

Rec., Feb. 22, 1934

172

ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

Sen. Com. Sub. for
House Bill No. 142

(By Mr. Beacom)

Passed February 21 1934

In Effect from Passage

Originated in the.....*House of Delegates*.....Takes effect.....*Feb. 21, 1934*.....Passage
Wm. L. Vaer.....Clerk.....*Geo. Johnson*.....Clerk of House of Delegates.

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James L. Smith.....Chairman House Committee.
A. B. Abbott.....acting Chairman Senate Committee.

ENROLLED BILL

(Sen. Com. Sub. for Eng. H. B. No. 142)

[Passed February 21, 1934; in effect from passage.]

AN ACT to encourage state and national industrial recovery by
cooperating with the national government in fostering fair
competition and for other purposes.

Be it enacted by the Legislature of West Virginia:

Section 1. A state-wide emergency productive of widespread
2 unemployment and disorganization of industry, which burdens
3 commerce, affects the public welfare, and undermines the
4 standards of living of the people of this state is hereby declared
5 to exist, and it is hereby recognized that such an emergency
6 exists throughout the nation. It is hereby declared to be the
7 policy of this state to provide for the general welfare by cooper-
8 ating with and assisting the national government in promoting
9 the organization of industry for the purpose of cooperative ac-
10 tion among trade groups; to induce and maintain united action

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H. B. No. 142
Chairman Senate Committee.

2 [Enr. Sen. Com. Sub. for Eng. H. B. No. 142

11 of labor and management under adequate governmental sanc-
12 tions and supervision; to eliminate unfair competitive practices;
13 to promote the fullest possible utilization of the present produc-
14 tive capacity of industry; to avoid undue restriction of produc-
15 tion (except as may be temporarily required); to increase the
16 consumption of industrial and agricultural products by increas-
17 ing purchasing power; to reduce and relieve unemployment; to
18 improve standards of labor, and otherwise to rehabilitate in-
19 dustry and conserve natural resources and otherwise as an-
20 nounced in the act of Congress entitled: "An Act to encourage
21 national industrial recovery, to foster fair competition, and to
22 provide for the construction of certain useful public works, and
23 for other purposes" approved June sixteen, one thousand nine
24 hundred thirty-three, and commonly known as the "National
25 Industrial Recovery Act".

Sec. 2. To effectuate the policy of this act, the Governor is
2 hereby authorized to consent to the President of the United
3 States utilizing state and local officers and employees in effectu-
4 ating the policies of the national industrial recovery act in ac-
5 cordance with the provisions of section two-(a) of that act.

Sec. 3. No person, natural or artificial, shall refrain from

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Enr. Sen. Com. Sub. for Eng. H. B. No. 142] 3

2 complying with the provisions of any code of fair competition,
3 agreement or license, approved, prescribed, or issued under the
4 terms of the national industrial recovery act on the ground that
5 he is not engaged in transactions in, or affecting "interstate or
6 foreign commerce" as defined in paragraph (d), section seven,
7 title I of the national industrial recovery act.

Sec. 4. The terms and conditions of any code of fair competi-
2 tion, agreement, or license approved, prescribed, or issued under
3 the terms of the national industrial recovery act for any trade
4 or industry or subdivision thereof, shall be considered as the
5 standards of fair competition for such trade or industry or sub-
6 division thereof in all its transactions within this state. The
7 violation of such standards by any person engaged in such trade
8 or industry or subdivision thereof within this state shall be
9 deemed the use of unfair methods of competition.

Sec. 5. When a code of fair competition has been approved
2 or prescribed by the President under the national industrial
3 recovery act, any violation of any provision thereof in any
4 transaction within this state not in or affecting "interstate or
5 foreign commerce" within the definition of paragraph (d),
6 section seven, title I of the national industrial recovery act,

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4 [Enr. Sen. Com. Sub. for Eng. H. B. No. 142

7 shall be a misdemeanor and upon conviction thereof an offender
8 shall be fined not more than five hundred dollars for each offense,
9 and each day such violation continues shall be deemed a sepa-
10 rate offense.

