

11<sup>th</sup>

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



**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**

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

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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' 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

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.

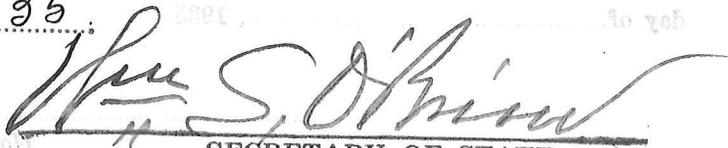
87 It shall be the duty of the superintendent of the department  
88 of public safety and the police force under his control, city  
89 police, sheriffs and other public officers to apprehend and cause  
90 to be punished violators of this section.

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 prescribed by the constitution of the state, has become a law without his approval.

This the 15<sup>th</sup> day of March,  
1935.



SECRETARY OF STATE

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

*Clinton M. Howard*  
Chairman Senate Committee

*August M. Tickers*  
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *90 days from* passage.

*Almond Smith*  
Clerk of the Senate

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

*Chas. E. Hodges*  
President of the Senate

*John R. Belcher*  
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