

**WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

**FILED**  
Jul 25 11 52 AM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91

CITE AUTHORITY: WV Code §§17A-2-9 and 17A-6D-15

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 91 CSR 6

TITLE OF RULE BEING AMENDED: Motor Vehicle Dealers, Wrecker/Dismantler/Rebuilders,  
License Services, Automobile Auctions, Vehicle Leasing  
Co., Daily Passenger Vehicle Rental Car Businesses.

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
Authorized Signature



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

**Division of Motor Vehicles**

1800 Kanawha Boulevard East • Building Three  
Charleston, West Virginia 25317-0010

Cecil H. Underwood  
Governor

Samuel H. Beverage, P. E.  
Acting Secretary

Joe E. Miller  
Commissioner

91 CSR 6

Motor Vehicle Dealers, Wreckers/Dismantlers/Rebuilders, License Services, Automobile Auctions, Vehicle Leasing Companies, Daily Passenger Rental Car Businesses and Administrative Due Process

Summary of Content

The amendments to this rule deal with daily passenger rental car businesses and the tax these businesses collect on each daily rental transaction. Senate Bill 651 requires the Commissioner to establish the daily rental car tax at a rate between \$1.00 and \$1.50. This rule establishes the tax at the minimum allowable rate of \$1.00 per transaction. The rule also accomplishes the following:

1. Defines a rental business as businesses that conduct at least 500 rental transactions per year;
2. Provides optional licensing for small businesses that conduct less than 500 transactions per year providing an alternative for small businesses that wish to continue to pay privilege tax on vehicles used in the business; and
3. Clarifies that governmental agencies are exempt from payment of the tax.

A handwritten signature in black ink, appearing to read "Joe E. Miller", written over a horizontal line.

Joe E. Miller  
Commissioner



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

**Division of Motor Vehicles**

1800 Kanawha Boulevard East • Building Three  
Charleston, West Virginia 25317-0010

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91 CSR 6

Motor Vehicle Dealers, Wreckers/Dismantlers/Rebuilders, License Services, Automobile Auctions, Vehicle Leasing Companies, Daily Passenger Rental Car Businesses and Administrative Due Process

**Statement of Circumstances Requiring Filing**

Senate Bill 651 (2000 Regular Session) amended and reenacted WV Code §17A-3-4(b)(11) and enacted WV Code §17A-6D-2. Both sections require the Commissioner of Motor Vehicles to file a rule to establish the Daily Passenger Vehicle Rental Tax at not less than \$1.00 nor more than \$1.50 for each rental day on or before June 1, 2000. This proposed rule establishes the tax at \$1.00. The bill also requires the rule to define a daily rental car business and specify forms and procedures. This rule defines a daily rental car business, exceptions to licensure and specifies forms and procedures.

A handwritten signature in black ink, appearing to read "Joe E. Miller", written over a horizontal line.

Joe E. Miller  
Commissioner

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** Motor Vehicle Dealer- Daily Passenger Rental Car Businesses

**Type of Rule:** X Legislative                      Interpretive                      Procedural

**Agency:** Division of Motor Vehicles

**Address:** Building 3, Capitol Complex  
Charleston, WV 25317

1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST		\$			
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

*This rule effects only revenue and will not decrease or increase the cost of administering the Daily Passenger Vehicle Rental Car Business Program.*

3. Objectives of these rules:

*The purpose of this rule is to implement the provisions of Senate Bill 651 which requires businesses engaged in the rental of passenger vehicles to collect a daily transaction tax on vehicle rentals at a rate to be determined by the Commissioner which is not less than \$1.00 nor more than \$1.50. The bill also requires these businesses to be licensed and bonded. This rule establishes the rate at the minimum rate of \$1.00 per transaction.*

*Currently rental agencies collect .25 cents per transaction. Estimated annual transactions are 1,000,000 which at .25 per transaction yields \$250,000. At \$1.00 per transaction, the*

**Fiscal Note for 91CSR6 Rental Car Businesses continued**

*estimated income increases to \$1,000,000. Added to the tax revenue is additional revenue of about \$21,500 the first year from the sale of agency licenses to conduct business. This offsets the projected revenue loss due to the rental agency privilege tax exemption. The Division estimates the break-even point between lost privilege tax and collected daily tax at \$1.01 per transaction.*

4. Explanation of Overall Economic Impact of Proposed Rule.

1. Economic Impact on State government.

*The increased revenue generated from utilizing the lowest end of the prescribed range of tax rates will allow state government to break even. Tax collections remitted by rental agencies will offset the lost revenue due to rental agencies being exempt from privilege tax.*

2. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

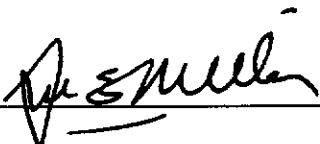
*Rental agencies are now required to be registered. SB651 provides for licensing fees commensurate with motor vehicle dealers. This rule does not add any additional fees other than allowing a reduced rate for additional locations of the same licensee, an area not addressed by SB651.*

3. Economic Impact on Citizens/Public at Large.

*This rule implements the lowest allowable tax rate. Industry estimates that 85% of rental car customers are non-residents. Consequently, the economic impact to West Virginia citizens is modest regardless of which fee is chosen.*

Date: May 25, 2000

Signature of Agency Head or Authorized Representative



Joe E. Miller, Commissioner



**WEST VIRGINIA**  
**DEPARTMENT OF TRANSPORTATION**  
1900 Kanawha Boulevard East • Building Five • Room 109  
Charleston, West Virginia 25305-0440 • 304/558-0444

Cecil H. Underwood  
Governor

Samuel H. Beverage, P. E.  
Acting Secretary

May 23, 2000

The Honorable Ken Hechler  
Secretary of State  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Secretary:

The Commissioner of Motor Vehicles is hereby authorized to promulgate emergency and proposed amendments to 91 CSR 6, relating to Motor Vehicle Dealers.

Please contact the Division of Motor Vehicles if additional information is required.

Sincerely,

A handwritten signature in cursive script that reads "Samuel H. Beverage".

Samuel H. Beverage, P.E.  
Secretary

SHB/sd

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 21, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Division of Motor Vehicles  
Building 3, Room 113, Capitol Complex  
Charleston, WV 25317  
Phone: 304 558-2723

LEGISLATIVE RULE TITLE: Motor Vehicle Dealers, Wrecker/Dismantlers/Rebuilders,  
License Services, Automobile Auctions, Vehicle Leasing Co.  
Daily Passenger Vehicle Rental Businesses.

1. Authorizing statute(s) citation WV Code §§17A-2-9 and 17A-6D-2

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
May 31, 2000

b. What other notice, including advertising, did you give of the hearing?  
Please see attached

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
July 7, 2000

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached     X                          No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 25, 2000

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- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Joe E. Miller, Commissioner  
Division of Motor Vehicles  
Building 3, Rm 113 Capitol Complex  
~~Charleston, WV 25317~~  
Phone: 304 558-2723  
Fax: 304 558-1987  
E Mail sdale@dot.state.wv.us

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- g. **IF DIFFERENT FROM ITEM 'F'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Steven O. Dale  
Division of Motor Vehicles  
Building 3, Rm 113, Capitol Complex  
~~Charleston, WV 25317~~  
Phone: 304 558-2723  
Fax: 304 558-27--1987  
E Mail sdale@dot.state.wv.us

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3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

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b. Date of hearing or comment period:

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

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d. Attach findings and determinations and reasons:

Attached 

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R0001-001  
URSE DODGE INC.  
2603 FAIRMONT AVENUE  
FAIRMONT, WV 26554

