

Rec., Jan. 25, 1934.

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**ENROLLED BILL**  
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 147

(By Mr. Beacon, by request)

Passed January 19, 1934

In Effect 90 days from Passage

Originated in the.....*House of Delegates*.....Takes effect.....*from*.....passage  
.....*Sen. S. Hall*.....Clerk.  
.....*Sen. S. Hall*.....Clerk of the House of Delegates.

CORRECTLY ENROLLED

*James L. Smith*  
.....Chairman House Committee.  
*Henry D. Hall*  
.....Chairman Senate Committee.

## ENROLLED BILL

(H. B. No. 147)

[Passed January 19, 1934; in effect ninety days from passage.]

AN ACT to regulate the business of buying and selling articles commonly known as junk, including old or scrap brass, old or scrap copper, rags, rope, old or scrap paper, old or scrap rubber, old or scrap iron and steel and all other old or scrap ferrous or non-ferrous metals, defining the terms "junk", "junk dealers", "junk dealer's agents", "non-resident junk dealers" and "non-resident junk dealer's agents", "itinerant junk collector"; requiring a license and the payment of a fee therefor, and fixing the qualifications of persons who engage in the business of "junk dealers" or "junk dealer's agents" to engage in the business of "junk dealer", and/or "junk dealer's agents", and providing penalties for violations of the provisions thereof.

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*James A. Hays*

*Chairman Senate Committee.*

*James L. Smith*

*Chairman House Committee.*

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

Section 1. The term "junk" as used in this act shall mean  
2 old or scrap copper, old or scrap brass, old or scrap batteries,  
3 old or scrap paper, old or scrap rubber, old or scrap iron and  
4 steel and other old or scrap ferrous or non-ferrous metals.

5 The term "junk dealers" shall include all persons, firms,  
6 or corporations engaged in the business of buying or selling  
7 "junk" as hereinabove defined.

8 The term "junk dealer's agents" shall include all persons,  
9 firms or corporations who buy or sell "junk" as hereinbefore  
10 defined for or on behalf of a "junk dealer" as hereinabove  
11 defined, but the term "junk dealer's agent" shall not be con-  
12 strued to include any persons regularly employed upon a salary  
13 by a regularly licensed "junk dealer" engaged in such business  
14 within the state of West Virginia.

15 The term "itinerant junk collector" shall include only such  
16 persons who gather junk from house to house with the aid of a  
17 cart or vehicle, who have no fixed place of business.

18 The term "non-resident junk dealer" or "non-resident junk  
19 dealer's agent" shall include all persons, firms or corporations  
20 who act as "junk dealers" or "junk dealer's agents" who are

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D. H. Hays

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21 non-residents of the state of West Virginia, and all firms so  
22 engaged whose members are non-residents of West Virginia  
23 and all corporations which have not been admitted to hold  
24 property and transact business in the state of West Virginia.

Sec. 2. No person within the state of West Virginia shall  
2 engage in the business of "junk dealer", "junk dealer's agent"  
3 or "itinerant junk collector" without a state license therefor,  
4 which license shall be obtained and issued in the same manner  
5 as licenses are obtained or issued under the provisions of chap-  
6 ter eleven, article twelve of the code of West Virginia, one  
7 thousand nine hundred thirty-one: *Provided, however,* That no  
8 resident license shall be issued to any "junk dealer", "junk  
9 dealer's agent" and "itinerant junk collector" who has not  
10 been a resident of the state of West Virginia for a period of at  
11 least one year prior to the application for such license.

Sec. 3. No corporation or firm shall engage in the business  
2 of "junk dealer" or "junk dealer's agent" in the state of  
3 West Virginia unless the officers or agents of such corporation  
4 or firm who engage in the business of "junk dealer" or "junk  
5 dealer's agent" in behalf of such corporation or firm shall be  
6 eligible to be duly licensed as resident "junk dealers" or "junk

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James A. Hyatt  
Chairman Senate Committee.

7 dealer's agents'' in accordance with the provisions of this act.

