

Rec., Mar. 11, 1933

112

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 112

(By Mr. Walt)

Passed March 8, 1933

In Effect from Passage

Originated in the *Senate*..... Takes effect..... *March 1, 1933*..... Passage

Geo. S. Wallace
Clerk of the House of Delegates

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Geo. S. Wallace
Clerk.

James L. Smith
Chairman Senate Committee.

James L. Smith
Chairman House Committee.

ENROLLED BILL

(H. B. No. 112)

[Passed March 8, 1933; in effect from passage.]

AN ACT requiring licenses for the operation, maintenance, opening or establishment of stores in this state, prescribing the license and filing fees to be paid therefor, and the disposition thereof, and the powers and duties of the state tax commissioner in connection therewith, and prescribing penalties for the violation thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. It shall be unlawful for any person, firm, corporation, association or copartnership, either foreign or domestic, to operate, maintain, open or establish any store in this state without first having obtained a license so to do from the state tax commissioner, as hereinafter provided.

Sec. 2. Any person, firm, corporation, association or copartnership desiring to operate, maintain, open or establish a

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3 store in this state, shall apply to the state tax commissioner for
4 a license so to do. The application for a license shall be made
5 on a form which shall be prescribed and furnished by the state
6 tax commissioner, and shall set forth the name of the owner,
7 manager, trustee, lessee, receiver or other person desiring such
8 license, the name of such store, and such other facts as the state
9 tax commissioner may require. If the applicant desires to
10 operate, maintain, open or establish more than one such store,
11 he shall make a separate application for a license to operate,
12 maintain, open or establish each such store, but the respective
13 stores for which the applicant desires to secure licenses may
14 all be listed on one application blank. Each such application
15 shall be accompanied by a filing fee of fifty cents, and by the
16 license fee as prescribed in section five of this act.

Sec. 3. As soon as practicable after the receipt of any such
2 application, the state tax commissioner shall carefully examine
3 such application to ascertain whether it is in proper form and
4 contains the necessary and requisite information. If, upon ex-
5 amination, the state tax commissioner shall find that any such
6 application is not in proper form and does not contain the
7 necessary and requisite information, he shall return such ap-

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8 plication for correction. If an application is found to be satis-
9 factory, and if the filing and license fees, as herein prescribed,
10 shall have been paid, the state tax commissioner shall issue to
11 the applicant a license for each store for which an application
12 for license shall have been made. Each licensee shall display
13 the license so issued in a conspicuous place in the store for which
14 such license is issued.

Sec. 4. All licenses shall be so issued as to expire on the
2 thirty-first day of December of each calendar year. On or
3 before the first day of January of each year, every person, firm,
4 corporation, association or copartnership having a license shall
5 apply to the state tax commissioner for a renewal license for
6 the calendar year next ensuing. All applications for renewal
7 licenses shall be made on forms which shall be prescribed and
8 furnished by the state tax commissioner. No license shall lapse
9 prior to the thirty-first day of January of the year next follow-
10 ing the year for which such license was issued; if a renewal
11 license has not been made, the state tax commissioner shall
12 notify such delinquent license holder thereof, by registered
13 mail, and if application is not made for and a renewal license
14 issued on or before the last day of February, next ensuing, the

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15 former license shall lapse and become null and void. Each
16 such application for a renewal license shall be accompanied by
17 a filing fee of fifty cents, and by the license fee as prescribed
18 in section five of this act.

Sec. 5. Every person, firm, corporation, association or co-
2 partnership opening, establishing, operating, maintaining one or
3 more stores or mercantile establishments within this state under
4 the same general management, supervision or ownership, shall
5 pay the license fees hereinafter prescribed for the privilege of
6 opening, establishing, operating or maintaining such stores or
7 mercantile establishments. The annual license fee prescribed
8 herein shall be as follows: (1) Upon one store, the annual li-
9 cense fee shall be two dollars for each such store; (2) upon two
10 stores, or more, but not to exceed five stores, the annual license
11 fee shall be five dollars for each such additional store; (3) upon
12 six stores or more, but not to exceed ten stores, the annual license
13 fee shall be ten dollars for each such additional store; (4) upon
14 each store in excess of ten, but not to exceed fifteen, the annual
15 license fee shall be twenty dollars for each such additional store;
16 (5) upon each store in excess of fifteen and not to exceed twenty
17 stores, the annual license fee shall be thirty dollars for each such

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18 additional store; (6) upon each store in excess of twenty, but
19 not to exceed thirty stores, the annual license fee shall be thirty-
20 five dollars for each such additional store; (7) upon each store
21 in excess of thirty, but not to exceed fifty stores, the annual
22 license fee shall be one hundred dollars; (8) upon each store in
23 excess of fifty, but not to exceed seventy-five stores, the annual
24 license fee shall be two hundred dollars; (9) upon each store in
25 excess of seventy-five, the annual license fee shall be two hundred
26 fifty dollars for each additional store.

Sec. 6. Each and every license issued prior to the first day
2 of July of any year shall be charged for at the full rate, and
3 each and every license issued on or after the first day of July
4 of any year shall be charged for at one-half of the full rate, as
5 prescribed in section five of this act.

Sec. 7. The provisions of this act shall be construed to
2 apply to every person, firm, corporation, copartnership or asso-
3 ciation, either domestic or foreign, which is controlled or held
4 with others by majority stock ownership or ultimately con-
5 trolled or directed by one management or association of ulti-
6 mate management.

Sec. 8. The term "store" as used in this act shall be con-

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Chairman Senate Committee.

2 strued to mean and include any store or stores or any mercantile
3 establishment or establishments which are owned, operated, main-
4 tained and/or controlled by the same person, firm, corporation,
5 copartnership or association, either domestic or foreign, in
6 which goods, wares or merchandise of any kind, are sold, either
7 at retail or wholesale.

Sec. 9. Any person, firm, corporation, copartnership or
2 association who shall violate any of the provisions of this act
3 shall be deemed guilty of a misdemeanor and upon conviction
4 thereof shall be fined in any sum not less than twenty-five
5 dollars nor more than one hundred dollars, and each and every
6 day that such violation shall continue shall constitute a separate
7 and distinct offense.

Sec. 10. Any and all expenses incurred by the state tax
2 commissioner in the administration of this act shall be paid out
3 of the funds accruing from the fees imposed by and collected
4 under the provisions of this act. All money collected under the
5 provisions of this act shall be paid into the state treasury,
6 monthly, by the state tax commissioner, and shall be added to
7 and shall constitute a part of the general fund for the elementary
8 schools.

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Sec. 11. No injunction shall issue from any court in this
2 state enjoining the collection of any license tax provided herein,
3 but the party claiming that any license is not due, for any rea-
4 son, shall pay the same under protest with the right to collect
5 the same from the state tax commissioner by an appropriate
6 remedy as provided by law.

Sec. 12. The provisions of this act are several, and if any
2 section, provision, word or clause of this act be declared invalid,
3 the decision of the court shall not affect or impair any of the
4 remaining provisions of this act. It is hereby declared as a
5 legislative intent that this act would have been adopted had such
6 invalid portion not been included herein.

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James L. Smith
Chairman House Committee.

James L. Smith
Chairman Senate Committee.

Wm. M. Hunter
Speaker of the House of Delegates.

Geo. S. Hall
Clerk of the House of Delegates.

Wm. M. Hunter
President of the Senate.

Wm. M. Hunter
Clerk of the Senate.

The within is.....

this.....day of....., 1933.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAR 18 1933**
Wm. S. O'BRIEN,
Secretary of State