R0004-001  
ENTERPRISE RENT A CAR  
600 A1 PRESTIGE PARK  
HURRICANE, WV 25526

R0007-001  
HARRY GREEN CHEVROLET, INC.  
P.O. BOX 1527  
CLARKSBURG, WV 26302

R0010-001  
T & T PONTIAC-BUICK  
dba USAVE AUTO RENTAL  
P.O. BOX 1747  
BLUEFIELD, WV 24701

R0013-001  
JUSTICE AUTO SALES INC. dba  
U-SAVE AUTO RENTAL  
P.O. BOX 1290  
LOGAN, WV 25601

R0016-001  
FAIRMONT AUTO RENTALS  
800 E. PARK AVE.  
FAIRMONT, WV 26554

R0019-001  
AIRPORT LIMOUSINE SERVICE INC.  
dba OHIO VALLEY AUTO RENTAL  
PO BOX 6806  
WHEELING, WV 26003

R0022-001  
JOHN HOWARD RENTALS  
1730 MILEGROUND  
MORGANTOWN, WV 26505

R0025-001  
COLLISION SPECIALISTS RENT A CAR  
112 CEDAR LAKES DR.  
RIPLEY, WV 25271

R0028-001  
MITCHELL CHEVROLET, INC.  
PO BOX 120  
MARLINTON, WV 24954

R0002-001  
LEWIS CHEVROLET CO.  
P.O. BOX T  
BECKLEY, WV 25802

R0005-001  
ELM GROVE DODGE CHRYSLER JEEP, INC.  
2538 NATIONAL RD.  
WHEELING, WV 26003

R0008-001  
ALEX CHEVROLET INC.  
ONE CHEVROLET DR.  
CHARLES TOWN, WV 25414

R0011-001  
U-SAVE AUTO RENTAL  
MONROE MOTOR SALES, INC.  
P.O. BOX 180  
UNION, WV 24983

R0014-001  
CHECKER LEASING, INC. T/A  
AVIS RENT A CAR, LICENSEE  
5536 AIRPORT RD, NW.  
ROANOKE, VA 24012

R0017-001  
BUDGET RENT A CAR  
12 DUNKARD AVE  
WESTOVER, WV 26501

R0020-001  
A REASONABLE RENT A CAR  
PO BOX 402  
RONCEVERTE, WV 24970

R0023-001  
KAR ENTERPRISES, INC.,  
dba NATIONAL CAR RENTAL  
PO BOX 189  
MAXWELTON, WV 24957

R0026-001  
CHARLESTON LINCOLN MERCURY  
321 VIRGINIA ST. WEST  
CHARLESTON, WV 25302

R0029-001  
BOB YOAK FORD, INC.  
P.O. BOX 250  
ELLENBORO, WV 26346

R0003-001  
THOMASSEN FORD-MER. RENTAL DIV  
PO BOX 520  
CHARLES TOWN, WV 25414

R0006-001  
AVIS RENT A CAR SYSTEM, INC.  
900 OLD COUNTRY ROAD  
GARDEN CITY, NY 11530

R0009-001  
ANTHONY CHEV.LEASING & RENTAL  
CO. INC.  
P.O. BOX 1627  
FAIRMONT, WV 26554

R0012-001  
GREENBRIER MOTOR CO., INC.  
111 SENECA TRAIL  
LEWISBURG, WV 24901

R0015-001  
MILLER'S JEEP EAGLE, INC.  
2010 KELLY ISLAND RD.  
MARTINSBURG, WV 25401

R0018-001  
HWM INC.,  
dba BUDGET RENT A CAR  
BOX 171 YEAGER AIRPORT  
CHARLESTON, WV 25311

R0021-001  
MICHAEL MOTOR CO. INC.  
1061 STATE STREET  
GASSAWAY, WV 26624

R0024-001  
BRIDGEMAN BROS. MOTOR CO.  
P.O. BOX 306  
NEW MARTINSVILLE, WV 26155

R0027-001  
BILL FISH & MARK BATES ENT., INC.  
dba PRICE KING RENT A CAR  
4349 US RT. 60 EAST  
HUNTINGTON, WV 25705

R0030-001  
TURNPIKE FORD, INC.  
P.O. DRAWER AB  
MARMET, WV 25365

R0031-001  
SABRATON CHRYSLER-PLY.-DODGE, INC.  
P.O. BOX 3140  
MORGANTOWN, WV 26503-3140

R0032-001  
TOOTHMAN FORD SALES, INC.  
P.O. BOX 9  
GRAFTON, WV 26354

R0033-001  
THE HERTZ CORPORATION  
225 BRAE BLVD.  
PARK RIDGE, NJ 07656

R0034-001  
KEYSER AUTO RENTALS  
353 S. MINERAL ST.  
KEYSER, WV 26726

R0035-001  
DISCOUNT AUTO RENTAL  
340 4TH AVENUE  
HUNTINGTON, WV 25701

R0036-001  
KENT PARSONS FORD, INC.  
P.O. BOX 783  
MARTINSBURG, WV 25402

R0037-001  
Princeton Rental Cars  
PO Box 5753  
Princeton, WV 24740

R0038-001  
DOLENS AUTO RENTAL  
2146 THIRD AVE.  
HUNTINGTON, WV 25703

R0039-001  
STEPHENS AUTO CENTER  
P.O. BOX 278  
DANVILLE, WV 25053

R0040-001  
UNIVERSITY MOTORS LTD.  
P.O. BOX 816  
MORGANTOWN, WV 26505

R0041-001  
TOM PACHUTA RENTAL & LEASING  
1808 HARPER ROAD  
BECKLEY, WV 25840

R0042-001  
JIM ROBINSON, INC.  
P.O. BOX 6607  
WHEELING, WV 26003

R0043-001  
JIM ROBINSON FORD-LINCOLN-MERC.  
P.O. BOX 6607  
WHEELING, WV 26003

R0044-001  
BELL CHEVROLET-OLDS, INC.  
600 CHELSEA STREET  
SISTERSVILLE, WV 26175

R0045-001  
JAMES CHEVROLET-PONTIAC  
P.O. BOX 231  
MANNINGTON, WV 26582

R0046-001  
KINES MOTOR COMPANY, INC.  
P.O. BOX 429  
PHILIPPI, WV 26416

R0047-001  
TGL ENTERPRISES INC.  
10 BANK ST.  
WHEELING, WV 26003

R0048-001  
DAVIS CHRYSLER PLYMOUTH JEEP  
EAGLE, INC./CRT, INC.  
5210 U.S. RT. 60 EAST  
HUNTINGTON, WV 25705

R0049-001  
MULLEN MOTORS  
P.O. BOX 223  
PARKERSBURG, WV 26102

R0050-001  
COLE CHEVROLET CADILLAC, INC.  
P.O. BOX 688  
BLUEFIELD, WV 24701

R0051-001  
ROBERT E SUMMERS INC.  
P.O. BOX 268  
KEYSER, WV 26726

R0052-001  
MOTOR CAR RENTALS INC.  
1500 7TH ST.  
PARKERSBURG, WV 26101

RO053-001  
BODKINS ENTERPRISES INC.  
dba U-SAVE AUTO RENTAL  
1654 HARRISON AVE.  
ELKINS, WV 26241

R0054-001  
A W COUCH INC.  
1700 ST. MARYS AVE.  
PARKERSBURG, WV 26101

R0055-001  
CROWN CAR & VAN RENTAL  
821 SMITH STREET  
CHARLESTON, WV 25301

R0056-001  
MCCLINTON CHEVROLET CO. INC.  
PO BOX 1048  
PARKERSBURG, WV 26101

R0057-001  
MARJON INC.  
511 W. SOUTH ST.  
FREDERICK, MD 21701

R0058-001  
MATHENY MOTOR TRUCK COMPANY  
PO BOX 1304  
PARKERSBURG, WV 26102-1304

R0059-001  
TETER MOTORS, INC.  
1013 N. RANDOLPH AVE.  
ELKINS, WV 26241

R0060-001  
ENTERPRISE RENT-A-CAR CO. OF PITT  
4489 CAMPBELLS RUN ROAD  
PITTSBURGH, PA 15205

R0061-001  
GRAHAM CHEVROLET  
PO BOX 800  
KINGWOOD, WV 26537

R0062-001  
QUALITY SERVICE AUTO RENTAL  
HC 60 BOX 228C  
NEW MARTINSVILLE, WV 26155

R0063-001  
LOGAN MOTOR SALES  
PO BOX 867  
LOGAN, WV 25601

R0064-001  
JENKINS FORD MERCURY, INC.  
71 WEST MAIN STREET  
BUCKHANNON, WV 26201

R0065-001  
DOUG WILLIAMSON AUTO SALES  
RT. 10 BOX 429  
MAN, WV 25635

R0066-001  
CORWIN FORD SALES, INC.  
PO BOX 427  
MANNINGTON, WV 26582

R0067-001  
PENN AUTO TOYOTA, INC.  
2200 FAIRMONT AVE.  
FAIRMONT, WV 26554

R0068-001  
DENBIGH-GARRETT LICENSE AND  
CAR RENTALS  
P.O. BOX 28  
SPENCER, WV 25276

R0069-001  
ROTH FORD, INC.  
HC BOX 40  
PETERSBURG, WV 26847

R0070-001  
HERB'S 522 AUTO MART, INC.  
PO BOX 307  
BERKELEY SPRINGS, WV 25411

R0071-001  
RENT-A-WRECK of BARBOURSVILLE  
P.O. BOX 326  
BARBOURSVILLE, WV 25504

R0072-001  
WHEELS & DEALS' CAR, TRUCK,  
& VAN RENTALS  
P.O. BOX 65  
MACARTHUR, WV 25873

R0073-001  
MIKE FERRELL FORD LINCOLN  
MERCURY INC.  
PO BOX 4255  
CHAPMANVILLE, WV 25601

R0074-001  
ROGER'S AUTO & RENTALS  
P.O. BOX 326  
SHANKS, WV 26761

R0075-001  
VALENCIC CORPORATION dba  
GLEN DALE MOTOR COMPANY-CHRYSLER  
1502 WHEELING AVE.  
GLEN DALE, WV 26038

R0076-001  
TURNPIKE CHEVROLET, INC.  
4125 FIRST AVE.  
NITRO, WV 25143

R0077-001  
A & A RENTAL LLC  
2350 PENNSYLVANIA AVE.  
CHARLESTON, WV 25302

R0078-001  
CAR RENT, INC. dba TNT CAR RENTAL  
P.O. BOX 1285  
BEAVER, WV 25813

R0079-001  
L & S MOTORS OF BECKLEY, INC.  
300 RURAL ACRES DRIVE  
BECKLEY, WV 25801

R0080-001  
ELK VALLEY DODGE, INC.  
201 W. MAIN ST.  
SUTTON, WV 26601

R0081-001  
PAIGE WAGNER  
dba U-SAVE AUTO RENTAL  
606 S. WASHINGTON ST.  
BERKLEY SPRINGS, WV 25411

R0082-001  
NAFF RENT A CAR  
406 PRINCE ST.  
BECKLEY, WV 25801

R0083-001  
BILL LEWIS MOTORS, INC.  
404 N. JEFFERSON STREET  
LEWISBURG, WV 24901

R0084-001  
THRIFTY CAR RENTAL  
150-16TH ST.  
WHEELING, WV 26003

Jane L. Cline  
2056 Oakridge Drive  
Charleston, WV 25311

Mary Jane Baker  
Hertz Corporation  
169 Airport Road  
Charleston, WV 25311

John Hodges/ Enterprise RAC  
109 Elizabeth Street  
Charleston, WV 25311

Todd Mears  
Enterprise RAC  
600A-1 Prestige Pk  
Hurricane, WV 25526

Clayton White  
Avis  
170 Airport Road  
Charleston, WV 25311

Ruth Lemmon  
WV Auto Dealers Association  
1618 Kanawha Blvd East  
Charleston, WV 25311

Robert Stanley  
WV Motor Trucking Association  
P.O. Box 5187  
Charleston, WV 25311

David Couch  
Hertz Parkersburg  
1700 St. Marys Ave  
Parkersburg WV 26101

MATT MILLER  
11TH ST W & WASHINGTON AVE  
HUNTINGTON WV 25704

BRONSON STORES  
119 SWATHMORE AVE  
CHARLESTON WV 25302

JAMES PITROLO  
PO BOX 231  
MANNINGTON WV 26582

DAVID MCMAHON  
922 QUARRIER ST  
SUITE 525  
CHARLESTON WV 25301

ROBERT D WABLE  
PO BOX 196  
SISTERSVILLE WV 26175

JILL MILES, DEPUTY ATTY GEN.  
CONSUMER PROTECTION & ANTITRUST DIVISION  
PO BOX 1789  
CHARLESTON WV 25326

JOEY HOLLAND  
210 MACCORKLE AVE  
SOUTH CHARLESTON WV 25303

RUTH LEMON  
WEST VIRGINIA AUTOMOBILE AND TRUCK DEALERS  
ASSOCIATION  
1618 KANAWHA BLVD. E  
CHARLESTON WV 25311

MIKE RATZ  
PO BOX 867  
LOGAN WV 25601

MARGARET WILLS  
207 THIRD ST  
RACHEL WV 26587  
FAX (304) 592-5300

BARBARA ALLEN MANAGING DEPUTY ATTY GENERAL  
ATTORNEY GENERAL'S OFFICE  
BLDG 1 RM E26  
1900 KANAWHA BLVD E  
CHARLESTON WV 25305



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

**Division of Motor Vehicles**

1800 Kanawha Boulevard East • Building Three  
Charleston, West Virginia 25317-0010

Cecil H. Underwood  
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Commissioner

91 CSR 6

**Motor Vehicle Dealers, Wreckers/Dismantlers/Rebuilders, License Services,  
Automobile Auctions, Vehicle Leasing Companies, Daily Passenger Rental Car  
Businesses and Administrative Due Process**

**Summary of Public Comment**

**Two Comments Received**

1. John Canfield, representing: West Virginia Insurance Federation  
300 Kanawha Blvd East  
Charleston, WV 25301
  
2. Larry Swann, representing: National Association of Independent Insurers  
Government Relations  
405 Capitol Street, Suite 513  
Charleston, WV 25301

**Summary of Comments and Agency Response**

1. Mr. Canfield raises several issues in his comments to proposed rule 91 CSR 6:
  - A. The West Virginia Insurance Federation opposed the legislation that increases the daily passenger vehicle rental car tax.

*Senate Bill 651 requires the Commissioner of Motor Vehicles to set the daily passenger vehicle rental tax at a rate of not less than one dollar but no more than one dollar and fifty cents per day. The proper venue to address Mr. Canfield's concerns is by amending WV Code §17A-3-4 through legislation, not through the rule-making process which implements the legislation.*

- B. The Division exceeded its statutory authority to promulgate the increased daily passenger vehicle use tax by emergency rule.

*The Agency disagrees. Senates Bill 651 establishes the daily vehicle rental tax at a rate not less than one dollar nor more than one dollar and fifty cents. This range is established in WV Code §17A-3-4(b)(11). This same subdivision provides "The commissioner shall propose an emergency rule in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish this tax. This unambiguous language combined with the fact that the effective date of the bill was set at July 1, 2000, and the language in WV Code §17A-6D-2 requiring the emergency rule to be filed "on or before the first day of June, two thousand clearly indicates that the fee was to be established by emergency rule. No other interpretation seems possible.*

2. Mr. Swann representing the National Association of Independent Insurers comments that the change daily rental car tax from twenty-five cents to one dollar is exorbitant and contrary to the "State Legislature's prudent, cautious approach to raising taxes in recent years".

*The Agency would respond that the proper venue to address concern about the tax rate is by amending WV Code §17A-3-4 through legislation, not through the rule-making process which implements the legislation. The Agency chose to establish the fee at one dollar, which at the low end of the established range of not less than one dollar nor more than one dollar and fifty cents.*

*The Agency would further respond that the Legislature did exercise a prudent and cautious approach to increasing the daily passenger car rental tax. Other states on average charge between 4.5% and 6 % of the charge. Assuming a rental charge of \$35 per day, the tax would average between \$1.58 and \$2.10 per day in these other states. The collected tax would be much higher on more expensive cars. Clearly, the previous twenty-five cent tax rate was much less than what other states were charging West Virginians renting passenger vehicles while out of state for business or pleasure.*

  
\_\_\_\_\_  
Joe E. Miller  
Commissioner



July 6, 2000

Commissioner Joe E. Miller  
West Virginia Division of Motor Vehicles  
Building 3; Room 113  
State Capitol Complex  
Charleston, WV 25317

Attention: Steven O. Dale

RE: Docket # 2000-91 CSR 6  
Public Comment on Proposed Rules

Dear Commissioner Miller:

On behalf of the West Virginia Insurance Federation, a state trade association of property and casualty insurers doing business in this state, please accept these comments with regard to your proposed emergency rules at 91 CSR 6.

The West Virginia Insurance Federation is opposed to and objects to the promulgation of these rules as they relate to the proposed increase in the daily tax on rental automobiles from the current \$0.25 per day to the proposed \$1.00 per day tax.

