WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1935

ENROLLED
Committee Substitute
HOUSE BILL No. 197

(By Mr. ____________________________)

PASSED March 8, 1935

In Effect 90 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; 
2a if he travels with a vehicle of not more than ½ 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' capac-
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
persons engaged in the business of operating a retail merchandise store in a rural community to exchange goods from such store for agricultural products or to sell or offer to sell agricultural products acquired by such store in the due course of business of barter and sale; nor as requiring a license of a wholesaler or jobber engaged in the sale of soft drinks, ice cream, or nonintoxicating beer duly licensed under other provisions of the law relating thereto; nor of a mechanic or others to sell or offer to sell articles of his or their own production:

Provided, That each farmer or other person exempt from license as above provided, shall obtain from the clerk of the county court of the county of his residence or from the clerk of the county where he proposes to sell, a license receipt, without cost, showing that he is so exempt, and which shall run for a period of one year after the issuance thereof and be extensive of and with the entire state; but to obtain such license receipt he shall make an affidavit as to the facts entitling him to such exemption on a form to be prescribed by the tax commissioner of this state.

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

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

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

The tax commissioner shall have the power and authority
to promulgate rules and regulations necessary to carry out
the provisions of this act, including the following:
(a) Rules and regulations with reference to application for license and the issuance of such license

(b) Rules and regulations for the revocation of license in case of violation of this section, or any rules or regulations issued in pursuance of authority hereby given.

In the event that any clause or part of this section shall be declared invalid, such adjudication shall not affect the rest of the section.

All acts or parts of acts inconsistent herewith are hereby 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 prescribed by the constitution of the state, has become a law without his approval.

This the 15th day of March, 1935.

[Signature]

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

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

[Signatures]

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.

[Signature]

Governor.

Filed in the office of the Secretary of State of West Virginia.

Wm. S. O'Brien,
Secretary of State