CHAPTER III

DEALER LICENSING

A. WHO MUST BE LICENSED

1. Every person engaged in or who holds himself out to the public to be engaged in the business in this state of selling new motor vehicles, used motor vehicles, house trailers, recreational vehicles, motorcycles, wrecker/dismantler/rebuilders, license services and automobile auctions. Transporters, manufacturers and financial institutions are also required to be licensed.

B. WHEN LICENSING IS NOT REQUIRED

1. With regard to motor vehicles only, no license is required if a person sells fewer than five [5] motor vehicles in any fiscal year.

C. CONSEQUENCE OF NOT OBTAINING A LICENSE WHEN ONE IS REQUIRED

1. Any person who is required to have a license but fails to obtain one is subject to misdemeanor criminal charges and/or injunctive action by a court of competent jurisdiction.

D. TYPES OF LICENSES ISSUED

The Division of Motor Vehicles issues eleven [11] classes of licenses. The license prefix designations and descriptions are:

1. "D" This is the prefix for a NEW MOTOR VEHICLE DEALER. This type of license allows the licensee to sell both new and used motor vehicles.

2. "DUC" This is the prefix for a USED MOTOR VEHICLE DEALER. This type of license allows the licensee to sell used motor vehicles.

3. "DRV" This is the prefix for a RECREATIONAL VEHICLE DEALER. This type of license allows the licensee to sell motorboats, motorboat trailers, travel trailers, fold-down camping trailers, all-terrain vehicles, snowmobiles and motor homes.

4. "DTR" This is the prefix for a TRAILER DEALER. This type of license allows the licensee to sell all types of trailers, other than those trailers designated as recreational vehicles.

5. "F" This is the prefix for a MOTORCYCLE DEALER. This type of license allows the licensee to sell motorcycles.

6. "WDR" This is the prefix for a WRECKER / DISMANTLER / REBUILDER. This type of license allows the licensee to deal in salvage vehicles, vehicle parts, and/or to rebuild salvage vehicles for resale.

7. "MFG" This is the prefix for a MANUFACTURER. This type of license allows the licensee to engage in the business of reconstructing, assembling or reassembling vehicles with a special body type required by the purchaser if said vehicles are subject to the title and registration provisions of the Code.

8. "TRS" This is the prefix for a TRANSPORTER. This type of license allows the licensee to transport vehicles to or from a manufacturing, assembling, or distribution plant to dealers or sales agents of a manufacturer, or purchasers.

9. "REPO" This is the prefix for a FINANCIAL INSTITUTION. This type of license allows the licensee to deal in repossessed vehicles.

10. "LS" This is the prefix for a LICENSE SERVICE. This type of license allows the licensee to process division documents for compensation.

11. "AA" This is the prefix for an AUTOMOBILE AUCTION. This type of license allows the licensee to sell twenty or more used motor vehicles at auction within a license year.

E. LICENSING PERIOD

All dealer licenses are issued for a maximum period of one year and run concurrent with the fiscal year which begins on July 1, and ends the following June 30th. Even if a license is issued in the middle or near the end of the annual licensing period it will expire on the last day of the fiscal year.

Rental Service licenses are issued for a period of one year, and run from January 1 through December 31.

Leasing Services licenses are issued for a period of one year, and run from September 30 through October 1.

License Service licenses are issued for a period of one year, and run from January 1 through December 31.

Note: Since license fees are not prorated an applicant seeking an initial license near the end of the fiscal year may wish to delay the submission of the application until the beginning of the next fiscal year.

F. LICENSE FEES

C	INITIAL FEE	RENEWAL FEE
"D"	$250.00	$100.00
"DUC"	$250.00	$100.00
Dealer Recovery Fund		$150.00

The above fees entitle the applicant/licensee to a dealer license certificate and one dealer plate. Two (2) additional dealer plates are available for $5.00 each. Beyond that, additional dealer plates are available under a formula system of one [1] additional plate per twenty [20] motor vehicles sold at wholesale or retail.

TYPE	INITIAL FEE	RENEWAL FEE
"DRV"	$250.00	$100.00
Dealer Recovery Fund		$150.00

The above fees entitle the applicant/licensee to a dealer license certificate and four [4] dealer plates. Additional dealer plates may be ordered at $25.00 each.

