds for denial, suspension or revocation of license; relinquishing license; providing for appeals of commissioner's decision; providing for inspection by commissioner and agents; establishing misdemeanor violations and penalties for violations; providing for injunctive relief; and authorizing promulgation of rules.

Be it enacted by the Legislature of West Virginia:

That section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section twenty-five-a, article six of said chapter be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article six-d, all to read as follows:

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

§17A-3-4. Application for certificate of title; tax for privilege of certification of title; exceptions; fee on payments for leased vehicles; penalty for false swearing.

1 (a) Certificates of registration of any vehicle or registration plates for the vehicle, whether original issues or duplicates, may not be issued or furnished by the division of motor vehicles or any other officer or agent charged with the duty, unless the applicant therefor already has
received, or at the same time makes application for and is
received, or at the same time makes application for and is
granted, an official certificate of title of the vehicle in
either an electronic or paper format. 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 deter-
dined 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 infor-
mation as the division of motor vehicles may require. The
application shall be signed and sworn to by the applicant.
A duly certified copy of the division's electronic record of
a certificate of title shall be admissible in any civil,
criminal or administrative proceeding in this state as
evidence of ownership.

(b) A tax is 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 of the vehicle 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 of the vehicle 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 ac-
tained 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 of the vehicle 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 in-
volved in the transfer are members of the same controlled
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 commerce. Nor does the tax imposed by this section apply to the titling of Class B vehicles registered at a gross weight of fifty-five thousand pounds or more, or to the titling of Class C 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 notwithstanding the provisions of section nine, article fifteen, chapter eleven of this code, the exemption from tax under this section for Class B vehicles in excess of fifty-five thousand pounds and Class C semitrailers, full trailers, pole trailers and converter gear does 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 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 subdivision 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 of this state, 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 is not 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 retile 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.

(11) The tax imposed by this section does not apply to any passenger vehicle offered for rent in the normal course of business by a daily passenger rental car business as licensed under the provisions of article six-d of this chapter. For purposes of this section, a daily passenger car means a Class A motor vehicle having a gross weight of eight thousand pounds or less and is registered in this state or any other state. In lieu of the tax imposed by this section, there is hereby imposed a tax of not less than one dollar nor more than one dollar and fifty cents for each day or part of the rental period. The commissioner shall propose an emergency rule in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish this tax.

(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 re-
tarded 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, or any person, while
acting as an agent of the division of motor vehicles, issues
a vehicle registration without first collecting the fees and
taxes or fails to perform any other duty required by this
chapter to be performed before a vehicle registration is
issued is on the first offense guilty of a misdemeanor and,
upon conviction thereof, shall be fined not more than five
hundred dollars or be confined in the county or regional
jail for a period not to exceed six months or, in the discre-
tion of the court, both fined and confined. 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, both 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 the
person returns to this state or the date his or her dependent returns to this state, whichever is later.

(f) 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 confined in the county or regional jail for not more than one year or, both fined and confined. For each subsequent offense, the fine may be increased to not more than two thousand dollars, with confinement in the county or regional jail not more than one year or, both fined and confined.

(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.

(g) Notwithstanding any other provision to the contrary, whenever reference is made to the application for or issuance of any title or the recordation or release of any lien, it shall be understood to include the application, transmission, recordation, transfer of ownership and storage of information in an electronic format.

ARTICLE 6. LICENSING OF DEALERS AND WRECKERS, ETC.

§17A-6-25a. Civil penalties.

(a) In addition to any other remedy or penalty provided by law, the commissioner may levy and collect a civil fine, in an amount not to exceed one thousand dollars for each
first violation, against any person who violates the provisions of this article, article six-b, article six-c or article six-d of this chapter, any of the rules or policies implemented to enforce those articles, or any lawful order of the commissioner pursuant to authority set forth in those articles. Every transaction which violates this article, article six-b, article six-c or article six-d of this chapter shall be considered a separate violation. For a second violation, being any violation occurring within three years following any previous violation for which the violator has been disciplined pursuant to section eighteen, article six of this chapter, the commissioner may levy and collect a fine in an amount not to exceed twenty-five hundred dollars and for a third and subsequent violation occurring within the three-year period following the first violation, the commissioner may levy and collect a fine in an amount not to exceed five thousand dollars.

