

Senate Bill No. 34

(By Senators Williams and D. Facemire)

[Introduced January 12, 2011; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
the Judiciary.]

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11 A BILL to amend and reenact §11-15-3c of the Code of West Virginia,
12 1931, as amended; to amend and reenact §17A-1-1 of said code;
13 to amend and reenact §17A-3-2 and §17A-3-7 of said code; to
14 amend said code by adding thereto a new section, designated
15 §17A-3-2a; to amend and reenact §17A-3A-2 and §17A-3A-3 of
16 said code; to amend and reenact §17A-6-1 of said code; and to
17 amend and reenact §17A-10-1 and §17A-10-3 of said code, all
18 relating to the sale and use of mini-trucks; authorizing the
19 Division of Motor Vehicles to title, register and establish
20 ownership documentation requirements for mini-trucks;
21 establishing where mini-trucks may be operated; setting forth
22 specific equipment that must be on a mini-truck; permitting
23 annual safety inspections to be waived if certain conditions
24 are met; requiring operators of mini-trucks to have proofs of
25 insurance and financial responsibility; exempting mini-trucks
26 from federal safety and emission standards; requiring sellers

1 to provide to prospective purchasers full disclosure on
 2 whether a mini-truck conforms to certain federal safety and
 3 environmental standards; defining the term "mini-truck";
 4 establishing the registration class and fee for a mini-truck;
 5 and redefining the term "all-terrain vehicle".

6 *Be it enacted by the Legislature of West Virginia:*

7 That §11-15-3c of the Code of West Virginia, 1931, as amended,
 8 be amended and reenacted; that §17A-1-1 of said code be amended and
 9 reenacted; that §17A-3-2 and §17A-3-7 of said code be amended and
 10 reenacted; that said code be amended by adding thereto a new
 11 section, designated §17A-3-2a; that §17A-3A-2 and §17A-3A-3 of said
 12 code be amended and reenacted; that §17A-6-1 of said code be
 13 amended and reenacted; and that §17A-10-1 and §17A-10-3 of said
 14 code be amended and reenacted, all to read as follows:

15 **CHAPTER 11. TAXATION.**

16 **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

17 **§11-15-3c. Imposition of consumers sales tax on motor vehicle**
 18 **sales; rate of tax; use of motor vehicle purchased**
 19 **out of state; definition of sale; definition of**
 20 **motor vehicle; exemptions; collection of tax by**
 21 **Division of Motor Vehicles; dedication of tax to**
 22 **highways; legislative and emergency rules.**

23 (a) Notwithstanding any provision of this article or article
 24 fifteen-a of this chapter to the contrary, beginning on July 1,
 25 2008, all motor vehicle sales to West Virginia residents shall be
 26 subject to the consumers sales tax imposed by this article.

1 (b) *Rate of tax on motor vehicles.* -- Notwithstanding any
2 provision of this article or article fifteen-a of this chapter to
3 the contrary, the rate of tax on the sale and use of a motor
4 vehicle shall be five percent of its sale price, as defined in
5 section two, article fifteen-b of this chapter: *Provided,* That so
6 much of the sale price or consideration as is represented by the
7 exchange of other vehicles on which the tax imposed by this section
8 or section four, article three, chapter seventeen-a of this code
9 has been paid by the purchaser shall be deducted from the total
10 actual sale price paid for the motor vehicle, whether the motor
11 vehicle be new or used.

12 (c) *Motor vehicles purchased out of state.* -- Notwithstanding
13 this article or article fifteen-a of this chapter to the contrary,
14 the tax imposed by this section shall apply to all motor vehicles,
15 used as defined by section one, article fifteen-a of this chapter,
16 within this state, regardless of whether the vehicle was purchased
17 in a state other than West Virginia.

18 (d) *Definition of sale.* -- Notwithstanding any provision of
19 this article or article fifteen-a of this chapter to the contrary,
20 for purposes of this section, "sale", "sales" or "selling" means
21 any transfer or lease of the possession or ownership of a motor
22 vehicle for consideration, including isolated transactions between
23 individuals not being made in the ordinary course of repeated and
24 successive business and also including casual and occasional sales
25 between individuals not conducted in a repeated manner or in the
26 ordinary course of repetitive and successive transactions.

1 (e) *Definition of motor vehicle.* -- For purposes of this
2 section, "motor vehicle" means every propellable device in or upon
3 which any person or property is or may be transported or drawn upon
4 a highway including, but not limited to: Automobiles; buses; motor
5 homes; motorcycles; motorboats; all-terrain vehicles; snowmobiles;
6 low-speed vehicles; mini trucks; trucks, truck tractors and road
7 tractors having a weight of less than fifty-five thousand pounds;
8 trailers, semitrailers, full trailers, pole trailers and converter
9 gear having a gross weight of less than two thousand pounds; and
10 motorboat trailers, fold-down camping trailers, traveling trailers,
11 house trailers and motor homes; except that the term "motor
12 vehicle" does not include: Modular homes, manufactured homes,
13 mobile homes, similar nonmotive propelled vehicles susceptible of
14 being moved upon the highways but primarily designed for habitation
15 and occupancy; devices operated regularly for the transportation of
16 persons for compensation under a certificate of convenience and
17 necessity or contract carrier permit issued by the Public Service
18 Commission; mobile equipment as defined in section one, article
19 one, chapter seventeen-a of this code; special mobile equipment as
20 defined in section one, article one, chapter seventeen-a of this
21 code; trucks, truck tractors and road tractors having a gross
22 weight of fifty-five thousand pounds or more; trailers,
23 semitrailers, full trailers, pole trailers and converter gear
24 having weight of two thousand pounds or greater: *Provided*, That
25 notwithstanding ~~the provisions of~~ section nine, article fifteen,
26 chapter eleven of this code, the exemption from tax under this

1 section for mobile equipment as defined in section one, article
2 one, chapter seventeen-a of this code; special mobile equipment
3 defined in section one, article one, chapter seventeen-a of this
4 code; Class B trucks, truck tractors and road tractors registered
5 at a gross weight of fifty-five thousand pounds or more; and Class
6 C trailers, semitrailers, full trailers, pole trailers and
7 converter gear having weight of two thousand pounds or greater does
8 not subject the sale or purchase of the vehicle to the consumer
9 sales and service tax imposed by section three of this article.

