WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957

ENROLLED

HOUSE BILL No. 86

PASSED March 9, 1957

In Effect July 1, 1957
AN ACT to repeal sections one through sixty-six, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof thirty-one new sections, to be designated sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-one, relating to licenses on businesses, activities, trades and employments.

Be it enacted by the Legislature of West Virginia:

That sections one through sixty-six, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that thirty-one new
sections, to be designated sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-one be enacted, to read as follows:

Section 1. Definitions.—When used in this article the term “person” shall mean and include natural persons, partnerships, associations, corporations, and all other organizations or groups by means of which any of the hereinafter specified businesses, activities, trades or employments are engaged in or prosecuted.

The term “Tax Commissioner” shall mean the tax commissioner.

Sec. 2. License Taxes Levied.—No person shall, without a license, engage in or prosecute, within the state of West Virginia, any of the businesses, activities, trades or employments named in the following sections of this article. The license taxes hereinafter specified are hereby levied on every person engaging in or prosecuting, within this
state, any such businesses, activities, trades or employ-
ments.

Sec. 3. Slot Machines and Automatic Devices.—The
annual license fee to keep or maintain an automatic bag-
gage or parcel checking machine or device which is used
for the storage of baggage or parcels of any character,
shall be fifty cents for each section of any such device
which is operated on the coin-in-the-slot principle; the
annual license fee to keep or maintain any automatic
toilet locker or device shall be fifty cents for every such
locker or device; the annual license fee to keep or main-
tain any other automatic penny slot machine or device,
which is not a gambling device under any law of this
state, shall be at the rate of two dollars for each machine
or device kept or maintained by the licensee; the annual
license fee to keep or maintain any other automatic slot
machine or device, which is not a gambling device as
aforesaid, shall be at the rate of five dollars for each such
machine or device kept or maintained by the licensee.

The term "slot machine" when used in this section
shall not be deemed to mean or include any pay telephone
or postage stamp vending machine operated on the coin-
in-the-slot principle.

Application for the license required herein shall contain
the number of such machines or devices to be kept or
maintained by the licensee within this state during the
ensuing license year. One license certificate shall be
issued to each person keeping or maintaining such ma-
chines or devices as aforesaid, but the tax commisioner
shall issue to any such licensee a decalcomania stamp or
other evidence of license for each such machine or device,
which decalcomania stamp or other evidence of license
shall be securely attached to the side or front of each
such machine or device properly protected and plainly
visible. Every such machine or device shall also bear on
the side or front thereof so as to be plainly visible the
name and address of the person keeping or maintaining
such machine or device.

The proprietor or owner of the business conducted in
the place where such machine is kept or maintained is
charged with the responsibility of satisfying himself that
such decalcomania stamp or other evidence of license,
is so attached before permitting its installation in his
place of business and in the event the owner of any auto-
matic machine or device refuses, neglects or fails to pay
the license fee due upon any such machine or device,
then the proprietor or owner of the business conducted
in the place where such machine is installed, operated
or maintained shall be liable for the payment of such
license fee, and upon his refusal or failure to pay such
fee the tax commissioner or his agents may take such
machine or device into possession and deliver the same
to the sheriff of the county in which such machine or
device is found, or the sheriff of such county on his own
initiative or upon order or direction of the tax commis-
sioner, or his agents, may take such machine or device
into possession, and in either event said machine or de-
vice shall be impounded until such license fee is paid;
in the event the license fee and penalties are not paid
to such sheriff within ten days and after the date of such
impounding, then the sheriff shall sell such machine or
device in the manner provided by law for the sale of
personal property for taxes, and from the proceeds there-
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62 of shall discharge and pay the license fee due on such
63 machine or device and his costs, including costs of im-
64 pounding, storage, penalties and other fees due the state
65 and the sheriff; and the balance, if any there be, shall be
66 forfeited to the state.

