

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1957

ENROLLED

Committee Substitute for
HOUSE BILL No. 86

originating in the committee
(By Mr. on Finance)

PASSED March 9 1957

In Effect July 1, 1957 Passage

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COMMITTEE SUBSTITUTE FOR

House Bill No. 86

(Originating in the Committee on Finance.)

[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article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that thirty-one new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
2 term “person” shall mean and include natural persons,
3 partnerships, associations, corporations, and all other
4 organizations or groups by means of which any of the
5 hereinafter specified businesses, activities, trades or em-
6 ployments are engaged in or prosecuted.

7 The term “Tax Commissioner” shall mean the tax com-
8 misioner.

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

7 state, any such businesses, activities, trades or employ-
8 ments.

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

18 The term "slot machine" when used in this section
19 shall not be deemed to mean or include any pay telephone

20 or postage stamp vending machine operated on the coin-
21 in-the-slot principle.

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

37 The proprietor or owner of the business conducted in
38 the place where such machine is kept or maintained is
39 charged with the responsibility of satisfying himself that
40 such decalcomania stamp or other evidence of license,

41 is so attached before permitting its installation in his
42 place of business and in the event the owner of any auto-
43 matic machine or device refuses, neglects or fails to pay
44 the license fee due upon any such machine or device,
45 then the proprietor or owner of the business conducted
46 in the place where such machine is installed, operated
47 or maintained shall be liable for the payment of such
48 license fee, and upon his refusal or failure to pay such
49 fee the tax commissioner or his agents may take such
50 machine or device into possession and deliver the same
51 to the sheriff of the county in which such machine or
52 device is found, or the sheriff of such county on his own
53 initiative or upon order or direction of the tax commis-
54 sioner, or his agents, may take such machine or device
55 into possession, and in either event said machine or de-
56 vice shall be impounded until such license fee is paid;
57 in the event the license fee and penalties are not paid
58 to such sheriff within ten days and after the date of such
59 impounding, then the sheriff shall sell such machine or
60 device in the manner provided by law for the sale of
61 personal property for taxes, and from the proceeds there-

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, decalomania
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.*—

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

14 The license fee to exhibit a street or other carnival
15 shall be five dollars a week for each entertainment, per-
16 formance or exhibition given at or in the vicinity of any
17 such carnival. Each such entertainment, performance or
18 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

38 vicinity of any street or carnival show, the fee shall be
39 ten dollars a week for each such concession. To operate
40 or maintain a candy wheel or any other legitimate mer-
41 chandise wheels, when operated without control of the
42 operator, shall be twenty-five dollars a day. To operate
43 or maintain rides of all kinds shall be ten dollars each
44 a week: *Provided, however,* That such games as roll
45 downs, blowers, spinners, swinging ball, creepers, race
46 tracks, spot the spot, and all other games controlled by
47 the operator are hereby forbidden and no license shall
48 be granted to any circus, show or street carnival where
49 such games are operated: *Provided further,* That no cir-
50 cus, show or street carnival shall be licensed which has
51 any gypsy fortune tellers or gypsies connected therewith
52 in any manner.

53 The provisions of this section shall not apply to any
54 educational, literary, dramatic, musical or benevolent so-
55 ciety, or volunteer fire companies, not conducted for pri-
56 vate profit, where such exhibitions are confined to one
57 county, unless professional or paid talent, other than
58 director, is employed in such exhibitions.

Sec. 5. *Trading Stamps*.—The annual license fee to
2 sell or offer for sale merchants' trading stamps, premium
3 stamps or stamps or certificates of like nature, or to under-
4 take to redeem such stamps or certificates in money or
5 goods, shall be one hundred seventy-five dollars: *Pro-*
6 *vided, however,* That this section shall not apply to any
7 coupon or similar device issued and redeemed by a manu-
8 facturer or packer.

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

Sec. 6. *Fortune Telling*.—The annual license to act
2 as a fortune teller, palmist, phrenologist, spiritualist, me-
3 dium, clairvoyant, mind reader, or any other person who
4 performs the art or profession of telling the past or fore-
5 casting the future shall be two hundred dollars.