10 (f) *Exemptions.* -- Notwithstanding any other provision of this
11 code to the contrary, the tax imposed by this section shall not be
12 subject to any exemption in this code other than the following:

13 (1) The tax imposed by this section does not apply to any
14 passenger vehicle offered for rent in the normal course of business
15 by a daily passenger rental car business as licensed under ~~the~~
16 ~~provisions of~~ article six-d, chapter seventeen-a of this code. For
17 purposes of this section, a daily passenger car means a motor
18 vehicle having a gross weight of eight thousand pounds or less and
19 is registered in this state or any other state. In lieu of the tax
20 imposed by this section, there is hereby imposed a tax of not less
21 than \$1 nor more than \$1.50 for each day or part of the rental
22 period. The Commissioner of Motor Vehicles shall propose an
23 emergency rule in accordance with ~~the provisions of~~ article three,
24 chapter twenty-nine-a of this code to establish this tax.

25 (2) The tax imposed by this section does not apply where the
26 motor vehicle has been acquired by a corporation, partnership or

1 limited liability company from another corporation, partnership or
2 limited liability company that is a member of the same controlled
3 group and the entity transferring the motor vehicle has previously
4 paid the tax on that motor vehicle imposed by this section. For
5 the purposes of this section, control means ownership, directly or
6 indirectly, of stock or equity interests possessing fifty percent
7 or more of the total combined voting power of all classes of the
8 stock of a corporation or equity interests of a partnership or
9 limited liability company entitled to vote or ownership, directly
10 or indirectly, of stock or equity interests possessing fifty
11 percent or more of the value of the corporation, partnership or
12 limited liability company.

13 (3) The tax imposed by this section does not apply where motor
14 vehicle has been acquired by a senior citizen service organization
15 which is exempt from the payment of income taxes under the United
16 States Internal Revenue Code, ~~Title~~ 26 U.S.C. §501(c)(3) and which
17 is recognized to be a bona fide senior citizen service organization
18 by the Bureau of Senior Services existing under ~~the provisions of~~
19 ~~article five,~~ chapter sixteen of this code.

20 (4) The tax imposed by this section does not apply to any
21 active duty military personnel stationed outside of West Virginia
22 who acquires a motor vehicle by sale within nine months from the
23 date the person returns to this state.

24 (5) The tax imposed by this section does not apply to motor
25 vehicles acquired by registered dealers of this state for resale
26 only.

1 (6) The tax imposed by this section does not apply to motor
2 vehicles acquired by this state or any political subdivision
3 thereof or by any volunteer fire department or duly chartered
4 rescue or ambulance squad organized and incorporated under the laws
5 of this state as a nonprofit corporation for protection of life or
6 property.

7 (7) The tax imposed by this section does not apply to motor
8 vehicles acquired by an urban mass transit authority, as defined in
9 article twenty-seven, chapter eight of this code, or a nonprofit
10 entity exempt from federal and state income tax under the Internal
11 Revenue Code for the purpose of providing mass transportation to
12 the public at large or designed for the transportation of persons
13 and being operated for the transportation of persons in the public
14 interest.

15 (8) The tax imposed by this section does not apply to the
16 registration of a vehicle owned and titled in the name of a
17 resident of this state if the applicant:

18 (A) Was not a resident of this state at the time the applicant
19 purchased or otherwise acquired ownership of the vehicle;

20 (B) Presents evidence as the Commissioner of Motor Vehicles
21 may require of having titled the vehicle in the applicant's
22 previous state of residence;

23 (C) Has relocated to this state and can present such evidence
24 as the Commissioner of Motor Vehicles may require to show bona fide
25 residency in this state; and

26 (D) Makes application to the Division of Motor Vehicles for a

1 title and registration and pays all other fees required by chapter
2 seventeen-a of this code within thirty days of establishing
3 residency in this state as prescribed in subsection (a), section
4 one-a of this article.

5 (9) On and after January 1, 2009, the tax imposed by this
6 section does not apply to Class B trucks, truck tractors and road
7 tractors registered at a gross weight of fifty-five thousand pounds
8 or more or to Class C trailers, semitrailers, full trailers, pole
9 trailers and converter gear having a weight of two thousand pounds
10 or greater. If an owner of a vehicle has previously titled the
11 vehicle at a declared gross weight of fifty-five thousand pounds or
12 more and the title was issued without the payment of the tax
13 imposed by this section, then before the owner may obtain
14 registration for the vehicle at a gross weight less than fifty-five
15 thousand pounds, the owner shall surrender to the commissioner the
16 exempted registration, the exempted certificate of title and pay
17 the tax imposed by this section based upon the current market value
18 of the vehicle.

19 (10) The tax imposed by this section does not apply to
20 vehicles leased by residents of West Virginia. On or after
21 January 1, 2009, a tax is imposed upon the monthly payments for the
22 lease of any motor vehicle leased under a written contract of lease
23 by a resident of West Virginia for a contractually specified
24 continuous period of more than thirty days, which tax is equal to
25 five percent of the amount of the monthly payment, applied to each
26 payment, and continuing for the entire term of the initial lease

1 period. The tax shall be remitted to the Division of Motor
2 Vehicles on a monthly basis by the lessor of the vehicle. Leases
3 of thirty days or less are taxable under ~~the provisions of this~~
4 article and article fifteen-a of this chapter without reference to
5 this section.

6 (g) *Division of Motor Vehicles to collect.* -- Notwithstanding
7 any provision of this article, article fifteen-a and article ten of
8 this chapter to the contrary, the Division of Motor Vehicles shall
9 collect the tax imposed by this section: *Provided,* That such tax
10 is imposed upon the monthly payments for the lease of any motor
11 vehicle leased by a resident of West Virginia, which tax is equal
12 to five percent of the amount of the monthly payment, applied to
13 each payment, and continuing for the entire term of the initial
14 lease period. The tax shall be remitted to the Division of Motor
15 Vehicles on a monthly basis by the lessor of the vehicle.

16 (h) *Dedication of tax to highways.* -- Notwithstanding any
17 provision of this article or article fifteen-a of this chapter to
18 the contrary, all taxes collected pursuant to this section, after
19 deducting the amount of any refunds lawfully paid, shall be
20 deposited in the State Road Fund in the State Treasury and expended
21 by the Commissioner of Highways for design, maintenance and
22 construction of roads in the state highway system.