67 Except where the principal business of the operation
68 of the store is the operation of such machines or devices,
69 no license fee shall be required of persons keeping or
70 maintaining such machines or devices owned by them
71 in their own licensed stores: Provided, however, That
72 any person exempt from such license shall obtain from
73 the tax commissioner a license receipt, decalcomania
74 stamp, of other evidence of exemption, at a cost not to
75 exceed fifty cents each, showing that he is so exempt,
76 which shall be effective for the period as provided for
77 annual licenses in this article; but to obtain such license
78 receipt or other evidence of exemption, he shall make an
79 affidavit and produce such other evidence as to the fact
80 entitling him to such exemption as the tax commissioner,
81 in his discretion, may require, which shall be on a form
82 to be prescribed by the tax commissioner.
Sec. 4. Circuses, Carnivals and Other Public Shows.—

The license to exhibit a circus or menagerie, a circus and menagerie combined, wild west show, or other itinerant show not exhibited in a theatre, opera house or other permanent place for public shows, shall be based upon the number of railroad cars or motor trucks used to transport the property or equipment of such shows, but not including railroad cars or motor trucks used to transport the personnel thereof. If railroad cars are used the fee shall be four dollars for each car for each day which any performance is given; if motor trucks are used the fee shall be three dollars for each truck for each day on which any performance is given.

The license fee to exhibit a street or other carnival shall be five dollars a week for each entertainment, performance or exhibition given at or in the vicinity of any such carnival. Each such entertainment, performance or exhibition shall require a separate license, whether or
19 not shown under the same canvas and whether or not
20 exhibited for additional compensation; and upon any
21 such entertainment, performance or exhibition being con-
22 cluded, so that an additional fee for admission is charged,
23 an additional license fee shall be required for any further
24 or additional entertainment, performance or exhibition.
25 To operate any riding device of any kind at or in the
26 vicinity of any street or carnival show, the fee shall be
27 ten dollars a week for each such device.
28 To keep or maintain any concession stand selling service,
29 goods, wares or merchandise, such as food, soft drinks,
30 ice cream, candy floss and the like, at or in the vicinity
31 of such street or carnival show, the fee shall be five dol-
32 lars a week for each such concession. To maintain any
33 concession stand such as ball games, bingo, cane rack,
34 penny pitch-till-you-win, striking machine, weighing ma-
35 chine, shooting gallery, artful dodger, bumper, fish pond,
36 dart game, or other legitimate games of skill, none of
37 which shall be controlled by the operator, at or in the
vicinity of any street or carnival show, the fee shall be
ten dollars a week for each such concession. To operate
or maintain a candy wheel or any other legitimate mer-
chandise wheels, when operated without control of the
operator, shall be twenty-five dollars a day. To operate
or maintain rides of all kinds shall be ten dollars each
a week: Provided, however, That such games as roll
downs, blowers, spinners, swinging ball, creepers, race
tracks, spot the spot, and all other games controlled by
the operator are hereby forbidden and no license shall
be granted to any circus, show or street carnival where
such games are operated: Provided further, That no cir-
cus, show or street carnival shall be licensed which has
any gypsy fortune tellers or gypsies connected therewith
in any manner.

The provisions of this section shall not apply to any
educational, literary, dramatic, musical or benevolent so-
ciety, or volunteer fire companies, not conducted for pri-
vate profit, where such exhibitions are confined to one
county, unless professional or paid talent, other than
director, is employed in such exhibitions.
Sec. 5. Trading Stamps.—The annual license fee to sell or offer for sale merchants' trading stamps, premium stamps or stamps or certificates of like nature, or to undertake to redeem such stamps or certificates in money or goods, shall be one hundred seventy-five dollars: Provided, however, That this section shall not apply to any coupon or similar device issued and redeemed by a manufacturer or packer.

The license imposed by this section shall not be co-extensive with the state, but a separate license shall be required for each county in which the licensee operates.

Sec. 6. Fortune Telling.—The annual license to act as a fortune teller, palmist, phrenologist, spiritualist, medium, clairvoyant, mind reader, or any other person who performs the art or profession of telling the past or forecasting the future shall be two hundred dollars.

Sec. 7. Junk Dealers and Their Agents.—(a) The term “junk” as used in this section shall mean old or scrap gold, copper, brass, rope, rags, batteries, paper, rubber, automobile parts, iron, steel and other old scrap ferrous or non-ferrous metals.
The term "junk dealers" shall include all persons engaged in the business of buying or selling junk as hereinabove defined.

The term "junk dealer's agents" shall include all persons who buy or sell junk as hereinbefore defined for or on behalf of a junk dealer, as hereinabove defined, but the term "junk dealer's agent" shall not be construed to include any persons regularly employed upon a salary by a regularly licensed junk dealer engaged in such business within the state of West Virginia.

The term "itinerant junk collector" shall include only such persons who gather junk from place to place with the aid of a cart or vehicle hand drawn or propelled, who have no fixed place of business.