Sec. 6. Any person subject to and complying with the terms
2 and conditions of any code of fair competition, agreement, or
3 license, approved, prescribed, or issued under the terms of the
4 national industrial recovery act for any trade or industry or
5 sub-division thereof within this state, or any prosecuting at-
6 torney of this state may institute a suit to prevent and restrain
7 any violation of any provision thereof in any transaction within
8 this state not in, or affecting "interstate or foreign commerce"
9 within the definition of paragraph (d), section seven, title I
10 of the national industrial recovery act. The circuit courts of
11 this state are hereby invested with jurisdiction to entertain such
12 suits.

Sec. 7. While this act is in effect, (or in the case of a license
2 while paragraph (a) of section four of title I of the national in-
3 dustrial recovery act is in effect), and for sixty days thereafter,
4 any code of fair competition, agreement, or license approved,
5 prescribed, or issued under the terms of the national industrial

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6 recovery act, and any action complying with the provisions
7 thereof (including the acts of any person or persons interested
8 in any trade or industry or subdivision thereof in meeting, con-
9 ferring or agreeing upon any code of fair competition or agree-
10 ment) taken during such period, shall be exempt from the pro-
11 visions of the anti-trust laws of this state, or any court order or
12 decree issued thereunder, whether or not such trade or in-
13 dustry or subdivision thereof is engaged in transactions in or
14 affecting "interstate or foreign commerce" as defined in para-
15 graph (d), section seven, title I of the national industrial re-
16 covery act.

Sec. 8. In furtherance of the purposes and policies of this act
2 and of the national industrial recovery act, any department of
3 this state and the governing body of any subdivision, municipal
4 corporation or district and any public officer or person charged
5 with the letting of contracts for (1) the construction, altera-
6 tion or repair of public works or (2) the purchasing of mate-
7 rials or supplies for public use, shall let such contracts only to
8 those persons, natural or artificial, who agree in and by the
9 terms of such contracts to use or supply only articles, materials
10 and supplies mined, produced, manufactured or supplied by a

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6 [Enr. Sen. Com. Sub. for Eng. H. B. No. 142

11 person who is a party or subject to a code of fair competition,
12 agreement, or license, approved, prescribed, or issued under the
13 terms of the national industrial recovery act in every case where
14 a code of fair competition, agreement, or license has been ap-
15 proved, prescribed, or issued under the terms of the national
16 industrial recovery act for the trade or industry or subdivision
17 thereof mining, producing, manufacturing or supplying such
18 articles, materials or supplies. Any practices in violation of
19 such terms of such contracts shall be deemed the use of unfair
20 methods of competition within the meaning of this act.

Sec. 9. This act shall cease to be in effect on June sixteenth,
2 one thousand nine hundred thirty-five, or sooner if, as provided
3 in paragraph (c), section two, title I of the national industrial
4 recovery act, the President shall, by proclamation or the Con-
5 gress by joint resolution, declare that the national emergency
6 recognized by the national industrial recovery act has ended.

Sec. 10. If any provision of this act or the application thereof
2 to any person or circumstance is held invalid, the remainder of
3 this act, and the application of such provisions to other persons
4 or circumstances, shall not be affected thereby.

Sec. 11. This act is hereby declared to be an urgent emergency

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Enr. Sen. Com. Sub. for Eng. H. B. No. 142] 7

2 measure necessary for the immediate preservation of the general
3 welfare of the people of the state.

Sec. 12. This act may be known and cited as the "State In-
2 dustrial Recovery Act": *Provided*, That nothing in this act
3 shall be construed by any public official or any court to alter,
4 modify or repeal any existing statute of the state of West
5 Virginia.

P. M. Hines
.....
Speaker of the House of Delegates.

W. P. Stace
.....
Clerk of the House of Delegates.

W. M. Mauney
.....
President of the Senate.

W. M. Mauney
.....
Clerk of the Senate.

The within is.....

this *24th* day of *February*, 1934.

H. B. Kemp
.....
Governor.

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A. B. Abbott
.....
Chairman Senate Committee.

James L. Smith
.....
Chairman House Committee.

Filed in the office of the Secretary of State
of West Virginia. **FEB 26 1934**

Wm. S. O'BRIEN,
Secretary of State