23 (i) *Legislative rules; emergency rules.* -- Notwithstanding any
24 provision of this article, ~~article fifteen-a and article ten~~
25 article ten and article fifteen-a of this chapter to the contrary,
26 the Commissioner of Motor Vehicles shall promulgate legislative

1 rules explaining and implementing this section, which rules shall
 2 be promulgated in accordance with ~~the provisions of~~ article three,
 3 chapter twenty-nine-a of this code and should include a minimum
 4 taxable value and set forth instances when a vehicle is to be taxed
 5 at fair market value rather than its purchase price. The authority
 6 to promulgate rules includes authority to amend or repeal those
 7 rules. If proposed legislative rules for this section are filed in
 8 the state Register before June 15, 2008, those rules may be
 9 promulgated as emergency legislative rules as provided in article
 10 three, chapter twenty-nine-a of this code.

11 (j) Notwithstanding any other provision of this code,
 12 effective January 1, 2009, no municipal sales or use tax or local
 13 sales or use tax or special downtown redevelopment district excise
 14 tax or special district excise tax shall be imposed under article
 15 twenty-two, chapter seven of this code or article thirteen, chapter
 16 eight of this code or article thirteen-b of said chapter or article
 17 thirty-eight of said chapter or any other provision of this code,
 18 except this section, on sales of motor vehicles as defined in this
 19 article or on any tangible personal property excepted or exempted
 20 from tax under this section. Nothing in this subsection shall be
 21 construed to prevent the application of the municipal business and
 22 occupation tax on motor vehicle retailers and leasing companies.

23 **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**
 24 **CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

25 **ARTICLE 1. WORDS AND PHRASES DEFINED.**

26 **§17A-1-1. Definitions.**

1 Except as otherwise provided in this chapter, the following
2 words and phrases, when used in this chapter, shall have the
3 meanings respectively ascribed to them in this article:

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

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

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

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

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

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

1 load so drawn.

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

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

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

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

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

19 (l) "Pole trailer" means every vehicle without motive power
20 designed to be drawn by another vehicle and attached to the towing
21 vehicle by means of a reach, or pole, or by being boomed or
22 otherwise secured to the towing vehicle and ordinarily used for
23 transporting long or irregularly shaped loads such as poles, pipes
24 or structural members capable, generally, of sustaining themselves
25 as beams between the supporting connections.

26 (m) "Specially constructed vehicles" means every vehicle of a

1 type required to be registered hereunder not originally constructed
2 under a distinctive name, make, model or type by a generally
3 recognized manufacturer of vehicles and not materially altered from
4 its original construction.

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

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

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

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

25 (r) "Special mobile equipment" means every self-propelled
26 vehicle not designed or used primarily for the transportation of

1 persons or property and incidentally operated or moved over the
2 highways, including, without limitation, road construction or
3 maintenance machinery, ditch-digging apparatus, stone crushers, air
4 compressors, power shovels, graders, rollers, well-drillers, wood-
5 sawing equipment, asphalt spreaders, bituminous mixers, bucket
6 loaders, ditchers, leveling graders, finishing machines, motor
7 graders, road rollers, scarifiers, earth-moving carryalls,
8 scrapers, drag lines, rock-drilling equipment and earth-moving
9 equipment. The foregoing enumeration shall be deemed partial and
10 may not operate to exclude other such vehicles which are within the
11 general terms of this subdivision.

12 (s) "Pneumatic tire" means every tire in which compressed air
13 is designed to support the load.

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

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

20 (v) "Commissioner" means the Commissioner of Motor Vehicles of
21 this state.

22 (w) "Division" means the Division of Motor Vehicles of this
23 state acting directly or through its duly authorized officers and
24 agents.

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

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

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

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

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

25 (cc) "Licensed dealer" or "licensed dealers" is a general term
26 meaning, depending upon the context in which used, either a new

1 motor vehicle dealer, used motor vehicle dealer, house trailer
2 dealer, trailer dealer, recreational vehicle dealer or motorcycle
3 dealer, or all of the dealers or a combination thereof, licensed
4 under the provisions of article six of this chapter.

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

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

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

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

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

1 (ii) ~~"All-terrain vehicle" (ATV) means any motor vehicle~~
2 ~~designed for off-highway use having a seat or saddle designed to be~~
3 ~~straddled by the operator and handlebars for steering control.~~
4 "All-terrain vehicle" or "ATV" means any motor vehicle, fifty-two
5 inches or less in width, having an unladen weight of eight hundred
6 pounds or less, traveling on three or more low pressure tires with
7 a seat designed to be straddled by the rider, designed for or
8 capable of travel over unimproved terrain.

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

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

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

1 truck chassis with a cab constructed by the chassis manufacturer.

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

6 (nn) "Recreational vehicle" means a motorboat, motorboat
7 trailer, all-terrain vehicle, travel trailer, fold down camping
8 trailer, motor home or snowmobile.

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

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

17 (qq) "Manufactured home" has the same meaning as the term is
18 defined in section two, article nine, chapter twenty-one of this
19 code which meets the federal Manufactured Housing Construction and
20 Safety Standards Act of 1974 (42 U.S.C. §5401, *et seq.*), effective
21 on June 15, 1976, and the federal manufactured home construction
22 and safety standards and regulations promulgated by the secretary
23 of the United States department of housing and urban development.

24 (rr) "Mobile home" means a transportable structure that is
25 wholly, or in substantial part, made, fabricated, formed or
26 assembled in manufacturing facilities for installation or assembly

1 and installation on a building site and designed for long-term
2 residential use and built prior to enactment of the federal
3 Manufactured Housing Construction and Safety Standards Act of 1974
4 (42 U. S. C. §5401, *et seq.*), effective on June 15, 1976, and
5 usually built to the voluntary industry standard of the American
6 national standards institute (ANSI) -- A119.1 standards for mobile
7 homes.

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

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

23 (uu) "Low-speed vehicle" means a four-wheeled motor vehicle
24 whose attainable speed in one mile on a paved level surface is more
25 than twenty miles per hour but not more than twenty-five miles per
26 hour and meets the requirements of subsection (a), section two-a,

1 article three of this chapter.

2 (vv) "Mini truck" means an imported truck manufactured for use
3 in Japan or another foreign country typically weighing less than
4 two thousand pounds, powered by an internal combustion engine with
5 a piston or rotor displacement of one thousand cubic centimeters or
6 less, sixty-seven inches or less in width, with an unladen dry
7 weight of three thousand four hundred pounds or less traveling on
8 four or more tires equipped with a bed or compartment for hauling
9 and having an enclosed passenger cab with a bench seat and a
10 steering wheel.