The term "nonresident junk dealer" or "nonresident junk dealer's agent" shall include all persons who act as junk dealers or junk dealer's agents who are nonresidents of West Virginia, and all firms so engaged whose members are nonresidents of West Virginia and all corporations which have not been admitted to hold property and transact business in the state of West Virginia.
(b) No person within the state of West Virginia shall engage in the business of junk dealer, junk dealer's agent or itinerant junk collector without a state license therefor, which license shall be issued as provided in this article: Provided, however, That no resident license shall be issued to any junk dealer, junk dealer’s agent or itinerant junk collector who has not been a resident of the state of West Virginia for a period of at least one year prior to the application of such license.

(c) No corporation or firm shall engage in the business of junk dealer or junk dealer's agent in the state of West Virginia unless the officers or agents of such corporation or firm who engage in the business of junk dealer or junk dealer's agent, in behalf of such corporation or firm shall be eligible to be duly licensed as resident junk dealers or junk dealer’s agents in accordance with the provisions of this section.

(d) The annual license fee to act as a resident junk dealer shall be twenty-five dollars; to act as a junk dealer’s agent, ten dollars; to act as a nonresident junk dealer or his agent who buys or solicits for the purchase of junk
within the state, one hundred fifty dollars; to act as an
itinerant junk collector, two dollars. Such licenses shall
be coextensive with the state, but no nonresident licensee
shall be permitted to maintain a fixed place of business
within the state: Provided, however, That any nonres-
ident junk dealer may purchase junk from any resident
junk dealer without complying with the provisions of this
section, but if said nonresident junk dealer comes into
the state in any motor vehicle or horse drawn vehicle,
said nonresident junk dealer shall not be permitted to
transport from the state in said vehicle or horse drawn
wagon junk purchased from resident junk dealers, unless
there is a compliance with this section.

(e) Every resident junk dealer shall certify to the tax
commissioner the name or names of the agents for whom
he desires a license certificate and shall give to each agent
so engaged by him a certificate of authority, which cer-
tificate the agent shall at all times keep with his license
and no such junk dealer’s agent’s license shall be valid
and effective without such certificate of authority. The
tax commissioner shall give to each license certificate a
numeri\nonly designated permit, and such permit so given
shall be plainly stenciled or printed as "Dealer's Permi\nNo.......", "Agent's Permit No.......", "Itinerant Collector's
Permit No.......", "Nonresident Permit No.......", as the
case may be, upon both sides of all trucks or other vehi-
cles used in the collecting and transporting of junk. But
the tax commissioner shall not issue a junk dealer's agent's
license until the applicant therefor shall first have pre-
sented a certificate from a duly licensed junk dealer show-
ing such authorization, and no license shall be issued to a
junk dealer's agent or, itinerant junk collector unless he
shall file with the tax commissioner an affidavit setting
forth that such applicant has not been convicted of a
felony; that he has not been convicted of a misdemeanor
in connection with the junk business within a five year
period to the time of his application, and that in the event
the application is for a resident dealer's license that he has
resided in the state for a period of one year next preceding
the date of his application, which said certificate and affi-
davit shall be filed by the tax commissioner issuing the
license in his office.
No license hereunder shall be transferable.

No one who has been convicted of a felony shall be licensed as a junk dealer, junk dealer's agent or itinerant junk collector, and no one convicted of a misdemeanor in connection with the junk business within a five year period prior to the passage of this article shall be licensed as a junk dealer, junk dealer's agent or itinerant junk collector.

No person engaged in the junk business shall engage a person as a junk dealer's agent who is ineligible to receive a resident junk dealer's or junk dealer's agent's license. Any license issued upon false affidavit or any improper license issued hereunder shall be ipso facto void.

(f) Any person who shall violate the provisions of this section shall be subject to the applicable provisions of chapter sixty-one, article three, section forty-nine of this code.

Sec. 8. 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 dollars; if he travels with a motor vehicle of not more than one-half
ton capacity, fifteen dollars; if he travels with a motor vehicle of more than one-half ton capacity, but not exceeding one ton capacity, fifty dollars; if he travels with a motor vehicle of more than one ton capacity, but not exceeding two tons' capacity, one hundred dollars; and if he travels with a motor vehicle of more than two tons' capacity, one hundred fifty dollars, plus one hundred dollars for each additional ton or fraction thereof over two tons' capacity; and the person licensed shall pay at the same rate for each and every motor vehicle so used. Such person shall carry his license in some conspicuous place in his vehicle or about his pack; and in addition thereto he shall cause to be painted or stenciled in a conspicuous place on the left-hand side of his vehicle the number of such license and the words “West Virginia Hawker and Peddler” and the license year for which said license is issued, which said information shall be in black letters on a white background, and the whole thereof shall be at least eight by twenty inches in size.