(b) A fine assessed under this section shall not take effect until the commissioner sends to the person against whom the penalty is assessed by certified mail, return receipt requested, a notice of violation finding that the person has committed an offense. The notice shall contain:

(1) A statement of the offense the person committed;

(2) A summary of the facts on which the finding of a violation was made;

(3) The amount of the fine which is being levied; and

(4) An order that the person:

(A) Cease and desist from all future violations and pay the fine; or

(B) Protest in writing the findings of the commissioner or the amount of the assessed fine and request a hearing.
Any request for a hearing must be received by the commissioner within thirty days after the mailing date of the notice of violation. The notice of violation may be sent to any address which the person has used on any title or license application, or other filing or record which the commissioner believes is current. Failure of any person to receive a notice of violation does not preclude the fine from taking effect. However, the commissioner shall accept as timely a request for hearing from any person who, within one year of the date the notice of violation was sent, provides satisfactory proof that he or she did not receive the notice of violation and that good cause exists to excuse his or her failure to receive the notice of violation and that he or she wishes in good faith to assert a protest to the notice of violation. The pendency of the one-year period shall not keep any penalty from taking effect, but the commissioner shall stay enforcement of the fine upon his or her acceptance of any notice filed after the thirty-day period pending the outcome of the appeal.

(c) Upon receipt of a timely request, the commissioner shall afford the person a hearing in accordance with the rules of the division of motor vehicles. The commissioner, in addition to considering the evidence relied upon to prove or defend against a finding of a violation, shall also evaluate the appropriateness of the amount of the civil penalty. In making such evaluation, the commissioner shall consider:

1. The severity of the violation and its impact on the public;
2. The number of similar or related violations;
3. Whether the violations were willful or intentional; and
4. Any other facts considered appropriate.
In addition to any other findings of fact or conclusions of law, the commissioner may reduce the civil penalty to a stated amount. The appellant may, at any time during the pendency of the appeal, enter into a settlement agreement with the commissioner. The settlement agreement may provide for a reduction in the penalty and may provide that the appellant does not admit a violation. The entry into a settlement agreement or the payment of any fine pursuant to a settlement agreement which states that the appellant does not admit a violation shall not amount to an admission of guilt for purposes of any criminal prosecution.

Upon the expiration of all periods for protest or appeal of a notice of violation, including judicial review pursuant to section four, article five, chapter twenty-nine-a of this code, the notice of violation shall have the same force and effect and be enforceable as a judgment entered by any court of law of this state.

If a corporation is found to have committed a violation against which a penalty may be assessed under this section, any officer of the corporation who is found to have knowingly and intentionally committed the violation, to have knowingly and intentionally directed another to commit the violation or to have knowingly and intentionally failed to take reasonable steps to prevent another from committing the violation, may be individually found to be in violation and assessed a civil penalty as provided by this section.

ARTICLE 6D. DAILY PASSENGER RENTAL CAR BUSINESS.

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

No person may engage in a daily passenger rental car business in West Virginia without a license certificate.
Application for a daily passenger rental car license certificate shall be made on a form prescribed by the commissioner and shall disclose any information required by the commissioner. The application shall be verified by an oath or affirmation of the applicant, if an individual, or if the applicant is a corporation, partnership or limited liability company by a partner or officer thereof.


The tax authorized by section four, article three of this chapter and established by rules promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code shall be collected by each rental car business. The daily passenger car business shall collect the tax on each vehicle rented regardless of where the vehicle is titled or registered and shall remit all taxes collected to the division of motor vehicles on a monthly basis. All taxes collected pursuant to this section shall be deposited in the state road fund and subject to appropriation by the legislature. The daily passenger car business shall complete the returns required by the commissioner of motor vehicles and submit them monthly with the remittance. In addition, an annual return which summarizes the monthly returns is required. The monthly returns are due no later than the fifteenth day following the last day of the month for which the return applies, and the annual return shall be due no later than the thirtieth day following the close of the year to which it applies. The commissioner of motor vehicles shall promulgate an emergency rule pursuant to the provisions of chapter twenty-nine-a of this code setting forth pertinent information regarding the collection of the tax imposed under this section, the definition of a daily passenger car rental business, and specifying forms. Nonpayment of the tax shall constitute grounds for the commissioner of motor vehicles to deny, suspend or
revoke the license certificate set forth in this article. The emergency rule shall be filed on or before the first day of June, two thousand.

§17A-6D-3. Liability of officers of corporation, etc.

If the taxpayer is an association, partnership or corporation, the officers thereof shall be personally liable, jointly and severally, for any default on the part of the association, partnership or corporation, and payment of the tax and any additions to the tax, penalties and interest on the tax imposed by this article may be enforced against the officers as against the association, partnership or corporation which they represent. Any failure to collect the tax imposed in this article and/or any failure to timely remit to the commissioner of motor vehicles the tax imposed by this article constitutes a default for purposes of this section. Any other failure to comply with the provisions of this article constitutes a default for purposes of this section.