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

13 **§17A-3-2. Every motor vehicle, etc., subject to registration and**
14 **certificate of title provisions; exceptions.**

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

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

24 (2) Any implement of husbandry upon which is securely attached
25 a machine for spraying fruit trees and plants of the owner or
26 lessee or for any other implement of husbandry which is used

1 exclusively for agricultural or horticultural purposes on lands
2 owned or leased by the owner of the implement and which is not
3 operated on or over any public highway of this state for any other
4 purpose other than for the purpose of operating it across a highway
5 or along a highway other than an expressway as designated by the
6 commissioner of the Division of Highways from one point of the
7 owner's land to another part of the owner's land, irrespective of
8 whether or not the tracts adjoin: *Provided*, That the distance
9 between the points may not exceed thirty-five miles, or for the
10 purpose of taking it or other fixtures attached to the implement,
11 to and from a repair shop for repairs. The exemption in this
12 subdivision from registration and license requirements also applies
13 to any vehicle described in this subsection or to any farm trailer
14 owned by the owner or lessee of the farm on which the trailer is
15 used, when the trailer is used by the owner of the trailer for the
16 purpose of moving farm produce and livestock from the farm along a
17 public highway for a distance not to exceed thirty-five miles to a
18 storage house or packing plant, when the use is a seasonal
19 operation:

20 (A) The exemptions contained in this section also apply to
21 farm machinery, tractors and mini-trucks: *Provided*, That the
22 machinery, tractors and mini-trucks may use the highways in going
23 from one tract of land to another tract of land regardless of
24 whether the land is owned by the same or different persons. For
25 the purposes of this section, mini-truck means a foreign-
26 manufactured import or domestic-manufactured vehicle designed

1 primarily for off-road use and powered by an engine ranging in size
2 from 550cc to 660cc and weighing approximately one thousand eight
3 hundred pounds;

4 (B) Any vehicle exempted under this subsection from the
5 requirements of annual registration certificate and license plates
6 and fees for the registration certificate and license plate may not
7 use the highways between sunset and sunrise unless the vehicle is
8 classified as a Class A motor vehicle with a farm-use exemption
9 under the provisions of section one, article ten of this chapter
10 and has a valid and current inspection sticker as required by the
11 provisions of article sixteen, chapter seventeen-c of this code and
12 is traveling from one tract of land to another over a distance of
13 thirty-five miles or less;

14 (C) Any vehicle exempted under this section from the
15 requirements of annual registration certificate and license plates
16 may use the highways as provided in this section whether the exempt
17 vehicle is self-propelled, towed by another exempt vehicle or towed
18 by another vehicle required to be registered;

19 (D) Any vehicle used as an implement of husbandry exempt under
20 this section shall have the words "farm use" affixed to both sides
21 of the implement in ten-inch letters. Any vehicle which would be
22 subject to registration as a Class A or B vehicle if not exempted
23 by this section shall display a farm-use exemption certificate on
24 the lower driver's side of the windshield:

25 (i) The farm-use exemption certificate shall be provided by
26 the commissioner and shall be issued annually by the assessor of

1 the applicant's county of residence. The assessor shall issue a
2 farm-use exemption certificate to the applicant upon his or her
3 determination pursuant to an examination of the property books or
4 documentation provided by the applicant that the vehicle has been
5 properly assessed as Class I personal property. Nothing in this
6 section or any rule promulgated under the authority of chapter
7 twenty-nine-a of this code may be construed to require any
8 applicant for a renewal of a farm use exemption certificate to
9 appear personally before any assessor. The assessor shall charge
10 a fee of two dollars for each certificate, which shall be retained
11 by the assessor;

12 (ii) A farm-use exemption certificate shall not exempt the
13 applicant from maintaining the security required by chapter
14 seventeen-d of this code on any vehicle being operated on the roads
15 or highways of this state;

16 (iii) No person charged with the offense of operating a
17 vehicle without a farm-use exemption certificate, if required under
18 this section, may be convicted of the offense if he or she produces
19 in court, or in the office of the arresting officer, a valid farm-
20 use exemption certificate for the vehicle in question within five
21 days;

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

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

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

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

9 (7) Any special mobile equipment as defined in subsection (r),
10 section one, article one of this chapter.

11 (b) Notwithstanding the provisions of subsection (a) of this
12 section:

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

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

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

18 ~~(c) The division shall title and register low speed vehicles~~
19 ~~if the manufacturer's certificate of origin clearly identifies the~~
20 ~~vehicle as a low speed vehicle. The division may not title or~~
21 ~~register homemade low speed vehicles or retrofitted golf carts and~~
22 ~~such vehicles do not qualify as low speed vehicles in this state.~~
23 ~~In addition to all other motor vehicle laws and regulations, except~~
24 ~~as specifically exempted below, low speed vehicles are subject to~~
25 ~~the following restrictions and requirements:~~

26 ~~(1) Low speed vehicles shall only be operated on private roads~~

1 ~~and on public roads and streets within the corporate limits of a~~
2 ~~municipality where the speed limit is not more than twenty five~~
3 ~~miles per hour;~~

4 ~~—— (2) Notwithstanding any provisions in this code to the~~
5 ~~contrary, low speed vehicles shall meet the requirements of 49~~
6 ~~C.F.R. §571.500 (2003);~~

7 ~~—— (3) In lieu of annual inspection, the owner of a low speed~~
8 ~~vehicle shall, upon initial application for registration and each~~
9 ~~renewal thereafter, certify under penalty of false swearing, that~~
10 ~~all lights, brakes, tires and seat belts are in good working~~
11 ~~condition; and~~

12 ~~—— (4) Any person operating a low speed vehicle must hold a valid~~
13 ~~driver's license, not an instruction permit.~~

14 **§17A-3-2a. Restricted Use Motor Vehicles.**

15 (a) The division may title and register low-speed vehicles if
16 the manufacturer's certificate of origin clearly identifies the
17 vehicle as a low-speed vehicle. The division may not title or
18 register homemade low-speed vehicles or retrofitted golf carts and
19 such vehicles do not qualify as low-speed vehicles in this state.

