

H. B. 2616

(By Delegate Hamrick)

[By Request of the Division of Motor Vehicles]

[Introduced February 5, 2015; referred to the

Committee on Roads and Transportation then the Judiciary.]

A BILL to amend and reenact §17A-6E-4 of the Code of West Virginia, 1931, as amended, relating to motor vehicle salesperson licenses; and changing the criteria for which the Division of Motor Vehicles must deny issuance of the license.

Be it enacted by the Legislature of West Virginia:

That §17A-6E-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6E. MOTOR VEHICLE SALESPERSON LICENSE.

§17A-6E-4. Eligibility and issuance of license.

(a) The division may not issue any person a motor vehicle salesperson license unless the applicant:

(1) Is employed by a licensed West Virginia dealer who verifies the employment;

(2) Completes the application for a license on the form prescribed by the division, fully completed, signed and attested to by the applicant, including, but not limited to, the applicant's:

- 1 (A) Full name;
- 2 (B) Social security number;
- 3 (C) Residence and mailing address;
- 4 (D) Name of employing dealership;
- 5 (E) Statement as to whether the applicant has ever had any previous application for a dealer
6 or salesperson license refused in this or any other state or jurisdiction;
- 7 (F) Statement as to whether the applicant has been previously licensed as a salesperson in this
8 state or any other state or jurisdiction;
- 9 (G) Statement as to whether the applicant has ever had his or her salesperson license or a
10 dealer license suspended or revoked in this state or any other state or jurisdiction;
- 11 (H) Statement as to whether the applicant has ever held a dealer license which has been
12 suspended or revoked or has been employed by a dealer which has had its license suspended or
13 revoked;
- 14 (I) Statement as to whether the applicant has ever been convicted of a felony or whether the
15 applicant individually or as an owner, partner, officer or director of a business entity has been
16 convicted of, or pleaded guilty or nolo contendere to a criminal action, and if so, a written
17 explanation of the conviction;
- 18 (J) Statement as to whether or not the applicant owes a child support obligation, owes a child
19 support obligation that is more than six months in arrears, is the subject of a child support related
20 warrant, subpoena or court order; and
- 21 (K) Statement that the applicant has not been found to have done any of the acts which would
22 justify suspension or revocation of a salesperson's license under section nine of this article;

- 1 (3) Submits verification of employment by the employing dealer;
- 2 (4) Furnishes a full set of fingerprints to facilitate a background check and other investigation
3 considered necessary by the commissioner;
- 4 (5) Pays an initial nonrefundable application fee of \$7 for each year the license is valid.
5 Payment of the fee entitles the applicant to one attempt at a written test prescribed by the division.
6 Successful completion of at least seventy percent of the written test is a passing score;
- 7 (6) Pays a nonrefundable background investigation fee of \$25; and
- 8 (7) Is not the subject of a background investigation which reveals criminal convictions or
9 other circumstances for which the commissioner may deny licensure under the provisions of this
10 article.
- 11 (b) The division may, upon successful completion of all the requirements contained in
12 subsection (a) of this section, with the exception of the background investigation, issue the applicant
13 a temporary motor vehicle salesperson license. The temporary license is valid for a maximum of
14 ninety days pending issuance of the permanent license endorsement or receipt of an unfavorable
15 background investigation, whichever occurs first.
- 16 (c) The division shall refuse to issue the license if the applicant:
- 17 (1) Does not provide the necessary documents as determined by the division to establish his
18 or her identity or legal presence in this country;
- 19 (2) Has made any false statements of material fact in the application;
- 20 (3) Has had his or her privilege to sell vehicles denied, suspended or revoked by this state
21 or any other state or jurisdiction: *Provided*, That upon the applicant's appeal, the commissioner
22 may grant an exemption of this restriction if the applicant can show that he or she is eligible for

1 reinstatement in his or her previous jurisdiction of licensure;

2 (4) Has committed a fraudulent act or omission or repeatedly defaulted in financial
3 obligations in connection with the buying, selling, leasing, rental or otherwise dealing in motor
4 vehicles, recreational vehicles or trailers;

5 (5) Has been convicted of a felony: *Provided*, That upon the applicant's appeal the
6 commissioner may grant an exemption to this restriction if the felony did not involve ~~financial~~
7 ~~matters~~ or the motor vehicle industry;

8 (6) Is not employed as a salesperson for a motor vehicle dealer licensed in accordance with
9 article six or six-c of this chapter;

10 (7) Is acting as a salesperson for more than one motor vehicle dealer at the same time without
11 a waiver issued by the commissioner; or

12 (8) Has a background investigation which reveals criminal convictions or other circumstances
13 for which the commissioner may deny licensure under the provisions of this article.

14 (d) Willful misrepresentation of any fact in any application or any document in support of
15 the application is a violation of this article.

NOTE: The purpose of this bill is to update the criteria by which the Division of Motor Vehicles must deny a motor vehicle salesperson license to reflect a felony conviction for crimes involving the motor vehicle industry but not financial matters.

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