TYPE	INITIAL FEE	RENEWAL FEE
“DTR”	$250.00	$25.00
Dealer Recovery Fund		$150.00

The above fees entitles the applicant/licensee to a dealer license certificate and four [4] dealer plates. Additional dealer plates may be ordered at $5.00 each.

NOTE: Mobile Home Dealers no recovery fund.

TYPE	INITIAL FEE	RENEWAL FEE
“F”	$250.00	$10.00
Dealer Recovery Fund		$150.00

The above fees entitle the applicant/licensee to a dealer license certificate and two [2] dealer plates. Additional dealer plates may be ordered at $5.00 each.

TYPE	INITIAL FEE	RENEWAL FEE
"WDR"	$250.00	$15.00
"MFG"	$250.00	$100.00
"TRS"	$250.00	$100.00

The above fees entitle the applicant/licensee to a dealer license certificate and one [1] dealer plate. Additional dealer plates may be ordered at $25.00 each.

TYPE	INITIAL FEE	RENEWAL FEE
“REPO”	$100.00	$100.00

The above fees entitle the applicant/licensee to a dealer license certificate and one [1] dealer plate. Up to four [4] additional dealer plates may be ordered at $25.00 each.

TYPE	INITIAL FEE	RENEWAL FEE
“LS”	$25.00	$25.00

The above fees entitle the applicant/licensee to a license certificate.

TYPE	INITIAL FEE	RENEWAL FEE
“AA”	$250.00	$100.00

The above fees entitle the applicant/licensee to a license certificate and one [1] special plate. Additional special plates are available under a formula system which may be found in Chapter VII of this manual.

TYPE	INITIAL FEE	RENEWAL FEE
RENTAL	$250.00	$100.00
LEASING	$250.00	$100.00

The above fees entitle the applicant/licensee to a license certificate.

G. GENERAL LICENSING REQUIREMENTS

There are a number of general requirements that every applicant for a dealers license must satisfy as a prerequisite to having a license issued. Those requirements, which it should be mentioned, must also be maintained throughout the life of the dealership, can be found summarized below. Prospective applicants are urged to consider the requirements carefully before making application.

1. NEW MOTOR VEHICLE DEALER APPLICANT

a. LOCATION AND FACILITY REQUIREMENTS

Every new motor vehicle dealer is required to comply with the following "Place of Business" requirements as set forth in §17A-6-1[17] of the code and in Division of Motor Vehicles rules and regulations.

(1) Dealership location must be permanent and not a temporary stand or other temporary quarters.

(2) The location must be owned or leased and actually occupied by the applicant or licensee.

(3) The location must be used exclusively for the purpose of selling new and used motor vehicles.

(4) There must be space under roof for the display of at least one new motor vehicle.

(5) There must be facilities and space for the servicing and repair of at least one motor vehicle which is easily accessible to the public.

(6) There must be an office with inside dimensions of at least 144 square feet, office furniture necessary to reasonably conduct business, and the facilities to keep, maintain and preserve records.

(7) Only one corporation is allowed to operate from the location. This would apply even if both corporations are owned by the same officers and directors.

(8) Accessory, gasoline, oil, and/or storage departments are allowed if such departments are operating for the purpose of furthering and assisting the licensed business.

(9) There must be a vehicle display area of at least 1200 square feet, which is used exclusively for the display of vehicles which are offered for sale by the dealer. The display area must have an all weather surface and be free of any hazardous conditions, junked vehicles, scrap iron, or trash and litter of all types.

(10) There must be a sign in letters of at least four [4] inches high permanently affixed on the premises. The sign must specifically and clearly identify the business and must be legible from the nearest principle street or highway.

(11) There must be a telephone at the location listed in the name of the dealership.

(12) The dealership must maintain minimum business hours of:

(a) 20 hours per week, minimum of 40 weeks per year.

(b) 10 hours of the 20 hours must be between 9:30 a.m. and 8:30 p.m., Monday through Saturday.

(c) The business hours must be posted.

(d) The dealership must notify the division in advance of the dates they intend to be closed.

