

11th

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935

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ENROLLED

Committee Substitute For
HOUSE BILL No. 197

(By Mr. _____)

—●—

PASSED March 8 1935

In Effect 90 days from Passage

197

ENROLLED
COMMITTEE SUBSTITUTE FOR
House Bill No. 197

[Passed March 8, 1935; in effect ninety days from passage.]

AN ACT to amend and reenact section fifty-seven, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-five, acts of the Legislature of West Virginia, one thousand nine hundred thirty-one, and as last amended and reenacted by chapter thirty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to hawkers and peddlers.

Be it enacted by the Legislature of West Virginia:

That section fifty-seven, article twelve, chapter eleven of the code of the West Virginia, one thousand nine hundred thirty-one, as amended by chapter fifty-five, acts of the Legislature of West Virginia, one thousand nine hundred thirty-one, and as last amen-

ded and reenacted by chapter thirty-five, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 57. On every license to act as hawker or peddler,
2 if the person licensed travel without a vehicle, ten dollars;
2-a if he travels with a vehicle of not more than $\frac{1}{2}$ ton capacity,
3 fifteen dollars; if he travel with a vehicle of not more than one
4 ton capacity, twenty-five dollars; if he travel with a vehicle of
5 more than one ton capacity, but not exceeding two tons' capae-
6 ity, seventy-five dollars; if he travel with a vehicle of more than
7 two tons' capacity, but not exceeding three tons' capacity, one
8 hundred fifty dollars; and if he travel with a vehicle of more
9 than three tons' capacity, two hundred fifty dollars, plus one
10 hundred dollars for each additional ton or fraction thereof
11 over four tons' capacity; and the person licensed shall pay at
12 the same rates for each and every vehicle. Such person shall
13 carry his license in some conspicuous place in his vehicle or
14 about his pack; and in addition thereto such licensee shall cause
15 to be painted or stencilled in a conspicuous place on the left-
16 hand side of his vehicle the number of such license and the
17 words "West Virginia Hawker and Peddler" and the fiscal

18 year for which said license is issued, which said information
 19 shall be in black letters on a white background, and the whole
 20 thereof shall be at least eight by twenty inches in size. Such
 21 license shall be co-extensive of and with the entire state.

22 All persons, firms and corporations who shall carry goods,
 23 wares or merchandise from place to place, either in person or
 24 by agent or employee, and offer to sell or barter, or actually
 25 sell or barter, and at the same time deliver, any of said goods,
 26 wares or merchandise to any purchaser, at wholesale or retail,
 27 shall be deemed a hawker or peddler under this article,, except
 27-a that nothing in this article shall be construed as levying a
 27-b license tax on an agent or traveling salesman of a manufac-
 27-c turer or wholesaler who may directly supply articles manu-
 27-d factured or handled by such manufacturer or wholesaler to
 27-e customer engaged in merchandising at retail at bona fide,
 27-f fixed, and stationary places of business.

28 All persons, firms or corporations who do have and keep
 29 a regular place of business in this state with a stock of goods,
 30 wares or merchandise thereat for sale, and whether or not said
 31 place is open at all times during the usual business hours for

32 business, who shall, elsewhere than at such regular place of
33 business, personally, or through their agents, offer for sale, or
34 sell, and at the same time of such offering for sale, deliver
35-6 goods, wares and merchandise, shall also be deemed hawkers
37 or peddlers as aforesaid; and all persons, firms or corpora-
38 tions who do not have and keep a regular place of business
39 in this state as aforesaid and who in person or by agent offer
40 for sale, or sell, and at the same time of such sale have for de-
41 livery, and deliver, goods, wares or merchandise, shall also be
42 deemed hawkers or peddlers as aforesaid; but nothing con-
43 tained in this article shall apply to those who sell, or offer for
44 sale, in person or by their employees, petroleum products, ice,
44-a wood, meats, milk, bread, cakes, pies and other bakery prod-
45 ucts, butter, eggs, poultry, vegetables, fruits or other family or
46 farm supplies, grown or produced by them, and not purchased
47 by them for sale. Nothing in this article shall be construed as
48 requiring a license of a person or persons engaged or continu-
49 ing in the business or calling of agriculture, horticulture or
50 grazing, to sell or offer to sell individually or collectively,
51 one or more for the other or others, the products derived from
52 his or their business or calling aforesaid; nor of a person or

53 persons engaged in the business of operating a retail merchan-
54 dise store in a rural community to exchange goods from such
55 store for agricultural products or to sell or offer to sell agri-
56 cultural products acquired by such store in the due course of
57 business of barter and sale; nor as requiring a license of a
58 wholesaler or jobber engaged in the sale of soft drinks, ice
59 cream, or nonintoxicating beer duly licensed under other pro-
60 visions of the law relating thereto; nor of a mechanic or others
61 to sell or offer to sell articles of his or their own production:
62 *Provided*, That each farmer or other person exempt from
63 license as above provided, shall obtain from the clerk of the
64 county court of the county of his residence or from the clerk
65 of the county where he proposes to sell, a license receipt, with-
66 out cost, showing that he is so exempt, and which shall run
67 for a period of one year after the issuance thereof and be co-
68 extensive of and with the entire state; but to obtain such
69 license receipt he shall make an affidavit as to the facts en-
70 titling him to such exemption on a form to be prescribed by
71 the tax commissioner of this state.

72 If any person for himself or for another person shall act as
73 hawker or peddler without having a license or carry on his

74 vehicle a greater load than is called for by his license as
75 above required, he shall be guilty of a misdemeanor, and upon
76 conviction thereof shall be fined not less than twenty-five dol-
77 lars nor more than one hundred dollars, or be confined in the
78 county jail not exceeding sixty days or both such fine and
79 imprisonment, in the discretion of the court; and each day or
80 part thereof upon which said person or persons shall act as
81 hawker or peddler without such license or shall carry on his
82 vehicle a greater load than his license permits, shall constitute
83 a separate offense hereunder.

84 Justices of the peace shall have concurrent jurisdiction with
85 the circuit and other courts having jurisdiction for the trial
86 of all offenses arising under this section.

87 It shall be the duty of the superintendent of the department
88 of public safety and the police force under his control, city
89 police, sheriffs and other public officers to apprehend and cause
90 to be punished violators of this section.

91 The tax commissioner shall have the power and authority
92 to promulgate rules and regulations necessary to carry out
93 the provisions of this act, including the following:

94 (a) Rules and regulations with reference to application
95 for license and the issuance of such license
96 (b) Rules and regulations for the revocation of license in
97 in case of violation of this section, or any rules or reg-
98 lations issued in pursuance of authority hereby given.
99 In the event that any clause or part of this section shall be
100 declared invalid, such adjudication shall not affect the rest of
101 the section.
102 All acts or parts of acts inconsistent herewith are hereby
103 repealed.

I certify that the foregoing act,
having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

This the 15th day of March,
1935.



SECRETARY OF STATE

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

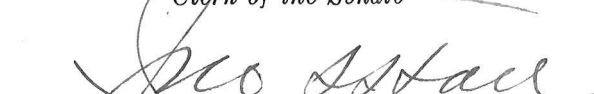

Chairman Senate Committee

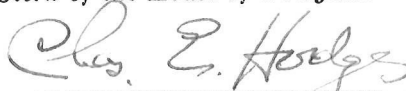

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates.

The within..... this the.....

day of....., 1935.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. MAR 15 1935

Wm. S. O'BRIEN,
Secretary of State