20 In addition to all other motor vehicle laws and regulations, except
21 as specifically exempted below, low-speed vehicles are subject to
22 the following restrictions and requirements:

23 (1) Low-speed vehicles may only be operated on private roads
24 and on public roads and streets within the corporate limits of a
25 municipality where the speed limit is not more than twenty-five
26 miles per hour;

1 (2) Notwithstanding any provisions in this code to the
2 contrary, low-speed vehicles shall meet the requirements of 49
3 C.F.R. §571.500 (2003);

4 (3) In lieu of annual inspection, the owner of a low-speed
5 vehicle shall, upon initial application for registration and each
6 renewal thereafter, certify under penalty of false swearing, that
7 all lights, brakes, tires and seat belts are in good working
8 condition; and

9 (4) Any person operating a low-speed vehicle must hold a valid
10 driver's license, not an instruction permit;

11 (b) The division may title and register mini trucks as defined
12 in section one of this chapter upon appropriate application. In
13 addition to all other motor vehicle and traffic laws and
14 regulations mini trucks are subject to the following restrictions
15 and requirements:

16 (1) Mini trucks may be operated on any road with a posted
17 speed limit of fifty-five miles per hour or less, other than a
18 limited or controlled access highway;

19 (2) Mini trucks shall, at minimum, be equipped with head
20 lamps, tail lamps, turn signals, horn, seat belts, at least one
21 rear view mirror on each side, front and rear bumpers and doors
22 with functioning handle locks that meet the same specifications
23 required of any passenger vehicle;

24 (3) In lieu of annual inspection, the owner of a mini truck
25 shall, upon initial application for registration and upon each
26 renewal thereafter, certify under penalty of false swearing, that

1 all safety equipment is good working condition;

2 (4) The owner or registrant of a mini truck shall maintain the
3 proof of financial responsibility required under section two,
4 article four, chapter seventeen-d of this code at all times during
5 the registration period and shall carry current proof of insurance
6 coverage whenever the vehicle is operated on the roads and highways
7 within this state; and

8 (5) A person may not operate a mini truck unless he or she has
9 a valid driver's license.

10 **§17A-3-7. Grounds for refusing registration or certificate of**
11 **title.**

12 The division shall refuse registration or issuance of a
13 certificate of title or any transfer of registration upon any of
14 the following grounds:

15 (1) That the application contains any false or fraudulent
16 statement or that the applicant has failed to furnish required
17 information or reasonable additional information requested by the
18 division or that the applicant is not entitled to the issuance of
19 a certificate of title or registration of the vehicle under this
20 chapter;

21 (2) That the applicant fails to present a statement of
22 insurance or proof of other security as required pursuant to ~~the~~
23 ~~provisions of~~ section three of this article;

24 (3) That the vehicle is mechanically unfit or unsafe to be
25 operated or moved upon the highways, except that a mini truck as
26 defined in section one, article one of this chapter and operated in

1 accordance with section two-a, article three of this chapter may be
2 titled and registered without regard to federal safety or emission
3 standards;

4 (4) That the division has reasonable grounds to believe that
5 the vehicle is a stolen or embezzled vehicle or that the granting
6 of registration or the issuance of certificate of title would
7 constitute a fraud against the rightful owner or other person
8 having a valid lien upon such vehicle;

9 (5) That the registration of the vehicle stands suspended or
10 revoked for any reason as provided in the motor vehicle laws of
11 this state;

12 (6) That the required fee has not been paid; or

13 (7) That the vehicle is operated by a commercial motor carrier
14 who has failed to provide a federal motor carrier identification
15 number (USDOT number) or whose authority to operate in interstate
16 commerce has been denied or suspended by the federal Motor Carrier
17 Safety Administration.

18 **ARTICLE 3A. VEHICLE COMPLIANCE WITH FEDERAL CLEAN AIR STANDARDS**

19 **AND VEHICLE SAFETY.**

20 **§17A-3A-2. Consumer disclosure.**

21 (a) Before a motor vehicle not originally manufactured in
22 accordance with the laws and regulations of the United States Clean
23 Air Act and the Motor Vehicle Safety Act can be sold to a consumer
24 in this state, the seller must provide the purchaser with full
25 written disclosure of all modifications performed to the vehicle.
26 This disclosure consists of a description phrased in terms

1 reasonably understandable to a consumer with no specialized
2 technical training, accompanied by a copy of the technical
3 submissions made to the environmental protection agency and
4 Department of Transportation in order to obtain certification of
5 compliance. Failure to make this disclosure renders the sale
6 voidable.

7 (b) Before a mini truck can be sold, traded or transferred in
8 this state, the seller must provide the prospective purchaser with
9 full written disclosure concerning:

10 (1) Whether the vehicle was manufactured in accordance with
11 federal motor vehicle safety standards;

12 (2) Whether the vehicle conforms to federal motor vehicle
13 safety standards and the federal environmental standards and
14 whether the vehicle could ever be modified to meet those federal
15 standards; and

16 (3) The use or registration of the vehicle may not be
17 permitted in other states or jurisdictions.

18 **§17A-3A-3. Certificates of title.**

19 (a) Before any imported vehicle which has not previously been
20 titled or registered in the United States may be titled in this
21 state, the applicant must submit: (1) A manufacturer's certificate
22 of origin issued by the actual vehicle manufacturer together with
23 a notarized translation thereof; or (2) the documents constituting
24 valid proof of ownership by an individual owner or exporter and
25 evidencing a change of such ownership to the applicant, together
26 with a notarized translation of any document; or (3) with regard to

1 vehicles imported from countries which cancel the vehicle
 2 registration and title for export, the documents assigned to such
 3 vehicle after the registration and title have been canceled,
 4 together with a notarized translation thereof, and proof
 5 satisfactory to the division that the motor vehicle complies with
 6 the United States Clean Air Act and the Motor Vehicle Safety Act.

7 (b) ~~In the event that~~ If the documents submitted as required
 8 by subsection (a) of this section do not name as owner the current
 9 applicant for a certificate of title, the applicant must also
 10 submit reliable proof of a chain of title. For those countries
 11 which utilize documents of registration rather than a certificate
 12 of title, proof of a chain of title for purposes of this subsection
 13 shall be accomplished by presenting the change of ownership
 14 certificate referred to in subsection (a) of this section.

15 (c) Mini-trucks, as defined in section one, article one of
 16 this chapter, are exempt from the requirements of this section. The
 17 division shall establish minimum documentation requirements to
 18 establish vehicle identity and its ownership.