Insurance companies routinely provide rental cars for consumers. If a rental vehicle is provided to a third-party in a liability claim, the insurer pays the costs associated with that rental car. If a rental vehicle is provided to an insured policyholder under his/her own insurance policy (i.e. a comprehensive or collision claim), the policy's rental coverage usually provides for benefits to be paid in a specific dollar amount per day. Any costs, fees or taxes beyond this specific contractual amount are paid for out of pocket by the policyholder. In either case, these daily rental taxes are ultimately paid for by the West Virginia consumer -- either directly as an out of pocket expense or in the form of insurance premiums.

The West Virginia Insurance Federation worked with interested parties during the 1999 Legislative Session to develop compromise legislation that imposed a rental tax of \$0.25 per day. During the recent 2000 Legislative Session, we opposed any increase in the tax. We closely monitored Senate Bill 651 and lobbied against the proposed tax increase throughout the Session.

300 Kanawha Boulevard, East • Charleston, West Virginia • 25301  
Post Office Box 273 • Charleston, West Virginia • 25321  
(304) 343-9441 • (304) 340-3801 (Fax)

Senate Bill 651 was passed by the Legislature late on the last night of the 2000 Legislative Session. We were not afforded any opportunity to review the actual text of the final version of SB 651. Upon assurances from several legislators, however, we understood the bill would permit the Commissioner to propose an increase in the daily rental tax via the normal legislative rule making process -- not via an emergency rule. We were surprised to learn that the language of Enrolled Senate Bill 651 authorizes the Commissioner to promulgate an emergency rule. This effectively eliminates the need for the Legislature to approve the proposed rule and thwarts our ability to oppose this consumer tax increase in the appropriate legislative arena.

With regard to the rule making process, the language of SB 651 amends W.V. Code 17A-3-4(b)(11) to impose a rental tax of not less than one dollar but not more than one dollar and fifty cents per day. The Commissioner is further authorized to promulgate an emergency rule to implement such a tax increase, but no specific time frame or deadline for such a rule is listed within the authorizing language of W.V. Code 17A-3-4(b)(11). Accordingly, it is improper for such a tax increase to be promulgated via an emergency rule. W.V. Code 29A-3-15(f) clearly provides that emergency rules may be issued by a department only when necessary to: (1) preserve the public peace, health and safety; (2) comply with a time limitation established by Code or federal statute or regulation; or (3) to prevent substantial harm to the public. None of the above situations is present in the case at hand, and accordingly it is improper for the Division to now implement this consumer tax increase via an emergency rule.

Although the language of SB 651 does amend W.V. Code 17A-3-4(b)(11) to increase the amount of the daily rental tax, there is no time limitation or deadline contained within the wording of this specific Code section as to when such increase should occur. The only reference to any time deadline contained within SB 651 is found in a totally different Article of the West Virginia Code (17A-6D-2) dealing with procedures to collect taxes. That provision mandates that the Commissioner shall promulgate an emergency rule regarding the collection of the tax, the definition of a daily rental business, and issuing new forms. The deadline does not apply to the increase in the amount of the tax itself. This situation does not meet the statutory definition of an "emergency" as set forth at W.V. Code 29A-3-15(f), and accordingly it is improper for this proposed tax increase to be implemented via an emergency rule.

Accordingly, the West Virginia Insurance Federation asks that the proposed emergency rule be withdrawn, or in the alternative, that the Secretary of State disapprove the proposed emergency rule pursuant to the provisions of W.V. Code 29A-3-15a.

Sincerely,



John M. Canfield  
President  
West Virginia Insurance Federation

# Larry Swann

GOVERNMENT RELATIONS: Consulting and Lobbying  
405 Capitol Street, Suite 513, Charleston, West Virginia 25301

(304) 345-1677 FAX (304) 346-5743  
E-mail: LarrySwann@AOL.COM

July 6, 2000

Mr. Steven O. Dale  
West Virginia Division of Motor Vehicles  
Office of the Commissioner  
Building 3, Room 113, Capitol Complex  
Charleston, WV 25317

Re: Docket Number 2000-91CSR6

Dear Mr. Dale:

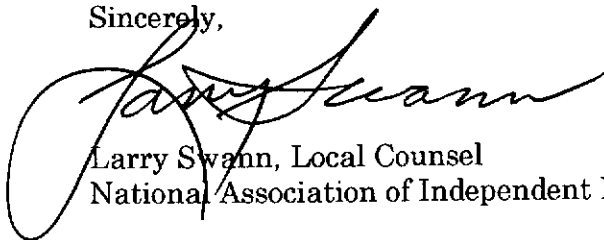
The National Association of Independent Insurers (N.A.I.I.) opposes the Department of Motor Vehicles' amendments to legislative rules entitled "Motor Vehicle Dealers, Wrecker/Dismantlers/Rebuilders, License Services, Automobile Auctions, Vehicle Leasing Companies, Daily Passenger Vehicle Rental Car Businesses".

Your proposed amendments to series 6 of these legislative rules would increase the daily passenger rental car tax from twenty-five cents to one dollar for each rental day or part of a day. This 300 % tax increase is clearly exorbitant and flies in the face of the State Legislature's prudent, cautious approach to raising taxes in recent years.

I would respectfully request that the Department of Motor Vehicles reexamine this extreme tax increase and suggest something more reasonable and modest.

I thank you for your consideration.

Sincerely,



Larry Swann, Local Counsel  
National Association of Independent Insurers

LS/dh

c: Senator Mike Ross  
Delegate Mark Hunt  
Bob Hurns, N.A.I.I.  
Don Bender, State Auto Insurance

FILED

JUL 25 11 52 AM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA LEGISLATIVE RULES  
DIVISION OF MOTOR VEHICLES  
91CSR6

**PROPOSED**

Title: Motor Vehicle Dealers, Wrecker/Dismantler/Rebuilders and License Services, Automobile Auctions, Vehicle Leasing Companies, Daily Passenger Rental Car Businesses, and Administrative Due Process

§91-6-1 General

1.1. Scope - This legislative rule establishes requirements for licensing of motor vehicle dealers, wrecker/dismantler/rebuilders, license services, automobile auctions, vehicle leasing and rental companies and administrative due process.

1.2. Authority - West Virginia Code §17A-2-9, §17A-6-3, §17A-6B-13, and §17A-6C-17.

1.3. Filing Date -

1.4. Effective Date -

1.5. Application and Enforcement - This legislative rule applies to applicants and licensees of businesses subject to the provisions of West Virginia Code §17A-6A-1 et. seq. West Virginia Code §17A-6B-1 et. seq. West Virginia Code §17A-6C-1 et seq. and persons engaged in the business of leasing and renting motor vehicles. Enforcement of this legislative rule is vested with the Commissioner of Motor Vehicles or the Commissioner's lawful designee.

§91-6-2 REQUIREMENTS FOR LICENSE - GENERAL

2.1. Application for License

2.1.1. All applications for a license shall be typewritten or printed legibly. The applicant shall answer all questions in detail. If the applicant fails to complete the application in full, the Division may return the application to the applicant without further processing. The applicant shall identify the type of licensed business it is engaged in as part of the name in which the license is obtained. The use of generic terms such as "motors" or "auto dealer" to identify the type of licensed business is reserved to Class D licensees, and further identification of those businesses is not required.

2.1.2. The applicant shall attach photographs of the dealer office interior and exterior, display lot and sign to the application for a dealer license in the space provided. This requirement does not apply to manufacturers, transporters or financial institutions.

2.1.3. A licensee shall file any application for renewal of a license with the Division at least thirty days prior to the expiration of the current license. A licensee who fails to file an application for renewal at least thirty days prior to the expiration of the dealer license is required to pay the original license fee prescribed in West Virginia Code § 17A-6-10(a).

2.1.4. An applicant shall complete a detailed application form designated by the Commissioner, upon initial application for a license. In the case of a Class D and DUC dealer, the licensee may use an abbreviated application form designated by the Commissioner, for license renewal.

## 2.2. Established Place of Business

2.2.1. Each dealer location shall meet the "Established Place of Business" requirements of West Virginia Code §17A-6-1 et seq.

2.2.2. Businesses not related to the furtherance of the licensee's vehicle business may not operate from the location of the dealership. However, a Class D or DUC licensee may have one attached single residential rental unit located and operated in accordance with the provisions of West Virginia Code §17A-6-1(a)(17) and (19).

2.2.3. A place of residence may not qualify as an established place of business, and a place of residence may not be located at the established place of business except as provided in subdivision 2 of this subsection. Any residence located in close proximity to a place of business shall be clearly separated from the business.

2.2.4. Additional locations for a dealership are subject to the following criteria:

a. A licensee shall display and offer for sale only vehicles owned by him or her at only those locations designated on the dealer license certificate;

b. Each additional location shall have an office and display lot which meet the same minimum standards required of the primary location; and

c. A licensee may use dealer special plates issued to the primary location at additional locations licensed by the Division. The trade name and ownership of the dealership shall be identical to that of the primary location.

## 2.5. Off Premises Sales

2.5.1. Prior Approval - A licensee shall not display or sell motor vehicles, motorcycles, trailers, house trailers or recreational vehicles at a location other than the licensed location or locations unless the Commissioner grants prior approval. The licensee shall request approval at least ten (10) days prior to the date the temporary location is to be established.

2.5.2. Term of Approval - The Commissioner shall not approve a temporary additional location for more than a ten (10) day period of time, subject to renewal at his or her discretion.

2.5.3. Display of Approval Certificate - The licensee shall display the certificate of approval for the temporary additional dealer location in a conspicuous place at the temporary additional dealer location.

## 2.6. Dealership Office

2.6.1. The licensee shall locate the business office at the dealership location. The office shall have inside dimensions of at least 144 square feet and be a permanent structure suitable for the purpose of operating the business of the dealership.

2.6.2. Trailer type structures shall have a foundation and be fully underpinned and be suitable for the purpose of operating the business of the dealership.

2.6.3. The licensee shall equip the office with adequate heating and electric service and the office shall not contain any items which would constitute a danger to the public.

2.6.4. The licensee shall equip the office with the equipment required to conduct a business including a desk, chairs and filing facilities.

2.6.5. A Class D, Class DUC or Class AA licensee shall have a telephone listed in the name of the dealership at the dealership office.

2.6.6. The licensee shall maintain and keep all records for the dealership on the premises and have all records available during regular posted business hours for inspection by authorized representatives of the Division and all law enforcement officers.

2.6.7. The licensee shall maintain office hours open to the public a minimum of twenty (20) hours per week with ten (10) of those hours being between 9:30 A.M. & 8:30 P.M., Monday through Saturday. The dealership shall be open a minimum of forty (40) weeks per year. The dealership shall notify the Division in advance of the dates they intend to be closed. The licensee shall post the business hours in a conspicuous place at the dealership office.

## 2.7. Dealership Sign

2.7.1. The licensee shall permanently affix a sign on the premises of the dealership which shall clearly and specifically identify the business and class of dealer licensure which is being conducted at the location except for Class D licensees which may use generic terms such as "motors" or "auto dealer" as provided in subdivision 2.1.1 of this rule.

2.7.2. The sign shall contain letters at least four inches in height and of such size as to be reasonably legible from the nearest public road.

## 2.8 Display Area

2.8.1. The display area shall have a minimum of 1200 square feet located immediately adjacent to the dealership office. This requirement does not apply to manufacturer, repossessor, or transporter licensees.

2.8.2. The licensee shall keep the display area free of junk, junk vehicles, scrap iron and trash of all types.

2.8.3. The display area shall have a covering of concrete, blacktop, gravel or other type material making it suitable for vehicle display under all weather conditions.

2.8.4. The licensee shall keep the display area free of any hazardous condition which would endanger the public.

## 2.9. Service Facilities

2.9.1. Each licensee with a Class D or Class DUC dealer license shall have facilities and space adequate to carry out servicing and repairs necessary to keep and carry out all representations, warranties and agreements made with respect to vehicles sold by the dealership in accordance with the provisions of West Virginia Code §17A-6-1(a)(17) and (19).

2.9.2. A Class DUC dealer licensee may provide service and repair facilities through written agreement with another person or persons. The licensee shall submit a copy of the agreement with the application for a dealer license. The person providing the contracted services shall maintain regular business hours, and be located within a reasonable distance from the dealership location. The execution of a service and repair agreement shall serve to make these service facilities an extension of the dealership location and subject to inspection by representatives of the Division during regular business hours.