Sec. 7. *Junk Dealers and Their Agents*.—(a) The
2 term "junk" as used in this section shall mean old or
3 scrap gold, copper, brass, rope, rags, batteries, paper, rub-
4 ber, automobile parts, iron, steel and other old scrap fer-
5 rous or non-ferrous metals.

6 The term "junk dealers" shall include all persons en-
7 gaged in the business of buying or selling junk as herein-
8 above defined.

9 The term "junk dealer's agents" shall include all per-
10 sons who buy or sell junk as hereinbefore defined for or
11 on behalf of a junk dealer, as hereinabove defined, but
11a the term "junk dealer's agent" shall not be construed to
12 include any persons regularly employed upon a salary by
13 a regularly licensed junk dealer engaged in such busi-
14 ness within the state of West Virginia.

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

19 The term "nonresident junk dealer" or "nonresident
20 junk dealer's agent" shall include all persons who act as
21 junk dealers or junk dealer's agents who are nonresidents
22 of West Virginia, and all firms so engaged whose mem-
23 bers are nonresidents of West Virginia and all corpora-
24 tions which have not been admitted to hold property and
25 transact business in the state of West Virginia.

26 (b) No person within the state of West Virginia shall
27 engage in the business of junk dealer, junk dealer's agent
28 or itinerant junk collector without a state license there-
29 for, which license shall be issued as provided in this arti-
29a cle: *Provided, however,* That no resident license shall be
30 issued to any junk dealer, junk dealer's agent or itinerant
31 junk collector who has not been a resident of the state
32 of West Virginia for a period of at least one year prior
33 to the application of such license.

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

42 (d) The annual license fee to act as a resident junk
43 dealer shall be twenty-five dollars; to act as a junk deal-
44 er's agent, ten dollars; to act as a nonresident junk dealer
45 or his agent who buys or solicits for the purchase of junk

46 within the state, one hundred fifty dollars; to act as an
47 itinerant junk collector, two dollars. Such licenses shall
48 be coextensive with the state, but no nonresident licensee
49 shall be permitted to maintain a fixed place of business
50 within the state: *Provided, however,* That any nonres-
51 ident junk dealer may purchase junk from any resident
52 junk dealer without complying with the provisions of this
53 section, but if said nonresident junk dealer comes into
54 the state in any motor vehicle or horse drawn vehicle,
55 said nonresident junk dealer shall not be permitted to
56 transport from the state in said vehicle or horse drawn
57 wagon junk purchased from resident junk dealers, unless
58 there is a compliance with this section.

59 (e) Every resident junk dealer shall certify to the tax
60 commissioner the name or names of the agents for whom
61 he desires a license certificate and shall give to each agent
62 so engaged by him a certificate of authority, which cer-
63 tificate the agent shall at all times keep with his license
64 and no such junk dealer's agent's license shall be valid
65 and effective without such certificate of authority. The
66 tax commissioner shall give to each license certificate a

67 numerically designated permit, and such permit so given
68 shall be plainly stenciled or printed as "Dealer's Permit
69 No.....", "Agent's Permit No.....", "Itinerant Collector's
70 Permit No.....", "Nonresident Permit No.....", as the
71 case may be, upon both sides of all trucks or other vehi-
72 cles used in the collecting and transporting of junk. But
73 the tax commissioner shall not issue a junk dealer's agent's
74 license until the applicant therefor shall first have pre-
75 sented a certificate from a duly licensed junk dealer show-
76 ing such authorization, and no license shall be issued to a
77 junk dealer's agent or, itinerant junk collector unless he
78 shall file with the tax commissioner an affidavit setting
79 forth that such applicant has not been convicted of a
80 felony; that he has not been convicted of a misdemeanor
81 in connection with the junk business within a five year
82 period to the time of his application, and that in the event
83 the application is for a resident dealer's license that he has
84 resided in the state for a period of one year next preceding
85 the date of his application, which said certificate and affi-
86 davit shall be filed by the tax commissioner issuing the
87 license in his office.

88 No license hereunder shall be transferable.

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

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

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

Sec. 8. *Hawkers and Peddlers.*—(a) The annual license
2 fee to act as a hawker or peddler, if the person licensed
3 travels without a motor vehicle, shall be ten dollars; if
4 he travels with a motor vehicle of not more than one-half

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

24 When used in this section, the term "sale" shall mean
25 and include both sales for money payment or for barter,

26 and offers to make any such sale and offers to render any
27 service or the rendering thereof.