(13) All local zoning laws must be complied with.

b. SURETY BOND

All applicants/dealers must submit with their dealer application a dealer surety bond [MV-126-DS-P] in the penal sum of ten thousand [10,000] dollars. The bond must be duly signed and executed in every detail by both a representative of the bonding company and the applicant. This must include all proper acknowledgements on the reverse side of the bond. A power of attorney for the bonding company must also be provided.

c. LIABILITY INSURANCE

All applicants/dealers must submit with their dealer application a dealer liability insurance certificate [DMV-126-DS-J] in the same name that the dealership is to be operated under. The insurance policy shall be subject to minimum limits of $20,000-$40,000-$10,000, and shall be effective from the date of the application through the following June 30th.

d. DEALER FRANCHISE

In order to be classified as a dealer in new motor vehicles an applicant/dealer must have a franchise from the manufacturer authorizing the applicant/dealer to sell new motor vehicles of a kind produced by the manufacturer.

e. PERSONAL PROPERTY TAX RECEIPT

All applicant/dealers must submit with their dealer application a copy of their paid-up county personal property tax receipt for the year preceding the date of their application. If no tax was due, an affidavit from their county assessor stating same must be submitted with the application.

f. STATE TAX NUMBER

A state sales tax number is required on an application for a new motor vehicle dealer's license. A number may be obtained from the state tax department by calling 1 (800) 982-8297 or 558-3333.

g. PHOTOGRAPH

All applicants must submit with their application at least one photograph [size no less that 3x5] of their dealership that clearly shows the office, display area, and sign.

h. CRIMINAL HISTORY

The applicant/dealer must not have had a felony conviction preceding the date of application. All applicants are required to be fingerprinted.

i. FINANCIAL HISTORY

The applicant/dealer must have no history of habitually defaulting on financial obligations.

j. BUREAU OF EMPLOYMENT PROGRAMS

The applicant must have no history of defaults on accounts with the Bureau of Employment Programs.

k. PAYMENT INTO DEALER RECOVERY FUND

2. **USED MOTOR VEHICLE DEALER APPLICANTS**

The requirements for a used motor vehicle dealer are the same as those of a new motor vehicle dealer with the following exceptions:

a. No dealer franchise is required.

b. The location must be used exclusively for the purpose of selling used motor vehicles.

c. No under roof display area is required.

d. On-site service and repair facilities are not required if applicant/dealer has entered into written agreement with a third party to provide such services.

e. The applicant dealer must pay $150.00 into the Dealer Recovery Fund.

3. **TRAILER, RECREATIONAL VEHICLE, MOTORCYCLE, AND WRECKER / DISMANTLER / REBUILDER APPLICANT**

a. **LOCATION AND FACILITY REQUIREMENTS**

(1) Dealership location must be permanent and not a temporary stand or other temporary quarters.

(2) The location must be owned or leased by the applicant and actually occupied by him.

(3) The location must be easily accessible to the public.

(4) There must be a sign in letters at least four [4] inches high permanently affixed on the premises. The sign must specifically and clearly identify the business and must be legible from the nearest principle street or highway.

(5) There must be facilities to keep, maintain, and preserve records.

b. **SURETY BOND**

Same as required of a new and used motor vehicle dealer.

c. **LIABILITY INSURANCE**

Same as required of a new and used motor vehicle dealer.

d. **PERSONAL PROPERTY TAX RECEIPT**

Same as required of a new and used motor vehicle dealer.

e. **CRIMINAL HISTORY**

Same as required of a new and used motor vehicle dealer.

f. **FINANCIAL HISTORY**

Same as required of a new and used motor vehicle dealer.

g. **STATE TAX NUMBER**

Same as required of a new and used motor vehicle dealer.

h. **PHOTOGRAPH**

Same as required of a new and used motor vehicle dealer.

i. **Same as required of a new and used motor vehicle dealer. NOTE: Mobile Home Dealers are exempt from the fund.**

4. **MANUFACTURER, TRANSPORTER, & FINANCIAL INSTITUTION APPLICANT**

a. **PROOF OF STATUS**

The applicant must submit proof of status as a bona fide manufacturer, transporter or financial institution.

b. **LIABILITY INSURANCE**

Same as required of a new and used motor vehicle dealer.

c. **SURETY BOND**

No surety bond is required.

d. **PERSONAL PROPERTY TAX RECEIPT**

Same as required of a new and used motor vehicle dealer.

H. **PROCESSING THE INITIAL DEALER LICENSE APPLICATION**

1. A perspective applicant communicates his/her desire to become a dealer to Dealer Services. This may be done in person or by calling 558-3584.

