

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 455

By Senator Phillips

[Introduced January 24, 2023; referred
to the Committee on Transportation and
Infrastructure]

1 A BILL to amend and reenact §17A-6-1 of the Code of West Virginia, 1931, as amended, relating
2 to modifying certain used car restrictions.

Be it enacted by the Legislature of West Virginia:

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

§17A-6-1. Definitions.

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

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

8 (2) "Used motor vehicle dealer" means every person (other than agents and employees, if
9 any, while acting within the scope of 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 or more used motor vehicles in any
11 fiscal year of a type required to be registered under the provisions of this chapter, except, for the
12 purposes of this article only, motorcycles.

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

18 (4) "Trailer dealer" means every person (other than agents and employees, if any, while
19 acting within the scope of their authority or employment), engaged in, or held out to the public to be

20 engaged in, the business in this state of selling new or used trailers.

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

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

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

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

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

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

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

44 (12) "Sales instrument" means any document resulting from the sale of a vehicle, which
45 shall include, but not be limited to, a bill of sale, invoice, conditional sales contract, chattel

46 mortgage, chattel trust deed, security agreement or similar document.

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

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

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

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

57 (17) "Established place of business" means, in the case of a new motor vehicle dealer, a
58 permanent location, not a temporary stand or other temporary quarters, owned or leased by the
59 licensee or applicant and actually occupied or to be occupied by him or her, as the case may be,
60 which is or is to be used exclusively for the purpose of selling new motor vehicles or new and used
61 motor vehicles, which shall have space under roof for the display of at least one new motor vehicle
62 and facilities and space therewith for the servicing and repair of at least one motor vehicle, which
63 servicing and repair facilities and space is adequate and suitable to carry out servicing and to
64 make repairs necessary to keep and carry out all representations, warranties and agreements
65 made or to be made by the dealer with respect to motor vehicles sold by him or her, which is easily
66 accessible to the public, which conforms to all applicable laws of this state and the ordinances of
67 the municipality in which it is located, if any, which displays thereon at least one permanent sign,
68 clearly visible from the principal public street or highway nearest the location and clearly stating
69 the business which is or shall be conducted thereat, and which has adequate facilities to keep,
70 maintain and preserve records, papers and documents necessary to carry on the business and to
71 make the business available to inspection by the commissioner at all reasonable times: *Provided,*

72 That each established place of business shall have a display area which may be outside or inside
73 or a combination thereof of at least one thousand two hundred square feet which is to be used
74 exclusively for the display of vehicles which are offered for sale by the dealer, office space of at
75 least one hundred forty-four square feet and a telephone listed in the name of the dealership. Each
76 established place of business shall be open to the public a minimum of twenty hours per week at
77 least forty weeks per calendar year with at least ten of those hours being between the hours of
78 9:30 a.m. and 8:30 p.m., Monday through Saturday: *Provided, however,* That the requirement of
79 exclusive use is met even though: (A) Some new and any used motor vehicles sold or to be sold by
80 the dealer or sold or are to be sold at a different location or locations not meeting the definition of
81 an established place of business of a new motor vehicle dealer, if each location is or is to be served
82 by other facilities and space of the dealer for the servicing and repair of at least one motor vehicle,
83 adequate and suitable as aforesaid, and each location used for the sale of some new and any
84 used motor vehicles otherwise meets the definition of an established place of business of a used
85 motor vehicle dealer; (B) house trailers, trailers or motorcycles are sold or are to be sold thereat, if,
86 subject to the provisions of section five of this article, a separate license certificate is obtained for
87 each type of vehicle business, which license certificate remains unexpired, unsuspended and
88 unrevoked; (C) farm machinery is sold thereat; (D) accessory, gasoline and oil, or storage
89 departments are maintained thereat, if the departments are operated for the purpose of furthering
90 and assisting in the licensed business or businesses; and (E) the established place of business
91 has an attached single residential rental unit with an outside separate entrance and occupied by a
92 person or persons with no financial or operational interest in the dealership where the established
93 place of business has space under roof for the display of at least three new motor vehicles and
94 facilities and space therewith for the concurrent servicing and repair of at least two motor vehicles
95 and otherwise meets the requirements set forth in this subdivision.

