

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Originating**

## **House Bill 3175**

BY DELEGATES FLUHARTY, CAPITO, L. PACK, WESTFALL

AND PINSON

[Introduced March 12, 2021; originating in the  
Committee on the Judiciary]



1 A BILL to amend and reenact §17A-6E-4 of the Code of West Virginia, 1931, as amended, relating  
2 to removing certain felonies than can prohibit vehicle salespersons from receiving a  
3 license.

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

**ARTICLE 6E. MOTOR VEHICLE SALESPERSON LICENSE.**

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

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

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

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

6 (A) Full name;

7 (B) Social Security number;

8 (C) Residence and mailing address;

9 (D) Name of employing dealership;

10 (E) Statement as to whether the applicant has ever had any previous application for a  
11 dealer or salesperson license refused in this or any other state or jurisdiction;

12 (F) Statement as to whether the applicant has been previously licensed as a salesperson  
13 in this state or any other state or jurisdiction;

14 (G) Statement as to whether the applicant has ever had his or her salesperson license or  
15 a dealer license suspended or revoked in this state or any other state or jurisdiction;

16 (H) Statement as to whether the applicant has ever held a dealer license which has been  
17 suspended or revoked or has been employed by a dealer which has had its license suspended  
18 or revoked;

19 (I) Statement as to whether the applicant has ever been convicted of a felony or whether  
20 the applicant individually or as an owner, partner, officer, or director of a business entity has been

21 convicted of, or pleaded guilty or nolo contendere to, a criminal action, and if so, a written  
22 explanation of the conviction;

23 (J) Statement as to whether or not the applicant owes a child support obligation, owes a  
24 child support obligation that is more than six months in arrears, is the subject of a child support  
25 related warrant, subpoena, or court order; and

26 (K) Statement that the applicant has not been found to have done any of the acts which  
27 would justify suspension or revocation of a salesperson's license under §17A-6E-9 of this code;

28 (3) Submits verification of employment by the employing dealer;

29 (4) Furnishes a full set of fingerprints to facilitate a background check and other  
30 investigation considered necessary by the commissioner;

31 (5) Pays an initial nonrefundable application fee of \$7 for each year the license is valid.

32 Payment of the fee entitles the applicant to one attempt at a written test prescribed by the division.

33 Successful completion of at least 70 percent of the written test is a passing score;

34 (6) Pays a nonrefundable background investigation fee of \$25; and

35 (7) Is not the subject of a background investigation which reveals criminal convictions or  
36 other circumstances for which the commissioner may deny licensure under the provisions of this  
37 article.

38 (b) The division may, upon successful completion of all the requirements contained in  
39 subsection (a) of this section, with the exception of the background investigation, issue the  
40 applicant a temporary motor vehicle salesperson license. The temporary license is valid for a  
41 maximum of 90 days pending issuance of the permanent license endorsement or receipt of an  
42 unfavorable background investigation, whichever occurs first.

43 (c) The division shall refuse to issue the license if the applicant:

44 (1) Does not provide the necessary documents as determined by the division to establish  
45 his or her identity or legal presence in this country;

46 (2) Has made any false statements of material fact in the application;

47 (3) Has had his or her privilege to sell vehicles denied, suspended, or revoked by this state  
48 or any other state or jurisdiction: *Provided*, That upon the applicant's appeal, the commissioner  
49 may grant an exemption of this restriction if the applicant can show that he or she is eligible for  
50 reinstatement in his or her previous jurisdiction of licensure;

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

54 (5) Has been convicted of a felony ~~*Provided*, That upon the applicant's appeal the~~  
55 ~~commissioner may grant an exemption to this restriction if the felony did not involve~~ in the last ten  
56 years involving a financial transaction involving the sale or purchase of a motor vehicle or the  
57 motor vehicle industry;

58 (6) Is not employed as a salesperson for a motor vehicle dealer licensed in accordance  
59 with §17A-6-1 *et seq.* or §17A-6C-1 *et seq.* of this code;

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

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

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

NOTE: The purpose of this bill is to allow car salespersons who have been previously convicted of a felony to be treated similarly to car dealers.

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