Sec. 4. The fee for a resident "junk dealer's" license shall  
2 be twenty-five dollars; on every "junk dealer's agent"  
3 license, ten dollars; on every non-resident "junk dealer" or his  
4 agent who buys or solicits for the purchase of "junk" within  
5 the state, one hundred fifty dollars: *Provided, however,* That  
6 any "non-resident junk dealer" may purchase "junk" from  
7 any resident "junk dealer" without complying with the pro-  
8 visions of this section of this act, but if said "non-resident junk  
9 dealer" comes into the state in any motor vehicle or horse drawn  
10 vehicle the said "non-resident junk dealer" shall not be per-  
11 mitted to transport from the state in said vehicle or horse-  
12 drawn wagon, "junk" purchased from resident "junk dealers",  
13 unless there is a compliance with this section; on every "itiner-  
14 ant junk collector," one dollar.

Sec. 5. Every resident "junk dealer" shall certify to the  
2 clerk of the county court issuing the license, the name or names  
3 of the agents for whom he desires a license certificate and shall  
4 give to each agent so engaged by him, a certificate of authority,  
5 which certificate the agent shall at all times keep with his license  
6 and no such "junk dealer's agent's" license shall be valid and

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*James L. Smith*  
*Arthur A. Boyer*

*Chairman House Committee.*

*Chairman Senate Committee.*

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7 effective without such certificate of authority. The clerk of  
8 the county court who issues the licenses under the provisions  
9 of this act shall give to each license certificate a numerical  
10 designated permit, and such permit so given shall be plainly  
11 written or printed as "Dealer's Permit No.....", "Agent's  
12 Permit No.....", "Itinerant Collector's Permit No.....",  
13 "Non-Resident Permit No.....", as the case may be, upon  
14 both sides of all trucks or other vehicles used in the collecting  
15 and transporting of "junk". But the clerk shall not issue a  
16 "junk dealer's agent's" license until the applicant therefor  
17 shall first have presented a certificate from a duly licensed  
18 "junk dealer" showing such authorization, and no license shall  
19 be issued to a "junk dealer's agent" or "itinerant junk collec-  
20 tor" unless they shall file with the clerk an affidavit setting out  
21 that such applicant has not been convicted of a felony; that he  
22 has not been convicted of a misdemeanor in connection with the  
23 junk business within a five-year period prior to the time of his  
24 application, and that in the event the application is for a "resi-  
25 dent dealer's" license that he has resided in the state for a period  
26 of one year next preceding the date of his application, which

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*Anna A. Higgins*

*Chairman Senate Committee.*

*James L. Smith*

*Chairman House Committee.*

27 said certificate and affidavit shall be filed by the clerk issuing  
28 the license in his office.

29 The license fee herein provided shall not be divisible, and  
30 all licenses issued under the provision hereof shall expire on  
31 the thirtieth day of June of each year. No license issued here-  
32 under shall be transferable.

33 No one who has been convicted of a felony shall be licensed  
34 as a "junk dealer", "junk dealer's agent" or "itinerant junk  
35 collector", and no one convicted of a misdemeanor in connec-  
36 tion with the junk business within a five-year period prior to the  
37 passage of this act shall be licensed as a "junk dealer", "junk  
38 dealer's agent" or "itinerant junk collector".

39 No person, firm or corporation engaged in the junk business  
40 shall engage a person as a "junk dealer's agent" who is in-  
41 eligible to receive a resident "junk dealer's" or "junk dealer's  
42 agent's" license.

43 Any license issued upon false affidavit or any improper  
44 license issued hereunder shall be ipso facto void.

Sec. 6. It shall be unlawful for any person or persons,  
2 firm or corporation, to barter, purchase, exchange, buy or ac-  
3 cept from any person whatsoever, except plumbers, the owner

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4 or owners of buildings from which the material is taken, coal  
5 companies, industrial, manufacturing and public utility com-  
6 panies, or the authorized agents of such companies, lawful  
7 owners and licensed "junk dealers", copper trolley wire, alumi-  
8 num wire, brass bearings or fittings or lead, shipped or de-  
9 livered from points within this state. Every "junk dealer" pur-  
10 chasing any of the items hereinbefore mentioned from the  
11 aforesaid persons, firms or corporations, shall accurately list  
12 such purchase in a permanent record showing kind and char-  
13 acter of "junk" purchased, date of purchase and from whom  
14 purchased, which shall be open to the inspection of all law en-  
15 forcement officers.

16 It shall be unlawful for any "junk dealer" to purchase any  
17 of the items hereinbefore mentioned, except from the persons,  
18 firms or corporations named aforesaid, without securing from  
19-20 the seller a bill of sale, receipt or other proof of law-  
21 ful ownership, which shall be retained by such purchaser  
22 or dealer, and the said purchaser or dealer shall list in a record  
23 book the full name and address of the seller, a complete de-  
24 scription of the kind and character of the "junk" or material  
25 purchased, the hour and day purchased, and the license num-



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26 ber of any automobile or truck which may be used in making  
 27 delivery of such "junk" or material, which record shall be  
 28 open to the inspection of all law enforcement officers, and be  
 29 preserved for a period of not less than one year.