2. If the applicant wishes to become a new or used motor vehicle dealer, he/she will be contacted in person by a Division of Motor Vehicles investigator who will conduct a preliminary location inspection to ensure that the location meets minimum requirements.

Note: The purpose of this preliminary inspection is twofold:

a. If it is determined that the location does not meet "EXCLUSIVE USE" requirements [no other business or residence at location] then the applicant can save the time and expense of further location development and the expense of purchasing the required insurance and bond, and

b. It saves Dealer Services the trouble of having to deny the application.

With regard to all other classifications of licenses, the application is simply mailed to the applicant upon request. No preliminary inspection is required.

c. If it is determined that the location meets minimum requirements then an application, with instructions on how to complete it, will be given to the applicant by the investigator.

d. Upon receipt of the application, the applicant finishes preparing his location, secures his bond, insurance, and personal property tax receipt and then sends same, along with the completed application to: **Division of Motor Vehicles, Dealer Services, 1615 Washington Street, East, Charleston, WV, 25317**

It should be noted that the application should not be submitted until the applicant's location is completely finished and ready for a final inspection.

e. Upon receipt by Dealer Services, the application and all attached documents are reviewed to ensure completeness. If everything is found to be in order arrangements will be made for an investigator to visit the location for a final inspection. If the application has not been properly completed, or if required documents are missing, the applicant is contacted and advised as to what is needed. In some cases the application must be returned to the applicant and, in other cases, the matter may be handled by telephone.

f. Once the application and documents have been reviewed and have been found to be complete and accurate, an investigator will visit the location to conduct a final inspection. This inspection is to ensure that all "Place of Business" requirements are being met. The investigator will also at this time secure from the applicant finger prints of both hands and a signed waiver. The prints are forwarded to the State Police for a criminal history check and the waiver allows Dealer Services to check with the state tax department for any delinquent taxes owed the state by the applicant.

If the location is found to be in compliance, and if no disqualifying information is found through the criminal and tax inquiries, the dealers license will be issued. The license, along with the requested number of dealer plates, will be mailed to the applicant by first class mail; however, in certain cases, if it does not interfere with the normal operation of Dealer Services, the applicant may pick up the license and plates.

I. DENIAL OF DEALER LICENSE

A dealer license may be denied if the applicant has:

1. Failed to furnish the required bond;

2. Failed to furnish the required certificate of insurance;

3. Knowingly made a false statement of a material fact in his application;

4. Habitually defaulted on financial obligations in this state or other state or jurisdiction;

5. So far as can be ascertained has not and will not comply with the registration and title laws of West Virginia;

6. Has been convicted of a felony preceding receipt of the application by The Division of Motor Vehicles;

7. Does not or will not have and/or maintain at each place of business an "Established Place of Business" as defined in the code for the class of license in question;

8. Has been guilty of any fraudulent act in connection with the business of any new motor vehicle dealer, used motor vehicle dealer, trailer dealer, recreational vehicle dealer, motorcycle dealer, or wrecker/dismantler/rebuilder; or

9. Has done any act or has failed or refused to perform any duty for which the license certificate sought could be suspended or revoked were it then issued and outstanding.

10. Is delinquent in payment of any taxes owed to the United States, the State of West Virginia, or **any** political subdivision.

J. MODIFICATIONS AFTER A LICENSE HAS BEEN ISSUED

Every dealer shall notify the division within sixty [60] days whenever any of the following changes in business occur:

1. A change of business location. [This requires a location inspection];

2. A change in the trade name under which the business operates;

3. The death of the licensee or any partner or partners;

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

5. A change in the ownership of the business. [This requires a new application];

6. A change in the type of legal entity through which the licensee operates; and

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

K. LICENSE RENEWALS

As previously mentioned, all dealer licenses, with the exception of License Services, run concurrent with the fiscal year; therefore, they must be renewed by July 1 of each year. The renewal applications are mailed to dealers on or before May 1 with the request that they, along with the requested documents, e.g. insurance certificate, surety bond, and tax receipt, be returned to the Division of Motor Vehicles no later than June 1. This early return date allows ample time for processing and will ensure that all licenses will be renewed on time.

Renewal applicants not submitted 30 days prior to expiration date are subject to origination fees.