## 2.10. State and Other Political Subdivision Requirements.

2.10.1. Each dealership location shall possess all current State and local tax licenses applicable to the type of business being conducted.

2.10.2. Each dealership location shall meet all local zoning requirements for the business location.

2.10.3. The licensee shall display all tax licenses in the dealership office.

2.10.4. The licensee shall as a condition of licensing pay any and all taxes or fees due the State or any political subdivision of the State.

## 2.11. Miscellaneous

2.11.1. Recreational vehicle, utility trailer, or motorcycle dealer licensees conducting business at a location such as a department store, sporting goods store, marine goods store or a similar type business, are exempt from the requirements of Subdivision 2.6.1 and 2.6.2 of this legislative rule. Licensees are subject to the "Established Place of Business" requirements of West Virginia Code §17A-6-1(a)(20).

2.11.2. A licensee who sells vehicles on consignment in conjunction with the dealership business shall not use dealer special plates on any consignment vehicle being offered for sale. All consignment vehicles shall be so designated, properly insured, titled and registered.

2.11.3. In accordance with the provisions of West Virginia Code §17A-6-1(a)(17) and (19), the Commissioner shall not issue a dealer license for a location where the retail sale of gasoline or fuel takes place.

## 2.12. Bonding Requirements

2.12.1. The licensee, with the exception of a manufacturer, transporter or reposessor licensee, shall post a surety bond of ten thousand dollars prior to licensing pursuant to West Virginia Code §17A-6-4(f) on form DMV-126-DS-P. The licensee shall complete this form in full upon the original application for license and each subsequent renewal. A licensee shall post a separate bond for each dealer license.

2.12.2. The bond shall be conditioned on the premise that the licensee will not, in the conduct of business, practice any fraud, or make any fraudulent representation which causes a financial loss to any purchaser, seller, or financial institution or agency, or the State of West Virginia.

2.12.3. The licensee shall obtain the surety bond with corporate surety from a bonding company licensed to do business in the State of West Virginia.

2.12.4. The licensee shall obtain the surety bond in the trade name under which the dealership is being operated.

2.12.5. The surety bond shall run concurrently from the date the license is issued or renewed to the expiration of the license.

2.12.6. The surety bonding company shall give the Division thirty (30) days notice, by certified mail, of the cancellation of a bond. The Division shall consider the surety bond as being in effect until notice is received by the Division from the bonding company.

2.12.7. The Commissioner shall immediately revoke the dealer license upon cancellation of the bond and without proper replacement of the bond.

2.12.8. The licensee shall notify the Division and the bonding company of any change in any information contained in the application for the surety bond.

2.12.9. The Division may notify the bonding company of any audit discrepancies or of revocation or suspension proceedings against the licensee.

### 2.13. Insurance Requirements

2.13.1. The licensee shall secure dealer liability insurance pursuant to West Virginia Code §17A-6-4(a) from an insurance company licensed to do business in the State of West Virginia.

2.13.2. The licensee shall provide proof of liability insurance on form DMV-126-DS-J. An authorized representative of the insurance company shall execute the completed insurance certificate, in the trade name of the dealership whether it is an individual, co-partnership or corporation. The certificate shall show that insurance coverage is in force and in effect when the application for a dealer license is made, and that insurance coverage remains in effect throughout the effective period of the dealer license.

2.13.3. The licensee shall file a new certificate of insurance with each renewal application.

2.13.4. The insurance company shall give the Division thirty (30) days notice of cancellation of dealer liability coverage on form DMV-126-DS-K. The Commissioner shall immediately revoke the dealer license upon notice of the cancellation of insurance coverage, and without proper replacement of the coverage.

2.13.5. The licensee shall require the purchaser of a motor vehicle with a dealer transfer of a license plate to complete an owner's statement of insurance (WV-4A) or a valid certificate of insurance at the time of application for transfer of plates. The licensee shall advise the purchaser that completion of the owner's statement of insurance means the purchaser is swearing under penalty of false swearing that there is liability insurance in effect on the vehicle and that the statement is subject to the random sample verification procedure provided for in West Virginia Code §17A-3-3(a)(5) and Division of Motor Vehicles Legislative Rule, Regulations relating to

Compulsory Motor Vehicle Liability Insurance 91 CSR 13.

2.13.6. The licensee shall require that the purchaser of a motor vehicle with dealer issuance of a temporary registration plate complete insurance information on DMV Form 40. The licensee shall submit the DMV Form 40 to the Division within five (5) working days of the issuance of the temporary registration plate. The licensee shall advise the purchaser that completion of the owner's statement of insurance means the purchaser is swearing under penalty of false swearing that there is insurance coverage in effect on the vehicle and that the statement is subject to the random sample verification procedure provided for in West Virginia Code §17A-3-39(a)(5)a and Division of Motor Vehicles Legislative Rule, Regulations relating to Compulsory Motor Vehicle Liability Insurance 91 CSR 13.

2.14. Issuance of Temporary Registration Plates

2.14.1. The licensee shall make application for temporary registration plates on form DMV-126-F-DS.

2.14.2. A licensee may apply for a maximum of two hundred plates at one time.

2.14.3. The licensee shall account for all temporary registration plates previously issued by the dealership before the Commissioner will approve any application for additional temporary registration plates.

2.14.4. The Division shall not issue any additional temporary registration plates to the licensee if the licensee's application shows fifty (50) or more temporary registration plates on hand from the previous allotment assigned to the licensee.

2.14.5. The licensee shall issue temporary registration plates in numerical order.

2.14.6. The licensee shall insert the date of issuance and expiration date and shall also insert clearly and legibly on the face of each temporary registration plate the name, year, make and vehicle identification number (VIN) of the vehicle to which the temporary registration is assigned.

2.14.7. The licensee shall complete the temporary registration certificate (WV Form 40) in triplicate. Each copy shall be clear and legible. The licensee shall give the original certificate to the customer, forward the second copy to the Division within five (5) working days from the date of issuance and retain the third copy.

2.14.8. The licensee shall maintain a numerical log of all plates assigned to the dealership. The licensee shall keep a record of all temporary registration plates issued by the dealership for a period of three (3) years from the date of issuance.

2.14.9. The licensee shall not issue, assign, transfer or deliver a temporary

registration plate to anyone other than the bonafide purchaser of the vehicle sold or delivered by the dealership.

2.14.10. The licensee shall not issue a temporary registration plate for a vehicle which has been purchased from another dealer.

2.14.11. The licensee shall not issue a second temporary registration plate on a vehicle previously assigned a West Virginia temporary registration plate. A licensee shall not extend the period of time on a temporary plate.

2.14.12. The licensee shall not issue a temporary registration plate containing any misstatement of fact.

2.14.13. If it is determined by the Division that a licensee is not in compliance with the provisions of law and this legislative rule relative to temporary registration plates, the Commissioner may suspend the right of the licensee to issue temporary registration plates pursuant to West Virginia Code §17A-6-15 (f).

#### 2.15. Dealer Franchise Agreement

2.15.1. Each licensee conducting a business in new motor vehicles or house trailers ~~must~~ shall obtain a franchise from the manufacturer to sell a particular brand of motor vehicle or house trailer.

2.15.2. The licensee shall submit on any original or renewal application, or upon the request of the Division, a copy of the franchise or sales agreement the licensee has with the manufacturer.

#### 2.16. Dealer License Certificate

2.16.1. The licensee shall conspicuously display the dealer license certificate in the office of the dealer's place of business.

2.16.2. The licensee shall conspicuously display a certified copy of the dealer license certificate issued pursuant to West Virginia Code §17A-6-8(b) for approved additional locations in the office of each additional location.

2.16.3. The licensee shall make immediate application to the Division for a duplicate certificate if a dealer license certificate becomes lost or mutilated.

2.16.4. The licensee shall use the assigned dealer license number on all forms forwarded to the Division.

2.16.5. The licensee shall immediately return all license certificates, temporary

registration certificates and dealer special plates to the Division upon suspension or revocation the dealer license, or upon exhaustion of an administrative appeal of the licensee's suspension or revocation. The licensee may be subject to civil penalties and fines if he or she fails to comply with the provisions of this subdivision.

## 2.17. Change in Dealership

2.17.1. Pursuant to West Virginia Code §17A-6-9, if any of the following changes in the dealership occur, the licensee shall, within sixty (60) days, file a new application:

- a. A change of the location of any place of business: however the licensee shall notify the Division of any change of mailing address within twenty days;
- b. A change in the name or trade name under which the licensee engages or will engage in business;
- c. The death of the licensee or any partner or partners of the licensee;
- d. A change in any partners, officers or directors of the business;
- e. A change in ownership of the business;
- f. A change in the type of legal entity by which the licensee engages or will engage in the business; or
- g. The appointment of any trustee in bankruptcy, trustee under an assignment of the benefit of creditors, master or receiver.

## 2.18. Dealer Special Plates

2.18.1. The licensee may use dealer special plates issued in accordance with West Virginia Code §17A-6-10 pursuant to the provisions of West Virginia Code §17A-6-13 on a vehicle owned by the licensee which is operated with the licensee's knowledge and consent.

2.18.2. The licensee shall not use a dealer special plate on any work or service vehicle, or on any vehicle offered for hire or lease, or on any vehicle sold by a dealer to a customer, or on any vehicle not registrable for highway use. However, a Class D licensee may use a Class D special license plate on one Class A type van or pick-up truck which is clearly identified as a parts truck for the licensee and is exclusively used for the transportation of parts for the dealership.

2.18.3. The licensee may use a Class D or Class DUC dealer special plate on one courtesy vehicle per dealership. For the purposes of the rule, a courtesy vehicle means a vehicle used to transport customers to and from the dealership while the customer's vehicle is being serviced.

2.18.4. A licensee shall not use a Class D-T/R special plate for the purpose of operating a motor vehicle upon the streets and highways of this State, or on any house trailer or other trailer owned by the licensee and offered for hire or lease, or on any house trailer or other trailer which has been sold by the licensee to a customer. A Class D-T/R special plate may be used in moving a house trailer sold by a house trailer dealer to a customer for one trip only from the dealer's established place of business to a place designated by the customer.

2.18.5. The licensee shall not use a Class F special plate for the purpose of operating any type of motor vehicle other than a motorcycle on the streets and highways of this State, or on any motorcycle offered for hire or lease, or on any motorcycle which has been sold by a dealer to a customer.

2.18.6. A manufacturer or transporter licensee may operate a motor vehicle displaying special dealer plates issued pursuant to West Virginia §17A-6-10(a) on the streets or highways of this State solely for the purpose of transporting or testing the vehicle. These plates shall not be used on any work or service vehicles.

2.18.7. A financial institution licensee may use special dealer plates only when operating a vehicle in conjunction with the repossession or sale of a vehicle pursuant to the provisions of West Virginia Code §17A-6-10(b).

2.18.8. No licensee may subcontract, broker, lease or rent a dealer special license plate.

### §91-6-3 WRECKER/DISMANTLER/REBUILDER DEALER LICENSE

#### 3.1. Application for License

3.1.1. All applications for a license shall be typewritten or printed legibly. The applicant shall complete all questions in detail. If the applicant fails to complete the application, the Division may return the application to the applicant without further processing.

3.1.2. The applicant shall attach photographs of the dealer's office interior and exterior, to the application for a dealer license in the space provided. This requirement does not apply to manufacturers, transporters or financial institutions.

#### 3.2. Established Place of Business

3.2.1. The licensee shall locate the place of business for a wrecker/dismantler/rebuilder in a permanent structure suitable for the purpose of dismantling and/or rebuilding motor vehicles.

3.2.2. The licensee shall equip the place of business with adequate heating and lighting.

3.2.3. The place of business shall have adequate facilities for the storage of records and to conduct business.

3.2.4. The wrecker/dismantler/rebuilder licensee shall maintain all records on the premises and keep them available during regular business hours for inspection by authorized representatives of the Division and all law enforcement officers.

3.2.5. A place of residence does not qualify as an established place of business.

### 3.3. Dealership Sign

3.3.1. The licensee shall permanently affix a sign on the premises of the wrecker/dismantler/rebuilder which clearly and specifically identifies that the business which is being conducted at the location is a wrecker/dismantler/rebuilder business.