19 **ARTICLE 6. LICENSING OF DEALERS AND WRECKERS OR DISMANTLERS;**

20 **SPECIAL PLATES; TEMPORARY PLATES OR MARKERS.**

21 **§17A-6-1. Definitions.**

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

24 (1) "New motor vehicle dealer" means every person (other than
 25 agents and employees, if any, while acting within the scope of

1 their authority or employment), engaged in, or held out to the
2 public to be engaged in, the business in this state of selling five
3 or more new motor vehicles or new and used motor vehicles in any
4 fiscal year of a type required to be registered under the
5 provisions of this chapter, except, for the purposes of this
6 article only, motorcycles.

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

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

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

25 (5) "Motorcycle dealer" means every person (other than agents
26 and employees, if any, while acting within the scope of their

1 authority or employment), engaged in, or held out to the public to
2 be engaged in, the business in this state of selling new or used
3 motorcycles.

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

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

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

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

25 (10) "House trailers" means all trailers designed and used for
26 human occupancy on a continual nonrecreational basis, but may not

1 include fold down camping and travel trailers, mobile homes or
2 manufactured homes.

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

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

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

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

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

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

25 (17) "Established place of business" means, in the case of a
26 new motor vehicle dealer, a permanent location, not a temporary

1 stand or other temporary quarters, owned or leased by the licensee
2 or applicant and actually occupied or to be occupied by him or her,
3 as the case may be, which is or is to be used exclusively for the
4 purpose of selling new motor vehicles or new and used motor
5 vehicles, which shall have space under roof for the display of at
6 least one new motor vehicle and facilities and space therewith for
7 the servicing and repair of at least one motor vehicle, which
8 servicing and repair facilities and space is adequate and suitable
9 to carry out servicing and to make repairs necessary to keep and
10 carry out all representations, warranties and agreements made or to
11 be made by the dealer with respect to motor vehicles sold by him or
12 her, which is easily accessible to the public, which conforms to
13 all applicable laws of this state and the ordinances of the
14 municipality in which it is located, if any, which displays thereon
15 at least one permanent sign, clearly visible from the principal
16 public street or highway nearest the location and clearly stating
17 the business which is or shall be conducted thereat, and which has
18 adequate facilities to keep, maintain and preserve records, papers
19 and documents necessary to carry on the business and to make the
20 business available to inspection by the commissioner at all
21 reasonable times: *Provided*, That each established place of
22 business shall have a display area which may be outside or inside
23 or a combination thereof of at least twelve hundred square feet
24 which is to be used exclusively for the display of vehicles which
25 are offered for sale by the dealer, office space of at least one
26 hundred forty-four square feet and a telephone listed in the name

1 of the dealership. Each established place of business shall be
2 open to the public a minimum of twenty hours per week at least
3 forty weeks per calendar year with at least ten of those hours
4 being between the hours of nine thirty a.m. and eight thirty p.m.,
5 Monday through Saturday: *Provided, however,* That the requirement
6 of exclusive use is met even though: (A) Some new and any used
7 motor vehicles sold or to be sold by the dealer or sold or are to
8 be sold at a different location or locations not meeting the
9 definition of an established place of business of a new motor
10 vehicle dealer, if each location is or is to be served by other
11 facilities and space of the dealer for the servicing and repair of
12 at least one motor vehicle, adequate and suitable as aforesaid, and
13 each location used for the sale of some new and any used motor
14 vehicles otherwise meets the definition of an established place of
15 business of a used motor vehicle dealer; (B) house trailers,
16 trailers or motorcycles are sold or are to be sold thereat, if,
17 subject to the provisions of section five of this article, a
18 separate license certificate is obtained for each type of vehicle
19 business, which license certificate remains unexpired, unsuspended
20 and unrevoked; (C) farm machinery is sold thereat; (D) accessory,
21 gasoline and oil, or storage departments are maintained thereat, if
22 the departments are operated for the purpose of furthering and
23 assisting in the licensed business or businesses; and (E) the
24 established place of business has an attached single residential
25 rental unit with an outside separate entrance and occupied by a
26 person or persons with no financial or operational interest in the

1 dealership where the established place of business has space under
2 roof for the display of at least three new motor vehicles and
3 facilities and space therewith for the concurrent servicing and
4 repair of at least two motor vehicles and otherwise meets the
5 requirements set forth in this subdivision.

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

8 (19) "Established place of business," in the case of a used
9 motor vehicle dealer, means a permanent location, not a temporary
10 stand or other temporary quarters, owned or leased by the licensee
11 or applicant and actually occupied or to be occupied by him or her,
12 as the case may be, which is or is to be used exclusively for the
13 purpose of selling used motor vehicles, which shall have facilities
14 and space therewith for the servicing and repair of at least one
15 motor vehicle, which servicing and repair facilities and space
16 shall be adequate and suitable to carry out servicing and to make
17 repairs necessary to keep and carry out all representations,
18 warranties and agreements made or to be made by the dealer with
19 respect to used motor vehicles sold by him or her, which is easily
20 accessible to the public, conforms to all applicable laws of this
21 state, and the ordinances of the municipality in which it is
22 located, if any, which displays thereon at least one permanent
23 sign, clearly visible from the principal public street or highway
24 nearest the location and clearly stating the business which is or
25 shall be conducted thereat, and which has adequate facilities to
26 keep, maintain and preserve records, papers and documents necessary

1 to carry on the business and to make the business available to
2 inspection by the commissioner at all reasonable times: *Provided,*
3 That each established place of business shall have a display area
4 which may be outside or inside or a combination thereof of at least
5 twelve hundred square feet which is to be used exclusively for the
6 display of vehicles which are offered for sale by the dealer,
7 office space of at least one hundred forty-four square feet and a
8 telephone listed in the name of the dealership. Each established
9 place of business shall be open to the public a minimum of twenty
10 hours per week at least forty weeks per calendar year with at least
11 ten of those hours being between the hours of nine thirty a.m. and
12 eight thirty p.m., Monday through Saturday: *Provided, however,*
13 That if a used motor vehicle dealer has entered into a written
14 agreement or agreements with a person or persons owning or
15 operating a servicing and repair facility or facilities adequate
16 and suitable as aforesaid, the effect of which agreement or
17 agreements is to provide the servicing and repair services and
18 space in like manner as if the servicing and repair facilities and
19 space were located in or on the dealer's place of business, then,
20 so long as the agreement or agreements are in effect, it is not
21 necessary for the dealer to maintain the servicing and repair
22 facilities and space at the place of business in order for the
23 place of business to be an established place of business as herein
24 defined: *Provided further,* That the requirement of exclusive use
25 is met even though: (A) House trailers, trailers or motorcycles
26 are sold or are to be sold thereat, if, subject to the provisions