30 Every "non-resident junk dealer" or "non-resident junk  
 31 dealer's agent" or "itinerant junk collector", before transport-  
 32 ing from the state any of the items hereinbefore mentioned, shall  
 33 file with the sheriff of the county where such purchase was made,  
 34 a complete description of the property he proposes to trans-  
 35 port from the state, showing the date of purchase, the names  
 36 of the buyer and seller, the party to whom it is to be consigned,  
 37 and the license number of any automobile or truck which may  
 38 be employed in transporting such "junk" or materials herein-  
 39 before mentioned, and shall leave such "junk" material in the  
 40 county where purchased for not less than five days after report-  
 41 ing to the sheriff, before removing from the county.

Sec. 7. Any person, firm or corporation who shall violate  
 2 any of the provisions of this act shall be guilty of a misde-  
 3 meanor, and upon conviction thereof shall be fined not less than  
 4 fifty dollars and not more than five hundred dollars, and upon  
 5 a second conviction for any offense under this act, in addi-

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*James E. Smith*  
*Wm. A. Hyman*

*Chairman House Committee.*

*Chairman Senate Committee.*

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tion to the fine, the license of the person, firm or corporation  
so convicted of a second offense shall be revoked and no fur-  
ther license shall be granted to the said person, firm or corpo-  
ration so convicted, and it shall be the duty of any law enforce-  
ment officer to arrest, without a warrant, any person in charge  
of any vehicle used in the transportation of "junk" which  
does not have displayed thereon the permit number of the  
"junk dealer" or "junk dealer's agent" for whom such "junk"  
is being transported. The arresting officer shall hold in his pos-  
session any vehicle operated without a license until any fine  
imposed upon the driver or owner of the vehicle is paid and a  
proper license is obtained; upon failure to pay the fine and  
secure the license within ten days from conviction, the sheriff  
of the county in which said vehicle is held shall confiscate the  
same, and the sheriff shall give notice to the owner of the ve-  
hicle by publication in a newspaper of general circulation at  
least ten days prior to the date of sale that the said vehicle  
will be sold at public auction to the highest bidder, and out of  
the funds derived the sheriff shall pay first to the justice of  
the peace the costs and fine, and secondly shall pay to the  
state of West Virginia a sufficient sum of money to secure a

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Dennis A. Hyre.  
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27 proper license, and any sums of money remaining in his hands  
28 shall be promptly transmitted to the owner of the truck by  
29 registered mail or otherwise. A report of said sale shall be  
30 made by the sheriff to the justice of the peace, who shall record  
31 the same in his docket where the records of the conviction and  
32 the fine are kept.

33 Any person, firm or corporation engaged in any business  
34 other than the junk business shall have the right to convey  
35 "junk" which may have accumulated in connection with their  
36 business by vehicle or otherwise for the purpose of disposal  
37 or sale without complying with the provisions of this act, or  
38 may purchase and transport "junk" used in the operation of  
39 their business: *Provided, however,* That this section shall not  
40 apply to vehicles used by common carriers in the transporta-  
41 tion of "junk" as an incident to the business of such common  
42 carriers.

43 Justices of the peace shall have jurisdiction over offenses  
44 under this act.

45 All acts and parts of acts inconsistent herewith are hereby  
46 repealed. The provisions of this act shall be considered as  
47 separable, and if any part thereof shall be declared unconsti-

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48 tutional and void the same shall not affect the other portions of

49 said act when so declared.

*James A. McConkey*  
Chairman Senate Committee.

*Wm. M. Lister*  
Speaker of the House of Delegates.

*James S. Hall*  
Clerk of the House of Delegates.

*Wm. M. Lister*  
President of the Senate.

*Wm. M. Lister*  
Clerk of the Senate.

*James A. McConkey*  
Chairman House Committee.

The within is.....*approved*.....

this...*30<sup>th</sup>*...day of...*January*..., 1934.

*H. S. Kump*  
Governor.

Filed in the office of the Secretary of State  
of West Virginia. **JAN 31 1934**  
Wm. S. O'BRIEN,  
Secretary of State