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

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

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

1. Any person or persons engaged within this state in the business or calling of agriculture, horticulture or grazing, who sells or sell individually or collectively, one or more for the other or others, the products derived from his or their business or calling aforesaid;

2. Any person engaged in the maintenance or operation of a retail merchandise store to exchange goods, wares or
merchandise from such store for agriculture, horticultural
or grazing products or to resell any such products received
in due course of such business; nor to any other retail
business concern, established and operating continuously
for one year or more within this state in the sale of any
product or products over regular routes;
3. Any wholesaler or jobber selling soft drinks or non-
intoxicating beer for which he is duly licensed under other
provisions of this chapter;
4. Any person who sells petroleum products, ice, wood,
meat, milk, ice cream, bread, cakes, pies, and other bakery
products, butter and eggs, manufactured, grown or pro-
duced by any such person and not purchased by him for
resale;
5. Any sales by societies, groups or organizations acting
for charitable, religious or benevolent purposes;
6. Any agent or salesman selling manufactured pro-
ducts, except green groceries and canned or bottled fruit
products, produced by his employer, and who sells the
same to retail dealers for the purpose of resale.
7. Any firm, corporation, or individual having a stock of
goods, or merchandise, or manufacturing or processing plant or plants kept or operating at a fixed situs in the state of West Virginia, and declared for taxation in the county where located, and using a vehicle, or vehicles over a fixed route or routes, for the purpose of selling or distributing, at wholesale, their, his or its said merchandise, stock of goods or plant products: Provided, however, That any person exempt from license as above provided, shall obtain from the tax commissioner a license receipt, without cost, showing that he is so exempt, which shall be effective for the period as provided for annual licenses in this article and shall be coextensive with the entire state; but to obtain such license receipt he shall make an affidavit and produce such other evidence as to the fact entitling him to such exemption as the tax commissioner, in his discretion, may require, which shall be on a form to be prescribed by the tax commissioner.

Sec. 9. Pawnbrokers.—The annual license fee to engage in the business of pawnbroker shall be one hundred dollars. The term pawnbroker shall include any person, firm, partnership, association or corporation engaged in the
business of lending money on deposit or pledge of personal property or other valuable thing, other than securities or printed evidence of indebtedness, or in the business of purchasing personal property, such as articles made of or containing gold, silver, platinum or other precious metals or jewels of any description for the purpose of reducing or smelting them into any form different from their condition or construction when purchased and reselling or marketing the product.

Sec. 10. Itinerant Vendors.—(a) When used in this section the term “itinerant vendor” shall mean and include all persons who engage or conduct within this state, either in one locality, or in traveling from place to place, a temporary or transient business of selling goods, wares and merchandise; and who, for the purpose of carrying on such business, use, lease or occupy either in whole or in part, a room, building or other structure, or who use, lease or occupy for such purposes a room or rooms in any hotel or lodging house, for the exhibition and sale of such goods, wares and merchandise; and the person so engaged shall not be relieved from the provisions of this section by rea-
son of association temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as part of the business of, or in the name of, any local dealer, trader, merchant or auctioneer. The provisions of this section shall not apply to sales made to persons by commercial travelers, or selling agents in the usual course of business, nor to bona fide sales of goods, wares or merchandise by sample for future delivery; nor to hawkers or peddlers in the streets, roads or highways, from packs or vehicles, nor to persons selling meat or the products of the farm, garden or dairy, nor to any sales of goods, wares or merchandise on the grounds of any agricultural association during the continuance of any annual fair held by such association; nor to any sales by societies acting for charitable, religious or benevolent purposes; nor to judicial sales directed by law, or under the orders of any court; nor to the sales of the common necessities of life in any public market place.