1 of section five of this article, a separate license certificate is
2 obtained for each type of vehicle business, which license
3 certificate remains unexpired, unsuspended and unrevoked; (B) farm
4 machinery is sold thereat; (C) accessory, gasoline and oil, or
5 storage departments are maintained thereat, if the departments are
6 operated for the purpose of furthering and assisting in the
7 licensed business or businesses; and (D) the established place of
8 business has an attached single residential rental unit with an
9 outside separate entrance and occupied by a person or persons with
10 no financial or operational interest in the dealership where the
11 established place of business has space under roof for the display
12 of at least three motor vehicles and facilities and space therewith
13 for the concurrent servicing and repair of at least two motor
14 vehicles and otherwise meets the requirements set forth herein.

15 (20) "Established place of business," in the case of a house
16 trailer dealer, trailer dealer, recreational vehicle dealer,
17 motorcycle dealer, used parts dealer and wrecker or dismantler,
18 means a permanent location, not a temporary stand or other
19 temporary quarters, owned or leased by the licensee or applicant
20 and actually occupied or to be occupied by the licensee, as the
21 case may be, which is easily accessible to the public, which
22 conforms to all applicable laws of this state and the ordinances of
23 the municipality in which it is located, if any, which displays
24 thereon at least one permanent sign, clearly visible from the
25 principal public street or highway nearest the location and clearly
26 stating the business which is or shall be conducted thereat, and

1 which has adequate facilities to keep, maintain and preserve
2 records, papers and documents necessary to carry on the business
3 and to make the business available to inspection by the
4 commissioner at all reasonable times.

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

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

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

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

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

26 (26) ~~"All-terrain vehicle" (ATV) means any motor vehicle~~

~~1 designed for off-highway use and designed to travel on not less
2 than three low pressure tires and designed for operator use only
3 with no passengers, having a seat or saddle designed to be
4 straddled by the operator, and handlebars for steering control and
5 intended by the manufacturer to be used by a single operator or by
6 an operator and no more than one passenger "All-terrain vehicle" or
7 "ATV" means any motor vehicle, fifty-two inches or less in width,
8 having an unladen weight of eight hundred pounds or less, traveling
9 on three or more low pressure tires with a seat designed to be
10 straddled by the rider, designed for or capable of travel over
11 unimproved terrain.~~

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

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

22 (29) "Motor home" means every vehicle, designed to provide
23 temporary living quarters, built into an integral part of or
24 permanently attached to a self-propelled motor vehicle, chassis or
25 van including: (1) Type A motor home built on an incomplete truck
26 chassis with the truck cab constructed by the second stage

1 manufacturer; (2) Type B motor home consisting of a van-type
2 vehicle which has been altered to provide temporary living
3 quarters; and (3) Type C motor home built on an incomplete van or
4 truck chassis with a cab constructed by the chassis manufacturer.

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

9 (31) "Recreational vehicle" means a motorboat, motorboat
10 trailer, all-terrain vehicle, travel trailer, fold down camping
11 trailer, motor home, mini truck, snowmobile or utility-terrain
12 vehicle.

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

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

20 (34) "Manufactured home" has the same meaning as the term is
21 defined in section two, article nine, chapter twenty-one of this
22 code which meets the National Manufactured Housing Construction and
23 Safety Standards Act of 1974 (42 U.S.C. §5401 et seq.), effective
24 on June 15, 1976, and the federal manufactured home construction
25 and safety standards and regulations promulgated by the secretary
26 of the United States department of housing and urban development.

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

8 (36) "Utility terrain vehicle" means any motor vehicle with
9 four or more low-pressure tires designed for off-highway use having
10 bench or bucket seating for each occupant and a steering wheel for
11 control.

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

26 (c) It is recognized that throughout this code the term

1 "trailer" or "trailers" is used to include, among other types of
 2 trailers, house trailers. It is also recognized that throughout
 3 this code the term "trailer" or "trailers" is seldom used to
 4 include semitrailers or pole trailers. However, for the purposes
 5 of this article only, the term "trailers" has the meaning ascribed
 6 to it in subsection (a) of this section.

7 **ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.**

8 **§17A-10-1. Classification of vehicles for purpose of registration.**

9 Vehicles subject to registration under ~~the provisions of this~~
 10 chapter shall be placed in the following classes for the purpose of
 11 registration:

12 Class A. Motor vehicles of passenger type and trucks with a
 13 gross weight of not more than eight thousand pounds;

14 Class B. Motor vehicles designated as trucks with a gross
 15 weight of more than eight thousand pounds, truck tractors or road
 16 tractors;

17 Class C. All trailers and semitrailers, except house trailers
 18 and trailers or semitrailers designed to be drawn by Class A motor
 19 vehicles and having a gross weight of less than two thousand
 20 pounds;

21 Class G. Motorcycles and parking enforcement vehicles;

22 Class H. Motor vehicles operated regularly for the
 23 transportation of persons for compensation under a certificate of
 24 convenience and necessity or contract carrier permit issued by the
 25 Public Service Commission;

26 Class J. Motor vehicles operated for transportation of

1 persons for compensation by common carriers, not running over a
2 regular route or between fixed termini;

3 Class M. Mobile equipment as defined in subdivision (oo),
4 section one, article one of this chapter;

5 Class MT. Mini Trucks as defined in subsection (vv), section
6 one, article one of this chapter;

7 Class R. House trailers;

8 Class T. Trailers or semitrailers of a type designed to be
9 drawn by Class A vehicles and having a gross weight of less than
10 two thousand pounds; and

11 Class X Farm Truck. Motor vehicles designated as trucks
12 having a minimum gross weight of more than eight thousand pounds
13 and a maximum gross weight of eighty thousand pounds, used
14 exclusively in the conduct of a farming business, engaged in the
15 production of agricultural products by means of: (a) The planting,
16 cultivation and harvesting of agricultural, horticultural,
17 vegetable or other products of the soil; or (b) the raising,
18 feeding and care of livestock, poultry, bees and dairy cattle. A
19 farm truck may be used only for the transportation of agricultural
20 products produced by the owner of the truck, for the transportation
21 of agricultural supplies used in the production or for private
22 passenger use.