3.3.2. The sign shall contain letters which are at least four (4) inches high and of such size as to be reasonably legible from the nearest public road.

### 3.4. Display Area

3.4.1. The licensee shall have a display area if the wrecker/dismantler/rebuilder has vehicles in inventory for sale.

3.4.2. The licensee shall locate the display area immediately adjacent to the licensee's place of business.

3.4.3. The licensee shall keep the display area free of junk vehicles, miscellaneous junk and trash of all types.

3.4.4. The display area, if required, shall have some type of all weather surface making it suitable for vehicle display under all weather conditions.

3.4.5. The licensee shall keep the display area, if a display area is required, free of any hazardous condition which would endanger the public.

3.4.6. The display area, if a display area is required, shall not be located at a place of residence.

### 3.5. Bonding Requirements

3.5.1. The applicant for a wrecker/dismantler/ rebuilder license shall post a surety bond in the amount of ten thousand dollars prior to licensing pursuant to West Virginia Code §17A-6-4(f) on form DMV-126-DS-P. The wrecker/dismantler/rebuilder shall complete this form in full upon the original application for license and each subsequent renewal. A separate bond shall be posted for each license.

3.5.2. The bond shall be conditioned on the premise that the licensee will not, in the conduct of business, practice any fraud, or make any fraudulent representation which shall cause a financial loss to any purchaser, seller, or financial institution or agency, or the State of West Virginia.

3.5.3. The wrecker/dismantler/rebuilder licensee shall obtain the surety bond with corporate surety from a bonding company licensed to do business in the State of West Virginia.

3.5.4. The wrecker/dismantler/rebuilder licensee shall obtain the surety bond in the trade name under which the business is being operated.

3.5.5. The surety bond shall run concurrently from the date the license is issued or renewed to the expiration of the license.

3.5.6. The surety bonding company shall give the Division thirty (30) days notice, by certified mail, of the cancellation of the bond. The Division shall consider the surety bond as being in effect until notice of the cancellation is received by the Division.

3.5.7. The Commissioner shall immediately revoke the wrecker/dismantler/rebuilder license upon cancellation of the bond and without proper replacement of the bond.

3.5.8. The licensee shall notify the Division and the bonding company of any change in any information contained in the application for the surety bond.

3.5.9. The Division may notify the bonding company of any audit discrepancies or of revocation or suspension proceedings against the wrecker/dismantler/rebuilder licensee.

### 3.6 Insurance Requirements

3.6.1. A wrecker/dismantler/rebuilder licensee shall secure dealer liability insurance pursuant to West Virginia Code §17A-6-4(a) from an insurance company licensed to do business in the State of West Virginia.

3.6.2. The wrecker/dismantler/rebuilder licensee shall provide proof of liability insurance on form DMV-126-DS-J. The completed certificate shall be properly executed by an authorized representative of the insurance company. The certificate shall be issued in the trade name of the dealership, whether it is an individual, co-partnership or corporation. The certificate shall be

3.5.1. The applicant for a wrecker/dismantler/ rebuilder license shall post a surety bond in the amount of ten thousand dollars prior to licensing pursuant to West Virginia Code §17A-6-4(f) on form DMV-126-DS-P. The wrecker/dismantler/rebuilder shall complete this form in full upon the original application for license and each subsequent renewal. A separate bond shall be posted for each license.

3.5.2. The bond shall be conditioned on the premise that the licensee will not, in the conduct of business, practice any fraud, or make any fraudulent representation which shall cause a financial loss to any purchaser, seller, or financial institution or agency, or the State of West Virginia.

3.5.3. The wrecker/dismantler/rebuilder licensee shall obtain the surety bond with corporate surety from a bonding company licensed to do business in the State of West Virginia.

3.5.4. The wrecker/dismantler/rebuilder licensee shall obtain the surety bond in the trade name under which the business is being operated.

3.5.5. The surety bond shall run concurrently from the date the license is issued or renewed to the expiration of the license.

3.5.6. The surety bonding company shall give the Division thirty (30) days notice, by certified mail, of the cancellation of the bond. The Division shall consider the surety bond as being in effect until notice of the cancellation is received by the Division.

3.5.7. The Commissioner shall immediately revoke the wrecker/dismantler/rebuilder license upon cancellation of the bond and without proper replacement of the bond.

3.5.8. The licensee shall notify the Division and the bonding company of any change in any information contained in the application for the surety bond.

3.5.9. The Division may notify the bonding company of any audit discrepancies or of revocation or suspension proceedings against the wrecker/dismantler/rebuilder licensee.

### 3.6 Insurance Requirements

3.6.1. A wrecker/dismantler/rebuilder licensee shall secure dealer liability insurance pursuant to West Virginia Code §17A-6-4(a) from an insurance company licensed to do business in the State of West Virginia.

3.6.2. The wrecker/dismantler/rebuilder licensee shall provide proof of liability insurance on form DMV-126-DS-J. The completed certificate shall be properly executed by an authorized representative of the insurance company. The certificate shall be issued in the trade name of the dealership, whether it is an individual, co-partnership or corporation. The certificate shall be

in force and in effect when the application is made and shall remain in effect throughout the effective period of the dealer license.

3.6.3. The dealer shall file a new certificate of insurance with each renewal application.

3.6.4. The insurance company shall give the Division thirty (30) days notice of cancellation of dealer liability coverage on form DMV-126-DS-K. The Commissioner shall immediately revoke the wrecker/dismantler/rebuilder license upon notice of cancellation of coverage and without proper replacement.

3.6.5. The wrecker/dismantler/rebuilder licensee shall require the purchaser of a motor vehicle with dealer transfer of a license plate to complete an owner's statement of insurance (WV-4A) at the time of application for transfer of plates. The licensee shall advise the purchaser that completion of the owner's statement of insurance means the purchaser is swearing under penalty of false swearing that there is liability insurance in effect on the vehicle and that the statement is subject to the random sample verification procedure provided for in West Virginia Code §17A-3-3(a)(5) and Division of Motor Vehicles Legislative Rule, Regulations relating to Compulsory Motor Vehicle Liability Insurance 91 CSR 13.

3.6.6. The wrecker/dismantler/rebuilder licensee shall require the purchaser of a motor vehicle with dealer issuance of a temporary registration plate to complete insurance information on DMV Form 40. The dealer shall submit the DMV Form 40 to the Division within five (5) days of the issuance of the temporary registration plate. The dealer shall advise the purchaser that completion of the owner's statement of insurance means the purchaser is swearing under penalty of false swearing that there is insurance coverage in effect on the vehicle and that the statement is subject to the random sample verification procedure provided for in West Virginia Code §17A-3-3(a)(5) and Division of Motor Vehicles Legislative Rule, Regulations relating to Compulsory Motor Vehicle Liability Insurance 91 CSR 13.

### 3.7. License Certificate

3.7.1. The wrecker/dismantler/rebuilder licensee shall conspicuously display the wrecker/dismantler/rebuilder's license certificate at the wrecker/dismantler/rebuilder's place of business.

3.7.2. The licensee shall display a certified copy of the license certificate issued pursuant to West Virginia Code §17A-6-8(b) for approved additional locations at each additional location.

3.7.3. The wrecker/dismantler/rebuilder shall make immediate application to the Division for a duplicate certificate if the license certificate is lost or mutilated.

3.7.4. The wrecker/dismantler/rebuilder licensee shall use the assigned

wrecker/dismantler/rebuilder's license number on all forms forwarded to the Division.

3.7.5. The wrecker/dismantler/rebuilder licensee shall immediately return all license certificates, temporary registration plates and dealer special plates to the Division upon suspension or revocation, of his or her license or upon exhaustion of an administrative appeal.

### 3.8. Change in Business

3.8.1 Pursuant to West Virginia Code §17A-6-9, if any of the following changes occur, the wrecker/dismantler/rebuilder shall, within sixty (60) days, file a new application:

- a. A change of the location of any place of business; however the licensee shall notify the Division of any change of mailing address within twenty days;
- b. A change in the name or trade name under which the licensee engages or will engage in business;
- c. The death of the licensee or any partner or partners of the licensee;
- d. A change in any partners, officers or directors of the business;
- e. A change in ownership of the business;
- f. A change in the type of legal entity by which the licensee engages or will engage in the business; or
- g. The appointment of any trustee in bankruptcy, trustee under an assignment for the benefit of creditors, master or receiver.

### 3.9. Dealer Special Plates

3.9.1. In accordance with West Virginia Code §17A-6-10(g), the wrecker/dismantler/rebuilder licensee is entitled to a maximum of four (4) "Towing Only" special plates and one (1) "Demo" special plate.

3.9.2. The wrecker/dismantler/rebuilder licensee may use the "Towing Only" special plate on a vehicle being towed by a vehicle which is properly licensed and which is owned by the wrecker/dismantler/rebuilder.

3.9.3. The wrecker/dismantler/rebuilder licensee may use the "Towing Only" special plate only on a vehicle which is owned by the wrecker/dismantler/rebuilder or upon which the salvage certificate has been properly assigned to the wrecker/dismantler/rebuilder in accordance with West Virginia Code §17A-4-10.

3.9.4. The wrecker/dismantler/rebuilder licensee may use the "Demo" special plate only on a vehicle which is owned by the wrecker/dismantler/rebuilder or upon which the salvage certificate has been properly assigned to the wrecker/dismantler/rebuilder in accordance with West Virginia Code §17A-4-10.

3.9.5. The wrecker/dismantler/rebuilder licensee may use the "Demo" special plate only under the following circumstances:

- a. To allow a prospective purchaser to test drive a vehicle;
- b. To drive a vehicle to a Division of Motor Vehicles examination location or to an authorized state inspection station; or
- c. To drive a vehicle to an auction.

3.9.6. The wrecker/dismantler/rebuilder licensee shall keep a written record of the use of a "Demo" special plate. The record shall include: 1) the name and address of the person driving the vehicle; 2) the date and time the vehicle was driven; 3) the odometer reading before and after the vehicle was driven; and 4) the reason the vehicle was driven.

3.9.7. The wrecker/dismantler/rebuilder licensee shall follow the provisions set forth by West Virginia Code §17A-4-10 and procedures established by the Division when titling a reconstructed vehicle.

3.9.8. The wrecker/dismantler/rebuilder licensee may deal only with a salvage vehicle upon which a salvage certificate has been issued, or in a salvage vehicle which the wrecker/dismantler/rebuilder has rebuilt.

3.9.9. A wrecker/dismantler/rebuilder licensee shall follow the provisions of West Virginia Code §17A-6-15 when issuing temporary registration plates.

3.9.10. The wrecker/dismantler/rebuilder licensee shall follow the provisions of Subsection 2.14 of this rule when issuing temporary registration plates.

#### §91-6-4 LICENSE SERVICES - GENERAL

##### 4.1. Application for License

4.1.1. In accordance with the provisions of West Virginia Code §17A-6B-1, any person processing Division of Motor Vehicles documents for compensation when the service is offered to the general public shall first obtain a license certificate to operate a License Service

business. For the purposes of this rule the term, "persons processing documents for compensation" does not include bonafide full time employees of a licensed motor vehicle dealer processing documents related to a vehicle sold by the dealer. The employee may not be employed by more than one dealership to be exempted from the licensing requirements of this rule.

4.1.2. All applications for a license shall be typewritten or printed legibly. The applicant shall complete the application in full. If the applicant fails to complete the application in full, the Division may return the application to the applicant without further processing.

4.1.3. The licensee shall file an application for renewal of a license with the Division at least thirty days prior to the expiration of the current license. The licensing period is January 1 to December 31.

4.1.4. For the purposes of this section, the term applicant, has the following meaning; a person operating in his or her own name or under a trade name, two or more partners operating in his or her own name or under a trade name, two or more partners operating under a co-partnership name or under a trade name, or the officers and directors of a corporation operating under the corporation name.

#### 4.2. Established Place of Business

4.2.1. The License Service office shall contain the equipment required to conduct a business including a desk, chairs and filing facilities for the maintenance of records.

4.2.2. The office location may be self-standing or in a residence. The office shall have a telephone listed in the name of the License Service.

4.2.3. The License Service licensee shall keep all records on the premises.

4.2.4. The License Service may set any office hours it chooses. However, the hours shall be based on a regular schedule and be posted in a conspicuous place in order to facilitate the availability of records for review by the Division. An employee of the License Service shall be present during posted business hours.