§17A-6D-4. Annual return; extension of time.

(a) Date due. – On or before thirty days after the end of the tax year, each person liable for the payment of any tax due under this article shall make and file an annual return in such form as may be required by the commissioner of motor vehicles, showing:

(1) Total gross proceeds of his or her daily passenger car rental business for preceding tax year;

(2) Gross proceeds upon which the tax for that year was computed; and

(3) Any other information necessary in the computation or collection of the tax that the commissioner of motor vehicles may require.
(b) Payment. – After deducting the amount of prior payments during the tax year, the taxpayer shall forward the annual return along with payment of any remaining tax, due for the preceding tax year, to the commissioner of motor vehicles. The taxpayer or his duly authorized agent shall verify the return under oath.

(c) Extension of time. – The commissioner of motor vehicles for good cause shown, may, on written application of a taxpayer, extend the time for making any return required by the provisions of this article.

§17A-6D-5. Applicant must be bonded.

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

A licensee shall keep the bond in full force and effect at all times. The surety on the bond may cancel the bond upon giving thirty days' notice to the commissioner and, after notice of cancellation, the surety is relieved of liability for any breach or condition occurring after the effective date of the cancellation.

§17A-6D-6. Fee required for license certificate.

The initial application fee for a certificate to engage in a daily passenger rental car business is two hundred and fifty dollars. The annual renewal fee for the certificate is one hundred dollars.
§17A-6D-7. Investigation prior to issuance of license certificate; information confidential.

1 Upon receipt of a completed application, the required bond and the application fee, the commissioner may conduct an investigation if necessary to determine the accuracy of any statements contained in the application and the existence of any other facts relevant in considering the application. To facilitate the investigation, the commissioner may withhold issuance or refusal of the license certificate for a period not to exceed thirty days.

Any application for a license certificate under the provisions of this article and any information submitted regarding the application shall be confidential for use of the division. No person may divulge any information contained in any application or any information submitted regarding the application, except in response to a valid subpoena or subpoena duces tecum issued pursuant to law.

§17A-6D-8. Refusal of license certificate.

1 If the commissioner finds that the applicant:
2 (1) Has failed to furnish the required bond;
3 (2) Has knowingly made a false statement of a material fact in the application;
4 (3) Has habitually defaulted on financial obligations;
5 (4) Has been convicted of a felony within five years immediately preceding receipt of the application by the commissioner;
6 (5) Has not complied with the registration and title laws of this state;
7 (6) Has been guilty of any fraudulent act in connection with the business of a daily passenger rental car business;
(7) Has done any act or has failed or refused to perform any duty for which the license certificate sought could be suspended or revoked were it then issued and outstanding;

(8) Has not attained the age of eighteen years;

(9) Has been delinquent in the payment of any taxes owed to a political subdivision of or to the state of West Virginia;

(10) Has been denied a license in another state or has been the subject of license revocation or suspension in another state;

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

Then, upon the basis of the application, such finding and all other information, the commissioner shall make and enter an order denying the application for a license certificate. The denial is final and conclusive subject to appeal. If there is no basis to deny the application, the commissioner shall issue to the applicant the license certificate which shall entitle the licensee to engage in a daily passenger rental car business.

§17A-6D-9. When application to be made; expiration of license certificate; renewal.

(a) The initial application for a license certificate to engage in a daily passenger rental car business shall be made at least thirty days prior to the first day of January, two thousand one. This license shall be valid for one year.

(b) Any initial application made after the first day of January, two thousand one, and any year thereafter, shall expire on the thirty-first day of December of that year.
(c) A license certificate may be renewed by paying the renewal fee and review by the commissioner. Any application for renewal must be received by the commissioner at least thirty days prior to its expiration.

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

§17A-6D-10. Form and display of license certificate; certified copies of license.

(a) The commissioner shall prescribe the form of the license certificate for a daily passenger rental car business. Each license certificate shall have printed on the certificate the seal of the division, the location of each place of business of the licensee, the year for which the license is issued, the license certificate number and any other information the commissioner may prescribe. The license certificate shall be delivered or mailed to the licensee.

(b) When a licensee conducts his or her licensed business at more than one location, he or she shall apply to the commission for a certified copy of the license certificate for each place of business. A fee of one dollar shall be paid for each certified copy of the license certificate. The license certificate is to be conspicuously posted at each place of business.