23 **§17A-10-3. Registration fees for vehicles equipped with pneumatic**
24 **tires.**

25 The following registration fees for the classes indicated

1 shall be paid to the division for the registration of vehicles
2 subject to registration under this chapter when equipped with
3 pneumatic tires:

4 (a) Registration fees for the following classes shall be paid
5 to the division annually:

6 (1) *Class A.* -- The registration fee for all motor vehicles of
7 this class is \$28.50: *Provided,* That the registration fees and any
8 other fees required by this chapter for Class A vehicles under the
9 optional biennial staggered registration system shall be multiplied
10 by two and paid biennially to the division.

11 ~~No~~ A license fee may not be charged for vehicles owned by
12 churches, or by trustees for churches, which are regularly used for
13 transporting parishioners to and from church services.
14 Notwithstanding the exemption, the certificate of registration and
15 license plates shall be obtained the same as other cards and plates
16 under this article.

17 (2) *Class B.* -- The registration fee for all motor vehicles of
18 this class is as follows:

19 (A) For declared gross weights of eight thousand one pounds to
20 sixteen thousand pounds -- \$28 plus \$5 for each one thousand pounds
21 or fraction of one thousand pounds that the gross weight of the
22 vehicle or combination of vehicles exceeds eight thousand pounds.

23 (B) For declared gross weights greater than sixteen thousand
24 pounds, but less than fifty-five thousand pounds -- \$78.50 plus \$10
25 for each one thousand or fraction of one thousand pounds that the
26 gross weight of the vehicle or combination of vehicles exceeds

1 sixteen thousand pounds.

2 (C) For declared gross weights of fifty-five thousand pounds
3 or more -- \$737.50 plus \$15.75 for each one thousand pounds or
4 fraction of one thousand pounds that the gross weight of the
5 vehicle or combination of vehicles exceeds fifty-five thousand
6 pounds.

7 (3) *Class G.* -- The registration fee for each motorcycle or
8 parking enforcement vehicle is \$8: *Provided,* That the registration
9 fee and any other fees required by this chapter for Class G
10 vehicles shall be for at least one year and under an optional
11 biennial registration system the annual fee shall be multiplied by
12 two and paid biennially to the division.

13 (4) *Class H.* -- The registration fee for all vehicles for this
14 class operating entirely within the state is \$5; and for vehicles
15 engaged in interstate transportation of persons, the registration
16 fee is the amount of the fees provided by this section for Class B,
17 reduced by the amount that the mileage of the vehicles operated in
18 states other than West Virginia bears to the total mileage operated
19 by the vehicles in all states under a formula to be established by
20 the Division of Motor Vehicles.

21 (5) *Class J.* -- The registration fee for all motor vehicles of
22 this class is \$85. Ambulances and hearses used exclusively as
23 ambulances and hearses are exempt from the special fees set forth
24 in this section.

25 (6) *Class M.* -- The registration fee for all vehicles of this
26 class is \$17.50.

1 (7) Class MT. -- The registration fee for all vehicles of this
2 class is \$28.50.

3 ~~(7)~~ (8) Class X farm truck. -- The registration fee for all
4 motor vehicles of this class is as follows:

5 (A) For farm trucks of declared gross weights of eight
6 thousand one pounds to sixteen thousand pounds -- \$30.

7 (B) For farm trucks of declared gross weights of sixteen
8 thousand one pounds to twenty-two thousand pounds -- \$60.

9 (C) For farm trucks of declared gross weights of twenty-two
10 thousand one pounds to twenty-eight thousand pounds -- \$90.

11 (D) For farm trucks of declared gross weights of twenty-eight
12 thousand one pounds to thirty-four thousand pounds -- \$115.

13 (E) For farm trucks of declared gross weights of thirty-four
14 thousand one pounds to forty-four thousand pounds -- \$160.

15 (F) For farm trucks of declared gross weights of forty-four
16 thousand one pounds to fifty-four thousand pounds -- \$205.

17 (G) For farm trucks of declared gross weights of fifty-four
18 thousand one pounds to eighty thousand pounds -- \$250: *Provided,*
19 ~~That the provisions of~~ subsection (a), section eight, article one,
20 chapter seventeen-e of this code does not apply if the vehicle
21 exceeds sixty-four thousand pounds and is a truck tractor or road
22 tractor.

23 (b) Registration fees for the following classes shall be paid
24 to the division for a maximum period of three years, or portion of
25 a year based on the number of years remaining in the three-year
26 period designated by the commissioner:

1 (1) *Class R.* -- The annual registration fee for all vehicles
2 of this class is \$12.

3 (2) *Class T.* -- The annual registration fee for all vehicles
4 of this class is \$8.

5 (c) The fees paid to the division for a multiyear registration
6 provided by this chapter shall be the same as the annual
7 registration fee established by this section and any other fee
8 required by this chapter multiplied by the number of years for
9 which the registration is issued.

10 (d) The registration fee for all Class C vehicles is \$50. On
11 or before July 1, 2000, all Class C trailers shall be registered
12 for the duration of the owner's interest in the trailer and do not
13 expire until either sold or otherwise permanently removed from the
14 service of the owner: *Provided,* That a registrant may transfer a
15 Class C registration plate from a trailer owned less than thirty
16 days to another Class C trailer titled in the name of the
17 registrant upon payment of the transfer fee prescribed in section
18 ten of this article.

NOTE: The purpose of this bill is to permit the sale and use of mini trucks. The bill authorizes the Division of Motor Vehicles to title, register and establish ownership documentation requirements of mini trucks. The bill establishes where mini trucks may be operated and specific equipment that must be on a mini truck. The bill also permits annual safety inspections of mini trucks to be waived if certain conditions are met and requires operators to have proofs of insurance and financial responsibility on a mini truck. The bill exempts mini trucks from federal safety and emission standards. The bill further requires a seller to provide to prospective purchasers full disclosure on whether a mini truck conforms to certain federal safety and environmental

standards. The bill establishes the registration class and fee for a mini truck. The bill defines the term "mini truck" and redefines the term "all-terrain vehicle."

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§17A-3-2a is new; therefore, strike-throughs and underscoring have been omitted.