4.2.5. State and other political subdivision requirements.

- a) Each office location shall possess all current State and local licenses applicable to a business of the type being conducted.
- b) Each office location shall meet all local zoning requirement for the business location.

- c) The licensee shall display all tax licenses in the office.
- d) The licensee shall pay any and all taxes due the State or any political subdivision of the State.

#### 4.3. Bonding Requirements

4.3.1. In accordance with the provisions of the West Virginia Code §17A-6B-2 a bond in the penal sum of twenty-five thousand dollars is required. The licensee shall have the bond completed on form DMV-126-DS-P. The bond shall be conditioned on the premise that the applicant will not, in the conduct of business, practice any fraud, or make any fraudulent representation which causes a financial loss to any purchaser, seller, financial institution, agency, or the State of West Virginia.

4.3.2. The licensee shall secure the surety bond with corporate surety from a bonding company licensed to do business in the State of West Virginia.

4.3.3. The licensee shall obtain the surety bond in the trade name under which the License Service is being operated.

4.3.4. The surety bond shall run concurrently from the date the license is issued or renewed to the expiration of the license.

4.3.5. The surety bonding company shall give the Division thirty (30) days notice by certified mail, of the cancellation of the bond. The Division shall consider the surety bond as being in effect until notice of the cancellation is received by the Division.

4.3.6. The Commissioner shall immediately revoke the License Service license upon cancellation of the bond and without proper replacement of the bond.

4.3.7. The licensee shall notify the Division and the bonding company of any change in any information contained in the application for the surety bond.

4.3.8. The Division may notify the bonding company of audit discrepancies or revocation or suspension proceedings against the licensee.

#### 4.4. License Service License Certificate

4.4.1. The licensee shall conspicuously display the License Service license certificate in the office of the License Service's place of business.

4.4.2. The licensee shall conspicuously display a certified copy of the license certificate issued pursuant to West Virginia Code §17A-6B-7 for approved additional locations in the office of each additional location.

4.4.3. The licensee shall make immediate application to the Division for a duplicate certificate if a license certificate becomes lost or mutilated.

4.4.4. The licensee shall use the assigned license number on all forms forwarded to the Division.

4.4.5. Upon exhaustion of an administrative appeal of a license suspension or revocation, or upon revocation for failure to maintain the bond pursuant to West Virginia Code §17A-6B-9(c), or upon voluntary cancellation of the dealer license, the licensee shall immediately return all license certificates, and/or temporary registration certificates to the Division.

#### 4.5. Change in License Service

4.5.1. Pursuant to West Virginia Code §17A-6B-8, if any of the following changes occur, the licensee shall, within sixty (60) days, file a new application for license:

- a. Change of the location of any place of business; however the licensee shall notify the Division of any change of mailing address within twenty days;
- b. A change in the name or trade name under which the licensee engages or will engage in business;
- c. The death of the licensee or any partner or partners of the licensee;
- d. A change in any partners, officers or directors;
- e. A change in ownership of the business;
- f. A change in the type of legal entity by which the licensee engages or will engage in the business; or
- g. The appointment of any trustee in bankruptcy, trustee under an assignment for the benefit of creditors, master or receiver.

#### 4.6. Issuance of Temporary Registration Plates

4.6.1. The licensee shall make application for temporary registration plates on form DMV-126-F-DS.

4.6.2. A licensee may apply for a maximum of two hundred plates at one time.

4.6.3. The licensee shall account for all temporary registration plates previously issued by the License Service before the Commissioner will approve any application for additional temporary registration plates.

4.6.4. The Division shall not issue any additional temporary registration plates to the licensee if the licensee's application shows fifty (50) or more temporary registration plates on hand from the previous allotment assigned to the licensee.

4.6.5. The licensee shall issue temporary registration plates in numerical order.

4.6.6. The licensee shall insert the date of issuance and the expiration date and shall also insert clearly and legibly on the face of each temporary registration plate the name, year, make and vehicle identification number (VIN) of the vehicle to which the temporary registration is assigned.

4.6.7. The license shall complete the temporary registration certificate (WV Form 40) in triplicate. Each copy shall be clear and legible. The licensee shall give the original certificate to the customer, forward the second copy to the Division and retain the third copy.

4.6.8. The licensee shall maintain a numerical log of all plates assigned to the License Service. The licensee shall keep a record of all temporary registration plates issued by the License Service for a period of three (3) years from the date of issuance.

4.6.9. The licensee shall not issue, assign, transfer or deliver a temporary registration plate to anyone other than the bonafide applicant for a West Virginia title and registration to the vehicle to which the temporary registration plate is assigned, and not until the applicant has submitted all documents with the fees and taxes necessary to obtain a West Virginia title and registration.

4.6.10. The licensee shall not issue a temporary registration plate for a vehicle which has been purchased from a licensed West Virginia dealer. However, a licensee may issue a temporary registration plate for vehicles entering West Virginia from another state or jurisdiction irrespective of the place of purchase.

4.6.11. The licensee shall not issue a second temporary registration plate on a vehicle previously assigned a West Virginia temporary registration plate. A license shall not extend the period of time on a temporary plate.

4.6.12. The licensee shall not issue a temporary registration plate containing any misstatement of fact.

4.6.13. The fee charged by the licensee for a temporary registration plate shall not

exceed \$5.00 as prescribed by West Virginia Code §17A-6B-10(h).

4.6.14. If it is determined by the Division that a licensee is not in compliance with the provisions of law and this legislative rule relative to temporary registration plates, the Commissioner may suspend the right of the licensee to issue temporary registration plates pursuant to West Virginia Code §17A-6B-10(f).

#### 4.7. License Service Record Keeping and Document Processing

4.7.1. In addition to the records as required by West Virginia Code §17A-6B-10 and this rule, the licensee shall maintain a record or log of all work accepted by the License Service for a period of three (3) years from the date of the transaction. The record shall include the name and address of the customer, the vehicle identification information, the type of transaction, the date of transaction and/or any activity relating to the transaction. The licensee shall provide each customer with an itemized receipt and retain a duplicate copy for the licensee's records.

4.7.2. In accordance with the provisions of West Virginia Code §17A-6B-10, the licensee shall not issue a temporary registration plate for a vehicle unless the applicant has provided all necessary titling documents, fees and taxes. The licensee shall forward all title documents, fees and taxes to the division within forty-eight (48) hours of issuance of the temporary registration plate. The postmark on the envelope containing the submitted title documents serves as the measure of compliance.

4.7.3. If an investigation of the licensee's financial records shows that any tax or fee is due the State, the Commissioner shall immediately suspend the License Service's license.

4.7.4. In addition to any administrative license suspension or revocation, the Division may pursue criminal or civil action to collect any taxes or fees due the Division.

4.7.5. The licensee shall keep all records open for inspection by authorized representatives of the Division and all law enforcement officers during the regular posted business hours of the License Service.

4.7.6. When the licensee does not issue a temporary registration plate, the licensee shall submit to the Division all title work or other transactions received from a customer within five (5) days. The licensee shall attempt to notify the customer within five (5) days of all transactions returned for correction.

#### 4.8. Noncompliance with Statute, Rule or Policy

4.8.1. The licensee, as a condition of licensing, agrees to abide by all statutes, or rules, policies and procedures established by the Division in order to provide for the most efficient processing of work.

4.8.2. The Commissioner may suspend the processing of a License Service's documents due to noncompliance with any statute, rule, policy or procedure.

4.8.3. The Commissioner shall suspend or revoke a License Service's license to offer document processing services to the general public for continued noncompliance with any statute, rule, policy, or procedure.

#### §91-6-5 AUTOMOBILE AUCTION BUSINESSES

##### 5.1. Application for license

5.1.1. All applications for a license shall be typewritten or printed legibly. The applicant shall complete all questions in detail. If the applicant fails to complete the application the Division may return the application to the applicant without further processing.

5.1.2. The applicant shall attach at least one photograph of not less than three by five inches of the established place of business that clearly shows the office, the parking lot and one permanent sign.

##### 5.2. Established Place Of Business

5.2.1. The licensee shall locate the business at a permanent site which is owned or leased by the licensee.

5.2.2. The licensee may not operate any other class of dealership from the location.

5.2.3. The licensee shall have office space of at least one hundred forty-four square feet. Trailer type structures shall have a foundation and be fully underpinned. The office shall be suitable for the purpose of operating the auction business with adequate heating and electric service as well as a telephone listed in the name of the auction business.

5.2.4. The licensee shall maintain and keep all records for the auction business on the premises, and have all records available during business hours.

5.2.5. The licensee shall maintain parking space for at least one hundred (100) vehicles.

5.2.6. The licensee shall display at least one sign which is clearly visible from the nearest public road specifically identifying the auction business with letters at least four (4) inches in height.

##### 5.3. Bonding Requirements

5.3.1. The applicant for a automobile auction license shall post a surety bond in the amount of twenty-five thousand dollars (\$25,000) prior to licensing pursuant to West Virginia Code §17A-6C-2 on form DMV-126-DS-M. The applicant shall complete this form in full upon the original application for license and each subsequent renewal. A separate bond shall be posted for each license.

5.3.2. The bond shall be conditioned on the premise that the licensee will not, in the conduct of business, practice any fraud, or make any fraudulent representation which shall cause a financial loss to any purchaser, seller or financial institution or agency, or the State of West Virginia.

5.3.3. The automobile auction licensee shall obtain the surety bond with corporate surety from a bonding company licensed to do business in the State of West Virginia.

5.3.4. The automobile auction licensee shall obtain the surety bond in the trade name under which the business is being operated.

5.3.5. The surety bond shall run concurrently from the date the license is issued or renewed to the expiration of the license.

5.3.6. The surety bonding company shall give the Division thirty (30) days notice, by certified mail, of the cancellation of the bond. The Division shall consider the surety bond as being in effect until notice of cancellation is received by the Division.

5.3.7. The Commissioner shall immediately revoke the automobile auction license upon cancellation of the bond and without proper replacement of the bond.

5.3.8. The licensee shall notify the Division and the bonding company of any change in any information contained in the application for the surety bond.

5.3.9. The Division may notify the bonding company of any audit discrepancies or of revocation or suspension proceedings against the automobile auction licensee.

#### 5.4. Insurance Requirements

5.4.1. An automobile auction licensee shall secure dealer liability insurance pursuant to West Virginia Code §17A-6C-2(b) from an insurance company licensed to do business in the State of West Virginia.

5.4.2. The automobile auction licensee shall provide proof of liability insurance on form MV-126-DS-L. The completed certificate shall be properly executed by an authorized representative of the insurance company. The certificate shall be issued in the trade name of the dealership, whether it is an individual, co-partnership or corporation. The certificate shall be in

force and in effect when the application is made and shall remain in effect throughout the effective period of the dealer license.

5.4.3. The dealer shall file a new certificate of insurance with each renewal application.

5.4.4. The insurance company shall give the Division thirty (30) days notice of cancellation of dealer liability coverage on form DMV-126-DS-K. The Commissioner shall immediately revoke the automobile auction license upon notice of cancellation of coverage and without proper replacement of insurance coverage.

5.4.5. The automobile auction licensee shall require the purchaser of a motor vehicle with dealer transfer of a license plate to complete an owner's statement of insurance (WV-4A) at the time of application for a transfer of plates. The licensee shall advise the purchaser that completion of the owner's statement of insurance means the purchaser is swearing under penalty of false swearing that there is liability insurance in effect on the vehicle and that the statement is subject to the random sample verification procedure provided for in West Virginia Code §17A-3-3(a)(5) and Division of Motor Vehicles Legislative Rule, Regulations relating to Compulsory Motor Vehicle Liability Insurance 91 CSR 13.

5.4.6. The automobile auction licensee shall require the purchaser of a motor vehicle with dealer issuance of a temporary registration plate to complete insurance information on DMV Form 40. The dealer shall submit the DMV Form 40 to the Division within five (5) days of the issuance of the temporary registration plate. The licensee shall advise the purchaser that completion of the owner's statement of insurance means the purchaser is swearing under penalty of false swearing that there is insurance coverage in effect on the vehicle and that the statement is subject to the random sample verification procedure provided for in West Virginia Code §17A-3-3(a)(5) and Division of Motor Vehicles Legislative Rule, Regulations relating to Compulsory Motor Vehicle Liability Insurance 91 CSR 13.