(b) No itinerant vendor shall advertise, represent or hold forth a sale of goods, wares or merchandise as a bank-
rupt, insolvent, assignee, trustee, estate, executor, administrator, receiver, attorney, manufacturer's wholesale or closing out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless before so doing he shall state in writing, under oath, to the tax commissioner at the time he makes application for a license, hereinafter provided for, all the facts relating to the reason and character of such special sale as advertised, held forth, or represented, including a statement of the names of the persons from whom such goods, wares or merchandise were purchased, and the date of the delivery of the same to the person applying for license; the place, if any where such goods, wares or merchandise were previously exposed for sale, and such details as are necessary to exactly locate and fully identify all such goods, wares and merchandise proposed to be sold. And such itinerant vendor shall also include in such statement the name and residence of the owner or owners in whose interest the business is conducted, to be kept on file in the office of the tax commissioner and a record shall be kept by said tax commissioner
of all such statements, in convenient form and open to public inspection.

(c) Every itinerant vendor shall execute a continuing bond in the form prescribed by the tax commissioner with satisfactory corporate surety in the penalty of five thousand dollars, payable to the state of West Virginia, conditioned that such itinerant vendor will pay all damages accruing to anyone by reason of any act or action done, performed or taken by such itinerant vendor in or about the conduct of his business and further conditioned that such itinerant vendor will pay all taxes, fees and penalties imposed by this state and the political subdivisions thereof: Provided, however, That the aggregate liability of the surety for all such damages, taxes, fees, and penalties shall, in no event, exceed the sum of said bond.

(d) This bond shall be filed with the tax commissioner and shall be open to inspection during business hours to any person desiring to inspect the same.

(e) The annual license fee to carry on the business of itinerant vendor shall be five hundred dollars.

(f) Every itinerant vendor who sells or exhibits for
sale at public or private sale, any goods, wares or mer-
chandise without first obtaining a license therefor, and in
all other respects complying with the provisions of this
article, or who makes any false statement in reference to
the matter set out in subsection (b) hereof, or who fails
to comply with the requirements of any of the sections of
this article, and every person, whether principal or agent,
who, by circular, handbills, newspaper, or in any manner
advertises such sale, as herein described, before proper
licenses are issued to the vendor, and before he has com-
plied with the provisions of this article, shall be guilty of
a violation of this article, and shall be punished accord-
ingly.

Sec. 11. Theatres and Public Shows.—A theatre, opera
house or other permanent place for public shows, may be
kept or maintained upon the payment of the license fee
hereinafter specified. In a city or town with a population
of thirty thousand or more, according to the last official
census, for three months. the fee shall be one hundred
dollars; for six months, one hundred thirty dollars; and
for one year, one hundred sixty dollars. In a city or town
with a population of less than thirty thousand but more than twenty thousand, as aforesaid, for three months, the fee shall be seventy-five dollars; for six months, one hundred dollars; and for one year, one hundred twenty-five dollars. In a city or town with a population of less than twenty thousand but more than ten thousand, as aforesaid, for three months, the fee shall be forty dollars; for six months, sixty dollars; and for one year, one hundred dollars. In a city or town with a population of less than ten thousand but more than five thousand, as aforesaid, for three months, the fee shall be twenty dollars; for six months, thirty dollars; and for one year, forty dollars. In a city or town with a population of less than five thousand but more than two thousand, as aforesaid, for three months, the fee shall be ten dollars; for six months, fifteen dollars; and for one year, twenty dollars. In a city or town with a population of less than two thousand, as aforesaid, or at any other place within the state, for three months, the fee shall be five dollars; for six months, eight dollars; and for one year ten dollars: Provided further, That if such theatre, opera house, or other permanent
place for public shows is conducted outside of but within one mile of the corporate limits of any city or town, the license fee shall be the same as if such performance were given within such city or town; and, if outside of but within one mile of the corporate limits of two or more cities or towns, the license fee shall be the same as if it had been given within the largest of such cities or towns:

Provided further, That any theatre, opera house or other permanent place for public shows, including drive-in theatres, kept, maintained or operated in such a location as to be exempt from the foregoing provisions of this section shall pay an annual license fee of fifty dollars.

Sec. 12. Collection Agencies.—The annual license fee to engage in the business of a collection agency within this state shall be one hundred dollars. For purposes of this section, solicitation or collection by or through an agent operating within this state shall be considered to be engaging in the business of a collection agency within this state. Before such certificate of license is issued, the person applying for the same shall execute a continuing bond in the form prescribed by the tax commissioner with satis-
factory corporate surety in the penalty of two thousand dollars, conditioned that such person will pay all damages resulting from any unlawful act or action by such person or his or its agent in connection with the conduct of the business of the collection agency. This bond shall be filed with the tax commissioner.