(c) In the event of the loss or destruction of a license certificate or a certified copy of the license certificate, the licensee shall immediately make application for a certified copy of the license certificate. A fee of one dollar shall be required for a certified copy.

§17A-6D-11. Changes in business; action required.

Every daily passenger rental car business shall notify the commissioner within sixty days from the date on which any of the following changes in the business occur:
(1) A change of the location of any place of business;
(2) A change of the name or trade name under which the licensee engages or will engage in the business;
(3) The death of the licensee or any partner or partners of the licensee;
(4) A change in any partners, officers or directors;
(5) A change in ownership of the business;
(6) A change in the type of legal entity by and through which the licensee engages or will engage in the business; or
(7) The appointment of any trustee in bankruptcy, trustee under an assignment for the benefit of creditors, master or receiver.

When any change specified in subdivision (1), (2), (3), (4), (5) or (6) occurs, an application for a new license certificate shall immediately be filed with the commissioner: Provided, That when a change is made involving subdivision (3) of this section, an application for a new license certificate need not be filed during the balance of the license year if a member of the family of the deceased person succeeds to the interest in the business. Upon receipt and review of the application, a new license certificate shall be issued incorporating the changes. No additional fee for the balance of the license year is required for the issuance of any new license certificate issued as a result of any change specified in this section.

No new license certificate is required for any trustee in bankruptcy, trustee under an assignment for the benefit of creditors, receiver or master, appointed pursuant to law, who shall take charge of or operate such business for the purpose of winding up the affairs of the business or protecting the interests of the creditors of the business.
§17A-6D-12. Investigation; grounds for suspending or revoking a license certificate; notice of refusal, suspension or revocation of license certificate; relinquishing license certificate.

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

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

1. Has failed or refused to comply with the laws of this state relating to the registration and titling of vehicles and the giving of notices of transfers;

2. Has failed or refused to comply with the provisions and requirements of this article and the promulgated rules authorized in section nine, article two of this chapter which were implemented by the commissioner, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to enforce the provisions of this article;

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

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

2. Has habitually defaulted on financial obligations;

3. Has been guilty of any fraudulent act in connection with the license service business;
(4) Has defrauded or is attempting to defraud the state or any political subdivision of the state of any taxes or fees in connection with the sale or transfer of any vehicle;

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

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

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

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

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

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

(d) Whenever the commissioner refuses to issue a license certificate, or revokes a license certificate, he or she shall make and enter an order to that effect and shall cause a copy of the order to be served in person or by certified mail, return receipt requested, on the applicant or licensee.

(e) Suspensions under this section shall continue until the cause of the suspension has been eliminated or corrected. Whenever a license certificate is suspended or revoked, the commissioner shall, in the order of suspension or revocation, direct the licensee to return to the division
his or her license certificate and any other documents specified. It is the duty of the licensee to comply with the order. Whenever a licensee fails or refuses to comply with any order of the commissioner, the commissioner shall proceed as provided in section seven, article nine of this chapter.

(f) Any applicant whose request for a license certificate is refused and any licensee whose license is suspended or revoked may appeal that action in accordance with procedures established by the commissioner. The revocation or suspension of a license certificate does not preclude a person from submitting an application for a new license certificate, to be processed in the same manner. The license certificate shall be issued or refused on the same grounds as any other application for a license certificate, except that any previous suspension and revocation may be considered in deciding whether to issue or refuse the license certificate.

§17A-6D-13. Inspections; violations and penalties.

(a) The commissioner and his agents, acting at the commissioner's request, are hereby authorized to inspect the place of business and pertinent records, documents and papers of any person required to be licensed under the provisions of this article to the extent deemed reasonably necessary to determine compliance with and violations of this article. For the purpose of making an inspection, the commissioner and his agents are authorized, at reasonable times, to enter in and upon the place of business suspected of being in violation of this article.

(b) Any person who violates any provision of this article or any final order of the commissioner or board issued pursuant to this article, shall be guilty of a misdemeanor and the provisions of article eleven of this chapter govern-
ing violations of this chapter shall be fully applicable to
the violation.


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

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

(b) The judgement by the circuit court shall be final
unless reversed, vacated or modified on appeal to the
supreme court of appeals. Any such appeal shall be sought
in the manner and within the time provided by law for
appeals from circuit courts in other civil cases.


The commissioner may promulgate rules in accordance
with article three, chapter twenty-nine-a of this code in
order to effect the provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 2000.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 5th Day of , 2000.

[Signature]
Governor
PRESENTED TO THE
GOVERNOR
Date 3/31/12
Time 1:19 pm