## 5.5. License Certificate

5.5.1. The licensee shall conspicuously display the automobile auction's license certificate at the automobile auction's place of business.

5.5.2. The licensee shall display a certified copy of the license certificate issued pursuant to West Virginia Code §17A-6C-8(b) for approved additional locations at each additional location.

5.5.3. The automobile auction licensee shall make immediate application to the Division for a duplicate certificate if the license certificate is lost or mutilated.

5.5.4. The automobile auction licensee shall use the assigned automobile auction's license number on all forms forwarded to the Division.

5.5.5. The automobile auction licensee shall immediately return all license certificates, temporary registration plates and dealer special plates to the Division upon suspension or revocation of his or her license or upon exhaustion of an administrative appeal.

#### 5.6. Change in Business

5.6.1. Pursuant to West Virginia Code §17A-6C-9, if any of the following changes occur the automobile auction licensee shall, within sixty (60) days, file a new application:

- a. A change of the location of any place of business: however the licensee shall notify the Division of any change of mailing address within twenty days;
- b. A change in the name or trade name under which the licensee engages or will engage in business;
- c. The death of the licensee or any partner or partners of the licensee;
- d. A change in any partners, officers or directors of the business;
- e. A change in ownership of the business;
- f. A change in the type of legal entity by which the licensee engages or will engage in the business; or
- g. The appointment of any trustee in bankruptcy, trustee under an assignment for the benefit of creditors, master or receiver.

#### 5.7. Dealer Special Plates

5.7.1. In accordance with West Virginia Code §17A-6C-4, the automobile auction licensee is entitled to a minimum of one (1) Class AA special plate. The licensee is eligible for additional plates based on the formula provided in West Virginia Code §17A-6C-4(c).

5.7.2. The automobile auction licensee may use the Class AA special plate only for the purpose of transporting or moving consigned or owned motor vehicles to and from the automobile auction, or for the purpose of demonstrating vehicles owned by the auction which are offered for sale.

5.7.3. The automobile auction licensee shall keep a written record of the use of the special plate. The record shall include: 1) the name and address of the person driving the vehicle; 2) the date and time the vehicle was driven; 3) the odometer reading before and after the vehicle was driven; and 4) the reason the vehicle was driven.

5.7.4. An automobile auction licensee shall follow the provisions of West Virginia Code §17A-6C-11 and subsection 2.14 of this rule when issuing temporary registration plates.

5.7.5 The Commissioner may investigate whether any provisions of West Virginia Code §17A-6C-1 et. seq. have been violated or whether other grounds exist which may demonstrate that an applicant or licensee is unfit to hold a license. Upon a finding that the applicant or licensee has committed acts described in West Virginia Code §17A-6C-10(c), the Commissioner shall suspend, revoke or refuse to issue a license certificate. Upon a finding of acts of non-compliance set forth in West Virginia Code §17A-6C-10(b) or such other act as the Commissioner determines demonstrates that the licensee is unfit to obtain or keep a license, the Commissioner may suspend, revoke or refuse to issue a license.

#### §91-6-6 VEHICLE LEASING COMPANIES LESSOR LICENSE

6.1. The lessor of any vehicle which is subject to the tax on monthly payments in lieu of the privilege tax pursuant to West Virginia Code §17A-3-4(b)(6), shall make application to the Commissioner for a lessor license on a form prescribed by the Commissioner. However, any lessor whose business consists of less than five motor vehicle leases a year to residents of West Virginia is not subject to this rule if he or she chooses to pay the privilege tax in lieu of the monthly payments.

6.2. The application shall include:

6.2.1. A non-refundable fee of two hundred and fifty (\$250) dollars;

6.2.2. An application completed in full and signed and sworn to by the lessor, or if the lessor is a corporation by an officer authorized to execute the documents;

6.2.3. A financial statement reported on the form prescribed by the Commissioner showing a net worth of at least seventy-five thousand (\$75,000) dollars;

6.2.4. A bond in the penal sum of twenty-five thousand dollars from a corporate surety authorized to do business in this state, to ensure that the applicant will not, in the conduct of his or her business, make any fraudulent representation which causes a financial loss to any purchaser, seller, financial institution, agency, or the state of West Virginia. The bond shall be effective on the date the license certificate is issued. A licensee shall keep the bond in full force and effect at all times. The surety on the bond may cancel the bond upon giving thirty days notice to the commissioner and thereafter is relieved of liability for any breach or condition occurring after the effective date of the cancellation; and

6.2.5. Any other documents or records as the Commissioner may require to verify the information provided on the application, and/or the financial condition of the applicant or its

leasing business.

6.3. The Commissioner shall either approve the application for a lessor license and issue the necessary permits or shall deny the application. The denial of any application shall be accompanied by a statement in writing of the reasons the application was denied. The applicant may request an administrative hearing in accordance with the provisions of Section 8 of this rule on any refusal to approve an application for a lessor license.

6.4. All lessor licenses expire September 30 of each year, unless previously suspended or revoked.

6.5. A lessor license certificate may be renewed each year, on a form prescribed by the Commissioner, for a fee of one hundred (\$100) dollars. All applications for the renewal of any license certificate shall be filed with the Commissioner at least thirty (30) days before the expiration of the license. A licensee who fails to file an application for renewal at least thirty days before the expiration of the dealer license is required to pay the original license fee prescribed in subdivision 6.2.1 of this rule.

6.6. One license certificate shall be issued to each licensee. The licensee may request additional certificates for additional business locations in accordance with the provisions of West Virginia Code §17A-6-8(b).

6.7. The lessor is subject to any audit which the Commissioner determines is necessary to ensure that all revenue due the State is being calculated and remitted to the State in the proper amount and manner.

6.8. The lessor shall complete an application for title on each leased vehicle transaction as well as any additional forms or information, which the Commissioner may require to ascertain that the proper fees are remitted and proper procedures are followed.

6.9. The Commissioner may suspend the processing of a lessor licensee's titling documents upon noncompliance with any statute, rule, policy or procedure.

6.10 Any lessor license certificate issued under this section may be suspended or revoked upon failure of the licensee to comply with any provision of law or this rule. Any motor vehicle title and or registration plate issued under the provisions of West Virginia Code §17A-3-4(b)(6) may be cancelled or revoked upon the failure of the lessor licensee to timely remit the proper fees and taxes in the required amount. The cancellation or revocation of these types of title or registration documents shall be pursuant to West Virginia Code §17A-9-7.

6.11. Any application for a lessor license issued under the provisions of this section and any information submitted with the application is confidential for the use of the Division. No person shall divulge any information contained in any application or any information submitted with the

application except in response to a valid subpoena or subpoena duces tecum issued pursuant to law.

§91-6-7 CIVIL PENALTIES FOR UNLICENSED DEALERS

7.1. Any person who engages, represents or advertises that he or she is engaged in or intends to engage in the business of new motor vehicle dealer, used motor vehicle dealer, house trailer dealer, trailer dealer, recreational vehicle dealer, motorcycle dealer, or wrecker/dismantler/rebuilder dealer in this State, without first obtaining a license certificate is in violation of West Virginia Code §17A-6-3, and is, in addition to any other penalty, subject to civil penalties pursuant to the provisions of West Virginia Code §17A-6-3(c).

7.2. The civil penalties provided by West Virginia Code §17A-6-3(c) shall be levied by the Commissioner upon receipt of information which gives the Commissioner reason to believe that a violation of West Virginia Code §17A-6-3 has occurred. The Commissioner may request any additional information or investigation he or she considers necessary before levying any civil penalty.

7.3. The civil penalty assessed shall not take effect until the Commissioner sends by certified mail returned receipt requested to the person in violation of West Virginia Code §17A-6-3, a notice of violation finding that the person has committed an offense. The notice shall contain:

7.3.1. A statement of the offense the person committed;

7.3.2. A summary of the facts on which the finding of a violation was made;

7.3.3. The amount of the civil penalty which is being levied; and

7.3.4. An order that the person:

a. Cease and desist from all future violations and pay the civil penalty; or

b. Protest in writing the findings of the Commissioner and or the amount of the assessed penalty and request a hearing in accordance with the provisions of this subsection and of section 8 of this rule.

7.4. Any request for a hearing must be received by the Commissioner within thirty (30) days after the mailing date of the Notice of Violation.

7.5. The Notice of Violation may be sent to any address which the person has used on any title or license application, or other record which the Commissioner believes is current.

7.6. Failure of any person to receive a Notice of Violation shall not preclude the civil penalty from taking effect. However, the Commissioner shall accept as timely a request for hearing from any person who, within one (1) year of the date the Notice of Violation was sent, provides satisfactory proof that he or she did not receive the Notice of Violation and that good cause exists to excuse his or her failure to receive the Notice of Violation and that he or she wishes in good faith to assert a protest to the Notice of Violation. The pendency of the one year period shall not keep any penalty from taking effect pursuant to subsection 9 of this section. The Commissioner shall stay enforcement of the civil penalty upon his or her acceptance of any notice filed after the thirty (30) day period pending the outcome of the appeal.

7.7. Upon receipt of a timely request the Commissioner shall afford the person a hearing in accordance with section 8 of this rule. For purposes of section 8 of this rule, the Notice of Violation shall be considered an order of the Commissioner. The Commissioner, in addition to considering the evidence relied upon to prove or defend against a finding of a violation, shall also evaluate the appropriateness of the amount of the civil penalty. In making the evaluation, the Commissioner shall consider:

7.7.1. The severity of the violation and or its impact on the public;

7.7.2. The number of similar or related violations;

7.7.3. Whether or not the violations were willful or intentional; and

7.7.4. Any other facts considered appropriate.

7.8. In addition to any other findings of fact or conclusions of law, the Commissioner may reduce the civil penalty to a stated amount. The appellant may, at any time during the pendency of the appeal, enter into a settlement agreement with the Commissioner. The settlement agreement may provide for a reduction in the penalty and it may provide for assurances that future violations will not occur without an admission of guilt by the appellant. The payment of any civil penalty pursuant to a settlement agreement which clearly states that no finding of violation is made shall not amount to an admission of guilt for purposes of any criminal prosecution. But the settlement agreement shall operate as a violation for any additional penalty for a second or subsequent violations of the provisions of West Virginia Code §17A-6-3.

7.9. Upon the expiration of all periods for protest or appeal, of any Notice of Violation, or other order of the Commissioner issued pursuant to §17A-6-3(a), the Notice of Violation or order shall have the same force and effect as a judgment entered by any court of law of this State.

7.10. Any officer of a corporation that is found to have committed a violation of West Virginia Code §17A-6-3 and is shown to have been substantially involved with the violation may be individually found to be a co-violator and assessed a civil penalty as provided by this rule.

§91-6-8 ADMINISTRATIVE APPEALS OF COMMISSIONER'S ORDERS OR DECISIONS

8.1. Any applicant or licensee or any other party, adversely affected by an order made and entered by the Commissioner in accordance with the provisions of West Virginia Code §17A-6-1 et seq., West Virginia Code §17A-6B-1 et seq., or 17A-6C-1 et seq. and/or this legislative rule, may request a hearing in accordance with the provisions of West Virginia Legislative Rules, Division of Motor Vehicles, 91 CSR 1, Administrative Due Process.

8.2. The filing of a notice requesting a hearing operates to automatically stay or suspend execution of any order which is the subject matter of the hearing except for an order suspending a license certificate in accordance with the provisions West Virginia Code §17A-6-18(b) which provides for immediate suspension for failure to maintain the required bond or liability insurance.

§91-6-9 DAILY PASSENGER RENTAL CAR BUSINESS

9.1. Registration License and Bond Required - Each business location engaged in the occupation of renting vehicles intended for passenger use having a gross vehicle weight of eight thousand pounds or less on a daily basis is required to be ~~registered~~ licensed and bonded in accordance with the provisions of West Virginia Code §17A-6D-1 et seq. and this rule. A daily passenger car business is defined as any business which conducts at least five hundred (500) daily rental transactions per year as defined in subsection 9.3.1 of this rule. A business conducting less than five hundred (500) daily rental transactions per year may choose to be licensed under the provisions of West Virginia Code §17A-6D-1 et. seq and this rule and be subject to all the requirements and privileges of licensing as a daily passenger rental car business. A business conducting less than five hundred (500) transactions per year which chooses not to be licensed as a daily passenger car rental business is not exempted from payment of the privilege tax collected in accordance with West Virginia Code §17A-3-4 and is not subject to these rules nor required to collect the daily passenger car rental tax.