Sec. 13. Employment Agent.—The annual license fee to conduct the business of an employment agent, to receive applications for employment, to hire or contract with persons for employment shall be two hundred dollars, except that the annual license fee for an agency or registry for the employment of nurses, practical nurses or undergraduate nurses, shall be twenty-five dollars.

When used in this section the term “employment agent” shall be deemed to mean and include the same persons as defined in section four of article two of chapter twenty-one of this code.

Sec. 14. Bowling Alleys, Billiard, Pool or Bagatelle Tables.—The annual license fee to keep or maintain a bowling alley, a billiard, pool or bagatelle table, or table of like kind, for public use, where any charge is made for
the use of the same, shall be twenty-five dollars; but, if
more than one of such alleys or tables be kept or main-
tained in the same building by the same person, the fee
shall be twenty-five dollars for the first one and fifteen
dollars for each additional one.

The licensee, his agents or employees shall not permit
any person in any manner to bet or wager any thing of
value upon any game played upon such alleys or tables.

Such licensee, his agents or employees shall not permit
any one to bring any intoxicating liquors of any kind into
such building or other place where such alleys or tables
are located.

Persons keeping or maintaining billiard, pool or bag-
atelle tables, or other tables of like kind, their agents or
employees, shall not permit any person under the age of
eighteen years to play at such tables and shall not permit
any such person under the age of eighteen years to re-
main or loiter, whether playing at such tables or not, in
the room where such tables are located.

Sec. 15. Application for and Issuance of Licenses; Evi-
dence of License; Fee.—The licenses provided for in this
article shall be issued in the form of a certificate by the
tax commissioner to any person making proper applica-
tion therefor on forms to be prescribed and furnished
by the tax commissioner and tendering the license tax
and a filing tax fee of fifty cents for each license cer-
tificate requested. In addition to the required license
certificate there shall be required and issued at the time
of the issuance of said certificate to the person owning
coin operated devices a decalcomania stamp or other evi-
dence of said license certificate, at a cost not to exceed
fifty cents each, for each coin operated device licensed by
said certificate. The tax commissioner shall collect in full
the proper taxes and fees and determine to his satisfaction
that all the conditions precedent to the granting of such
license have been fulfilled by the applicant before issuing
a certificate of license.

Sec. 16. Conditions Precedent to Doing Business.—Pay-
ment in full of the proper tax and fee as specified in this
article, the issuance of a certificate of license under the
provisions of the preceding section, and the fulfillment of
all terms and conditions of such grant shall be conditions
Sec. 17. **Licenses Coextensive With the State.**—Except as herein otherwise expressly provided, licenses issued pursuant to this article shall be coextensive with the state.

Sec. 18. **Effect of State License.**—Nothing in this article, and no payment or issuance of any certificate of license under the provisions hereof, shall be deemed to legalize any act which otherwise may be in violation of law, or to exempt any person from any penalty prescribed for such violation.

Sec. 19. **Effect of State License within Municipalities.**—When any municipality is authorized by its charter or by any law of this state to impose a penalty for engaging in or prosecuting any business, activity, trade or employment within the limits of such municipality without first having obtained a license therefor pursuant to the ordinances of such town, no state license issued under this article shall exonerate the licensee from any such penalty, unless otherwise expressly provided, whether such penalty be greater
or less than that imposed for the violation of the provisions of this article.

Sec. 20. *Time for Which Licenses Granted*.—Except as may be herein otherwise expressly provided, all annual licenses issued under the provisions of this article shall be for a period of one year beginning on the first day of July and ending on the thirtieth day of the following June: Provided, however, That no license for any purpose for any length of time shall be issued for less than two dollars.

Sec. 21. *Injunction against Collection of License Tax; Payment Under Protest*.—No injunction shall issue from any court in this state enjoining the collection of any license tax provided herein, but the party claiming that any license is not due, for any reason, shall pay the same under protest and petition for refund in accordance with the provisions of section two-a of article one of this chapter.

Sec. 22. *Exhibition of Licenses*.—Every person to whom a certificate of license shall be issued under the provisions of this article shall keep such certificate posted in a conspicuous position in the place where the privileges of such
license are exercised, except as otherwise specifically pro-
vided for in this article.

Such certificate of license shall be produced for inspec-
tion whenever required by the tax commissioner or his
deputies or by the prosecuting attorney or sheriff of the
county wherein the privileges of such license are exercised.

