

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953

ENROLLED

Committee Substitute for

SENATE BILL NO. 37

Originating in Senate Committee
(By ~~Mr.~~ *on the Judiciary*)

PASSED February 28 1953

In Effect ninety days from Passage

FILED IN THE OFFICE OF THE SECRETARY OF STATE
OF WEST VIRGINIA

MAR 5 1953

D. PITT OBRIEN,

SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 37

(Originating in the Senate Committee on the Judiciary.)

[Passed February 28, 1953; in effect ninety days from passage.]

AN ACT to amend and reenact section thirty-two, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hawkers and peddlers license.

Be it enacted by the Legislature of West Virginia:

That section thirty-two, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 32. *Hawkers and Peddlers.* (a) The annual license fee to act as a hawker or peddler, if the person licensed travels without a motor vehicle, shall be ten dol-

4 lars; if he travels with a motor vehicle of not more than
5 one-half ton capacity, fifteen dollars; if he travels with a
6 motor vehicle of more than one-half ton capacity, but
7 not exceeding one ton capacity, fifty dollars; if he
8 travels with a motor vehicle of more than one ton ca-
9 pacity, but not exceeding two tons' capacity, one hun-
10 dred dollars; and if he travels with a motor vehicle of
11 more than two tons' capacity, one hundred fifty dollars,
12 plus one hundred dollars for each additional ton or frac-
13 tion thereof over two tons' capacity; and the person li-
14 censed shall pay at the same rate for each and every
15 motor vehicle so used. Such person shall carry his license
16 in some conspicuous place in his vehicle or about
17 his pack; and in addition thereto he shall cause to be
18 painted or stenciled in a conspicuous place on the left-
19 hand side of his vehicle the number of such license and
20 the words "West Virginia Hawker and Peddler" and the
21 license year for which said license is issued, which said
22 information shall be in black letters on a white back-
23 ground, and the whole thereof shall be at least eight by
24 twenty inches in size. Such license shall be coextensive

25 with the state, shall not be subject to the restrictions of
26 section forty-four of this article, and shall not be assign-
27 able to any other person.

28 When used in this section, the term "sale" shall mean
29 and include both sales for money payment or for barter,
30 and offers to make any such sales and offers to render
31 any service or the rendering thereof.

32 Any person who shall carry goods, wares or merchan-
33 dise from place to place, either in person or by agent or
34 employee, and sell, for delivery at the same time, any
35 such goods, wares or merchandise to any purchaser, at
36 wholesale or retail, and any person who shall solicit for
37 the purpose of rendering any service, shall be deemed a
38 hawker or peddler under this section.

39 (b) The provision of this section shall not apply to
40 any person who sells any goods, wares or merchandise to
41 be delivered in the future; or to any of the following
42 who offer immediate delivery of the goods, wares or
43 merchandise being sold:

44 1. Any person or persons engaged within this state in
45 the business or calling of agriculture, horticulture or

46 grazing, who sells or sell individually or collectively, one
47 or more for the other or others, the products derived
48 from his or their business or calling aforesaid;

49 2. Any person engaged in the maintenance or operation
50 of a retail merchandise store to exchange goods, wares
51 or merchandise from such store for agricultural, horti-
52 cultural or grazing products or to resell any such prod-
53 ucts received in due course of such business; nor to any
54 other retail business concern, established and operating
55 continuously for one year or more within this state in
56 the sale of any product or products over regular routes;

57 3. Any wholesaler or jobber selling soft drinks or non-
58 intoxicating beer for which he is duly licensed under
59 other provisions of this chapter;

60 4. Any person who sells petroleum products, ice, wood,
61 meats, milk, ice cream, bread, cakes, pies, and other
62 bakery products, butter and eggs, manufactured, grown
63 or produced by any such person and not purchased by
64 him for resale;

65 5. Any sales by societies, groups or organizations acting
66 for charitable, religious or benevolent purposes;

67 6. Any agent or salesman selling manufactured prod-
68 ucts, except green groceries and canned or bottled fruit
69 products, produced by his employer, and who sells the
70 same to retail dealers for the purpose of resale;

71 7. Any firm, corporation, or individual having a stock
72 of goods, or merchandise, or manufacturing or processing
73 plant or plants kept or operating at a fixed situs in the
74 state of West Virginia, and declared for taxation in the
75 county where located, and using a vehicle, or vehicles
76 over a fixed route or routes, for the purpose of selling
77 or distributing, at wholesale, their, his or its said mer-
78 chandise, stock of goods or plant products.

79 *Provided, however,* That any person exempt from li-
80 cense as above provided, shall obtain from the clerk of
81 the county court of the county of his residence a license
82 receipt, without cost, showing that he is so exempt, which
83 shall be effective for the period as provided for annual
84 licenses in this article and shall be coextensive with the
85 entire state; but to obtain such license receipt he shall
86 make an affidavit and produce such other evidence as
87 to the facts entitling him to such exemption as the clerk,

88 in his discretion, may require, which shall be on a form
89 to be prescribed by the tax commissioner of this state.

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

H. M. Kirby
Chairman Senate Committee

C. H. Ambler
Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

Howard Meyer
Clerk of the Senate

James H. Hays
Clerk of the House of Delegates

Cap Bump
President of the Senate

W. E. Fanning
Speaker House of Delegates

The within approved this the 5th
day of March, 1953.

William C. Maunland
Governor.