9.1.1. Application for a Daily Passenger Rental Car Business ~~registration~~ license certificate shall be made on a form prescribed by the Commissioner and shall include all information the Commissioner requires. The application shall be verified by an oath or affirmation of the applicant, if an individual, or if the applicant is a copartnership or corporation, by a partner or officer of the business.

9.1.2. Investigation - Upon receipt of a completed application, ~~and~~ the required

bond, and the required license fee, the Commissioner may conduct any investigation as necessary to determine the accuracy of any statements contained in the application and the existence of any other facts relevant on considering the application in accordance with the provisions of West Virginia Code § 17A-6D-7. Any application for a ~~registration~~ license certificate under the provisions of this rule and any information submitted with the application is confidential for use of the Division. No person may divulge any information contained in any application or any information submitted with the application, except in response to a valid subpoena or subpoena duces tecum issued pursuant to law.

9.1.3. Fee Required- The initial application fee for a license to operate a daily passenger rental car business is two hundred and fifty dollars (\$250) in accordance with the provisions of West Virginia Code 17A-6D-6. Additional locations owned and operated by the same licensee may be licensed at a fee of fifty dollars (\$50) for each additional location. The renewal fee for a license certificate is one hundred dollars(\$100). Licenses for additional locations owned and operated by the same licensee may be renewed for twenty-five dollars (\$25) for each location. The license is valid for a period of one year coinciding with the calendar year in accordance with the provisions of West Virginia Code §17A-6D-9(b).

9.1.3.9.1.4 Bond Required- In accordance with the provisions of §17A-6D-5, an application for a ~~registration~~ license certificate shall be accompanied by a bond in the penal sum of twenty-five thousand dollars for each business location from a corporate surety authorized to do business in this state, to ensure that the applicant will not, in the conduct of his or her business, make any fraudulent representation which causes a financial loss to any purchaser, seller, financial institution, agency, or the state of West Virginia. The bond shall be effective on the date the ~~registration~~ license certificate is issued. A Daily Passenger Rental Car Business ~~registrant~~ licensee shall keep the bond in full force and effect at all times. The surety on the bond may cancel the bond upon giving thirty days notice to the Commissioner and thereafter is relieved of liability for any breach or condition occurring after the effective date of the cancellation. Cancellation or forfeiture of the bond for a particular location shall not effect the ability of a licensee to conduct business at any other business location.

9.1.4.9.1.5 Change in Business - Every Daily Passenger Rental Car Business ~~registrant~~ licensee shall notify the Commissioner within thirty days from the date on which any of the following changes in the business occur.

- a. A change of the location of any place of business;
- b. A change of the name or trade name under which the registrant engages or will engage in the business;
- c. The death of the principle registrant or any partner or partners of the business;

d. A change in any partners, officers or directors;

e. A change in ownership of the business;

f. A change in the type of legal entity by and through which the registrant engages or will engage in the business; or

g. The appointment of any trustee in bankruptcy, any trustee under an assignment for the benefit of creditors, any master or any receiver.

9.1.5. When any change specified in paragraph a, b, c, d, e or f of subdivision 9.1.4 of this rule occurs, an application for a new ~~registration~~ license certificate shall immediately be filed with the Commissioner. However, when a paragraph c change is involved, an application for a new ~~registration~~ license certificate need not be filed if a member of the family of the deceased registrant succeeds to the interest in the business. The Commissioner shall, upon review of the application, issue a new registration certificate incorporating the changes. No new ~~registration~~ license certificate is required for any trustee in bankruptcy, trustee under an assignment for by benefit of creditors, receiver or master, appointed pursuant to law, who takes charge of or operates the business for the purpose of winding up the affairs of the business or protecting the interests of the creditors of the business.

9.1.6. Inspections -The Commissioner and all law-enforcement officers of the state, acting at the Commissioner's request, may inspect the place of business and pertinent records, documents and papers of any person required to be registered under the provisions of this section to the extent considered reasonably necessary to determine compliance with this section rule in accordance with West Virginia §17A-6D-13. For the purpose of making any inspection, the Commissioner and law-enforcement officers may, at reasonable times, to enter in and upon the place of business of the registrant.

9.1.7. Exceptions- This section does not apply to any person, corporation or other entity commonly known as a taxicab company subject to the regulation of the Public Service Commission of West Virginia as a common carrier.

9.1.8 Established Place of Business- Every Daily Passenger rental car business shall operate from a permanent location, owned or leased by the licensee which is easily accessible to the public. The licensee shall have a business phone and adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on the business. A residence may not serve as a place of business and is only permitted in accordance with West Virginia Code §17A-6-1(a)(17).

9.2. Revocation or Suspension of ~~Registration~~ License Investigation - The Commissioner in accordance with the provisions of §17A-6D-12, may conduct an investigation to determine whether any provisions of law or this rule have been violated by a registrant. Any investigation shall

be kept in strictest confidence by the Commissioner, the division, the registrant, any complainant and all other persons, unless and until the Commissioner suspends or revokes the registration certificate.

9.2.1 The Commissioner may assess civil fines in accordance with West Virginia Code §17A-6-25a, or suspend or revoke a registration license certificate if the Commissioner finds that the registrant has:

a. Failed or refused to comply with the laws of this state relating to the collection or reporting of tax collections and the registration and titling of vehicles;

b. Failed or refused to comply with the provisions and requirements of any law, or Division of Motor Vehicle rule or policy;

c. Knowingly made a false statement or omitted a material fact in his or her application for the registration certificate then issued and outstanding, or in any monthly or annual report submitted in compliance with this rule;

d. Habitually defaulted on financial obligations;

e. Been guilty of any fraudulent act in connection with the Daily Passenger Rental Car Business; ~~or~~

f. Defrauded or is attempting to defraud the state or any political subdivision of the state of any taxes or fees in connection with the rental, sale or transfer of any vehicle; or

g. Has failed to make a good faith effort to rent vehicles.

9.2.2. Whenever a ~~registrant~~ licensee fails or refuses to keep the bond required by this rule in full force and effect, the Commissioner shall automatically suspend the registration license certificate unless and until the ~~registrant~~ licensee files the required bond with the Commissioner, in which event the suspension shall be vacated.

9.2.3. Whenever the Commissioner refuses to issue a registration license certificate, assesses a civil penalty or revokes or suspends a license certificate, he or she shall make and enter an order to that effect. The Division shall serve a copy of the order in person or by certified mail, return receipt requested, on the applicant or registrant, as the case may be.

9.2.4. Any applicant whose request for a ~~registration~~ license certificate is refused, and any ~~registrant~~ licensee is the subject of civil penalties or whose registration license is suspended or revoked may appeal that action in accordance with Division of Motor Vehicles Legislative Rules, 91 CSR 1. Administrative Due Process.

### 9.3. Collection of Tax

9.3.1 A daily passenger rental car tax of ~~twenty-five cents~~ one dollar for each rental day or part of a day of the rental transaction contract is imposed on the rental of daily passenger vehicles in accordance with the provisions of West Virginia Code §17A-3-4(b)(11). For the purposes of this section, a daily rental transaction is defined as one twenty-four hour period within the terms of the contract rental day regardless of time of contract start or finish. Contracts for less than a twenty-four hour period are also defined as a transaction. This tax is in addition to the taxes imposed by West Virginia Code §11-15 et seq and §11-15a et seq. The Daily Passenger Rental Car Business ~~registrant~~ licensee shall collect the tax on each vehicle rental transaction originating in this state regardless of where the vehicle is titled or registered and shall remit all taxes collected to the Division of Motor Vehicles on a monthly basis. The Daily Passenger Rental Car Business ~~registrant~~ licensee shall complete monthly and annual returns as required by the Commissioner of Motor Vehicles. The Division shall deposit the revenue generated by this tax into the Road Fund.

9.3.2. Any federal, state, county or municipal governmental agency, or any public service district renting passenger vehicles is exempt from payment of the rental tax.

9.4. Liability for Tax- In accordance with the provisions of West Virginia Code §17A-6D-3 ~~If~~ if the business is an association or corporation, the officers of the business are personally liable, jointly and severally, for any default on the part of the association or corporation, and payment of the tax and any additions to tax, penalties and interest thereon may be enforced against them as against the association or corporation which they represent. Any failure to collect the tax imposed under the provisions of West Virginia Code §17A-3-4(b)(11), any failure to timely remit the tax to the Commissioner of Motor Vehicles, or any other failure to comply with the provisions of this rule constitutes a default for purposes of this section.

### 9.5. Monthly Return Required In Accordance With West Virginia Code § 17A-6D-2.

9.5.1. Date due - The ~~registrant~~ licensee shall complete a monthly return on the forms designated by the Commissioner and file the return with the Commissioner no later than the fifteenth day following the last day of the month for which the return applies. The monthly return shall include but not be limited to the following information:

- a. The total gross proceeds of the Daily Passenger Car Rental Business for the preceding month;
- b. The gross number of transactions, contract days and contract amounts upon which the tax for that month was computed; and
- c. Any other information necessary in the computation or collection of the tax that the Commissioner of Motor Vehicles may require.

9.5.2. Payment shall be made in the form of a check made payable to the West Virginia Division of Motor Vehicles.

9.5.3. Any check returned to the Division because of insufficient funds constitutes grounds for the imposition of civil penalties, the revocation or suspension of the ~~registration~~ license and collection against the registrant's bond.

#### 9.6. Annual Return Required In Accordance With West Virginia Code 17A-6D-4.

9.6.1. Date due. - The ~~registrant~~ licensee shall complete an annual return on the forms designated by the Commissioner and file the return with the Commissioner no later than thirty days after the end of the calender year showing the following information:

a. The total gross proceeds of the Daily Passenger Rental Car Business for preceding tax year;

b. The gross number of transactions, contract days and contract amounts upon which the tax for that year was computed; and

c. Any other information necessary in the computation or collection of the tax that the Commissioner may require.

9.6.2. Payment. - After deducting the amount of prior payments during the tax year, the ~~registrant~~ licensee shall forward the annual return along with payment of any remaining tax, due for the preceding tax year, to the Commissioner of Motor Vehicles. The ~~registrant~~ licensee or his or her duly authorized agent shall verify the return under oath.

9.6.3. Extension of time. - The Commissioner for good cause shown, may, on written application of a ~~registrant~~ licensee, extend the time for making any return required by the provisions of this section.

9.6.4. Minimum Collection- Any licensee who fails to conduct at least one hundred (100) transactions in a calender year shall remit to the Commissioner a payment equal to the difference between the tax collected on actual transactions and the tax due on one hundred (100) transactions with the annual return.

#### 9.7. Violations

9.7.1. The Division shall assess a penalty for failure to remit payments at a rate of five percent of the unpaid tax liability for each month or part thereof for which payment has not been made. The penalty shall not exceed twenty-five percent of the tax liability. All assessed penalties are treated as tax owed and paid in the same manner as the daily passenger rental tax. The assessed

penalty shall be deposited in the State Road Fund. The Commissioner may abate any assessed penalty for just and reasonable cause. The Commissioner shall also collect interest on any tax liability. Interest shall be compounded at the average prime rate as determined by the Federal Reserve Board of Governors in the amount that commercial banks charge for large businesses. The interest calculation date shall be based on the rate charged as of March 31<sup>st</sup> for the period of time of April 1 through September 13. The interest rate for the period September 14<sup>th</sup> through March 31<sup>st</sup> shall be based on the rate charged as of September 13<sup>th</sup>. Any assessed interest shall be treated in the same manner as the daily passenger rental car tax and deposited into the State Road Fund. The State shall not pay interest on any refunds or over payments.

9.7.2 Whenever it appears to the Commissioner that any person has violated any provision of law or this section or any final order of the Commissioner, the Commissioner may petition, in the name of the state, the circuit court of Kanawha County, for an injunction against that person. A violation or violations resulting in prosecution or conviction shall not prohibit injunctive relief. The circuit court may, by mandatory or prohibitory injunction, compel compliance with the provisions of this rule and all final orders of the Commissioner. The court may also issue temporary injunctions.

9.7.3. The judgement by the circuit court is final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals. Any appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil cases.