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

98 (19) "Established place of business", in the case of a used motor vehicle dealer, means a
99 permanent location, not a temporary stand or other temporary quarters, owned or leased by the
100 licensee or applicant and actually occupied or to be occupied by him or her, as the case may be,
101 which is or is to be used ~~exclusively~~ for the purpose of selling used motor vehicles, which shall
102 have facilities and space therewith for the servicing and repair of at least one motor vehicle, which
103 servicing and repair facilities and space shall be adequate and suitable to carry out servicing and
104 to make repairs necessary to keep and carry out all representations, warranties and agreements
105 made or to be made by the dealer with respect to used motor vehicles sold by him or her, which is
106 easily accessible to the public, conforms to all applicable laws of this state, and the ordinances of
107 the municipality in which it is located, if any, which displays thereon at least one permanent sign,
108 clearly visible from the principal public street or highway nearest the location and clearly stating
109 the business which is or shall be conducted thereat, and which has adequate facilities to keep,
110 maintain and preserve records, papers and documents necessary to carry on the business and to
111 make the business available to inspection by the commissioner at all reasonable times: *Provided,*
112 ~~That each established place of business shall have a display area which may be outside or inside~~
113 ~~or a combination thereof of at least one thousand two hundred square feet which is to be used~~
114 ~~exclusively for the display of vehicles which are offered for sale by the dealer, office space of at~~
115 ~~least one hundred forty four square feet and a telephone listed in the name of the dealership. Each~~
116 ~~established place of business shall be open to the public a minimum of twenty hours per week at~~
117 ~~least forty weeks per calendar year with at least ten of those hours being between the hours of~~
118 ~~9:30 a.m. and 8:30 p.m., Monday through Saturday: *Provided, however,* That if a used motor~~
119 ~~vehicle dealer has entered into a written agreement or agreements with a person or persons~~
120 ~~owning or operating a servicing and repair facility or facilities adequate and suitable as aforesaid,~~
121 ~~the effect of which agreement or agreements is to provide the servicing and repair services and~~
122 ~~space in like manner as if the servicing and repair facilities and space were located in or on the~~
123 ~~dealer's place of business, then, so long as the agreement or agreements are in effect, it is not~~

124 ~~necessary for the dealer to maintain the servicing and repair facilities and space at the place of~~
125 ~~business in order for the place of business to be an established place of business as herein~~
126 ~~defined: *Provided further*, That the requirement of exclusive use is met even though: (A) House~~
127 ~~trailers, trailers or motorcycles are sold or are to be sold thereat, if, subject to the provisions of~~
128 ~~section five of this article, a separate license certificate is obtained for each type of vehicle~~
129 ~~business, which license certificate remains unexpired, unsuspended and unrevoked; (B) farm~~
130 ~~machinery is sold thereat; (C) accessory, gasoline and oil, or storage departments are maintained~~
131 ~~thereat, if the departments are operated for the purpose of furthering and assisting in the licensed~~
132 ~~business or businesses; and (D) the established place of business has an attached single~~
133 ~~residential rental unit with an outside separate entrance and occupied by a person or persons with~~
134 ~~no financial or operational interest in the dealership where the established place of business has~~
135 ~~space under roof for the display of at least three motor vehicles and facilities and space therewith~~
136 ~~for the concurrent servicing and repair of at least two motor vehicles and otherwise meets the~~
137 ~~requirements set forth herein.~~

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

149 (21) "Manufacturer" means every person engaged in the business of reconstructing,

150 assembling or reassembling vehicles with a special type body required by the purchaser if the
151 vehicle is subject to the title and registration provisions of this code.

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

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

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

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

165 (26) "All-terrain vehicle" (ATV) means any motor vehicle designed for off-highway use and
166 designed to travel on not less than three low-pressure or nonhighway tires, is fifty inches or less in
167 width and intended by the manufacturer to be used by a single operator or is specifically designed
168 by the manufacturer with seating for each passenger. "All-terrain vehicle" and "ATV" does not
169 include mini trucks, golf carts, riding lawnmowers or tractors.

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

174 (28) "Fold-down camping trailer" means every vehicle consisting of a portable unit
175 mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by

176 another vehicle and unfold at the camp site to provide temporary living quarters for recreational,
177 camping or travel use.

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

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

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

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

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

194 (34) "Manufactured home" has the same meaning as the term is defined in section two,
195 article nine, chapter twenty-one of this code which meets the National Manufactured Housing
196 Construction and Safety Standards Act of 1974 (42 U. S. C. §5401 et seq.), effective on June 15,
197 1976, and the federal manufactured home construction and safety standards and regulations
198 promulgated by the Secretary of the United States Department of Housing and Urban
199 Development.

200 (35) "Mobile home" means a transportable structure that is wholly, or in substantial part,
201 made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and

202 installation on a building site and designed for long-term residential use and built prior to
203 enactment of the federal Manufactured Housing Construction and Safety Standards Institute
204 (ANSI) -- A119.1 standards for mobile homes.

205 (36) "Utility terrain vehicle" means any motor vehicle with four or more low-pressure or
206 nonhighway tires designed for off-highway use and is greater than fifty inches in width. "Utility
207 terrain vehicle" does not include mini trucks, golf carts, riding lawnmowers or tractors.

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

218 (c) It is recognized that throughout this code the term "trailer" or "trailers" is used to include,
219 among other types of trailers, house trailers. It is also recognized that throughout this code the
220 term "trailer" or "trailers" is seldom used to include semitrailers or pole trailers. However, for the
221 purposes of this article only, the term "trailers" has the meaning ascribed to it in subsection (a) of
222 this section.

NOTE: The purpose of this bill is to modify certain used car restrictions.

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