Sec. 23. Licenses, a Personal Privilege.—Every license
issued under the provisions of this article shall confer a
personal privilege only to transact the business, activity,
trade or employment which may be the subject of the
license and shall not be exercised except by the person
holding the same and shall not be assignable.

Sec. 24. Effect of Change in Partners or Name of Firm.—
No changes in the name of the firm, nor the taking in of
one or more new partners, nor the withdrawal of one or
more members of the firm, so long as at least one member
remains the same, shall be considered as terminating the
privileges of any license granted to such partners or firm.

Sec. 25. Collection by Distrain.—The tax commissioner,
or his agents, may distrain upon any personal property,
including intangibles, of any person delinquent in the pay-
ment of taxes and penalties accrued and unpaid under the provisions of this article and may require the assistance of the sheriff of any county in levying such distress in the county in which such sheriff is an officer. A sheriff so collecting taxes due hereunder shall be entitled to compensation in the amount of all penalties collected over and above the principal amount of tax due, but in no case shall such compensation exceed twenty-five dollars. All taxes and penalties so collected, less the compensation above, shall be remitted within ten days after the collection to the tax commissioner. The tax commissioner shall prescribe by general regulation the manner of remittance of such funds and of allowing the collecting officer the compensation due him under this section. The sheriff shall be authorized to distress immediately upon request, as aforesaid, for the amount with which any person may have been assessed under the provisions of this article, and to sell upon ten days notice so much of said person's personal property, subject to such distress, as may be necessary to pay the tax so assessed, including penalties.

Sec. 26. Injunction against Unlicensed Business.—If any
person engages in or prosecutes any business, activity, trade or employment contrary to any of the provisions of this article, whether without obtaining a license therefor after the termination of the effective period of any such license, the circuit court, or the judge thereof in vacation, of the county in which such violation occurred, shall, upon proper application in the name of the state, and after ten days written notice thereof to such person, grant an injunction prohibiting such person from continuing such business, activity, trade or employment until he has fully complied with the provisions of this article. The remedy provided in this section shall be in addition to all other penalties and remedies provided by law.

Sec. 27. Additional Penalties when Business Transacted without License.—Any person engaging in or prosecuting any business, activity, trade or employment contrary to the provisions of this article, whether without obtaining a license therefor before commencing the same, or by continuing the same after the termination of the effective period of any such license, shall, in addition to paying the
license tax, be liable to the following penalties: If the license tax to which he is subject is an annual one, or for a period of one month or more, ten per cent of such tax for each month or part thereof during which he had been in default; if the license tax aforesaid is for any period less than one month, ten per cent of such tax for each such tax period or part thereof during which he has been in default. It shall be the duty of the tax commissioner to collect the full amount of the license and penalty therefor.

Sec. 28. Collection of Back Taxes.—Any person engaging in or prosecuting any business, activity, trade or employment contrary to the provisions of this article, whether without obtaining a license therefor before commencing the same, or by continuing the same after the termination of the effective period of any such license, shall, in addition to all other penalties provided for in this article, be liable to the payment of all back taxes and penalties for a period not exceeding five years.

Sec. 29. Collection by Action or Suit.—The tax commissioner may collect any license tax and penalty unpaid
under the provision of this article by action in debt, motion for judgment or other appropriate proceeding, including suit in the court of any justice in the county in which the defaulting licensee resides or in the county in which the activity subject to license was engaged in.

Sec. 30. Criminal Liability for Violation of Provisions of Article; Jurisdiction.—Except as may be herein otherwise expressly provided, any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty nor more than two hundred dollars, or confined in jail not more than three months, or both, in the discretion of the court; and each day or part thereof that any violation shall continue shall be deemed to constitute a distinct and separate offense and be punishable accordingly. Justices of the peace shall have concurrent jurisdiction with any other courts having jurisdiction for the trial of all misdemeanors arising under this section.

Sec. 31. Interpretation of Preceding Sections.—None of the provisions of the preceding sections shall affect any
3 of the sections dealing with corporation land-holding or
4 charter taxes, unless specifically so provided.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

J. N. Mc Court
Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1957

J. Thomas Harrigan
Clerk of the Senate

A.A. Blankenship
Clerk of the House of Delegates

Ralph J. Beas
President of the Senate

Speaker, House of Delegates

The within approved this the 15th
day of March, 1957.

Governor

Filed In the Office of the Secretary of State
of West Virginia MAR 15 1957

D. Pitt O'Brien
Secretary of State