27a Any person who shall carry goods, wares, or merchan-
28 dise from place to place, either in person or by agent or
29 employee, and sell, for delivery at the same time, any such
30 goods, wares or merchandise to any purchaser, at whole-
31 sale or retail, and any person who shall solicit for the pur-
32 pose of rendering any service, shall be deemed a hawker
33 or peddler under this section.

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

39 1. Any person or persons engaged within this state in
40 the business or calling of agriculture, horticulture or graz-
41 ing, who sells or sell individually or collectively, one or
42 more for the other or others, the products derived from
43 his or their business or calling aforesaid;

44 2. Any person engaged in the maintenance or operation
45 of a retail merchandise store to exchange goods, wares or

46 merchandise from such store for agriculture, horticultural
47 or grazing products or to resell any such products received
48 in due course of such business; nor to any other retail
49 business concern, established and operating continuously
50 for one year or more within this state in the sale of any
51 product or products over regular routes;

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

55 4. Any person who sells petroleum products, ice, wood,
56 meat, milk, ice cream, bread, cakes, pies, and other bakery
57 products, butter and eggs, manufactured, grown or pro-
58 duced by any such person and not purchased by him for
59 resale;

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

62 6. Any agent or salesman selling manufactured pro-
63 ducts, except green groceries and canned or bottled fruit
64 products, produced by his employer, and who sells the
65 same to retail dealers for the purpose of resale.

66 7. Any firm, corporation, or individual having a stock of

67 goods, or merchandise, or manufacturing or processing
68 plant or plants kept or operating at a fixed situs in the
69 state of West Virginia, and declared for taxation in the
70 county where located, and using a vehicle, or vehicles
71 over a fixed route or routes, for the purpose of selling or
72 distributing, at wholesale, their, his or its said merchan-
73 dise, stock of goods or plant products: *Provided, however,*
74 That any person exempt from license as above provided,
75 shall obtain from the tax commissioner a license receipt,
76 without cost, showing that he is so exempt, which shall
77 be effective for the period as provided for annual licenses
78 in this article and shall be coextensive with the entire
79 state; but to obtain such license receipt he shall make an
80 affidavit and produce such other evidence as to the fact
81 entitling him to such exemption as the tax commissioner,
82 in his discretion, may require, which shall be on a form
83 to be prescribed by the tax commissioner.

Sec. 9. *Pawnbrokers.*—The annual license fee to engage
2 in the business of pawnbroker shall be one hundred dol-
3 lars. The term pawnbroker shall include any person, firm,
4 partnership, association or corporation engaged in the

5 business of lending money on deposit or pledge of per-
6 sonal property or other valuable thing, other than securi-
7 ties or printed evidence of indebtedness, or in the busi-
8 ness of purchasing personal property, such as articles
9 made of or containing gold, silver, platinum or other
10 precious metals or jewels of any description for the pur-
11 pose of reducing or smelting them into any form different
12 from their condition or construction when purchased and
13 reselling or marketing the product.

Sec. 10. *Itinerant Vendors.*—(a) When used in this sec-
2 tion the term “itinerant vendor” shall mean and include
3 all persons who engage or conduct within this state, either
4 in one locality, or in traveling from place to place, a tem-
5 porary or transient business of selling goods, wares and
6 merchandise; and who, for the purpose of carrying on such
7 business, use, lease or occupy either in whole or in part,
8 a room, building or other structure, or who use, lease or
9 occupy for such purposes a room or rooms in any hotel or
10 lodging house, for the exhibition and sale of such goods,
11 wares and merchandise; and the person so engaged shall
12 not be relieved from the provisions of this section by rea-

13 son of association temporarily with any local dealer,
14 trader, merchant or auctioneer, or by conducting such tem-
15 porary or transient business in connection with or as part
16 of the business of, or in the name of, any local dealer,
17 trader, merchant or auctioneer. The provisions of this
18 section shall not apply to sales made to persons by com-
19 mercial travelers, or selling agents in the usual course of
20 business, nor to bona fide sales of goods, wares or mer-
21 chandise by sample for future delivery; nor to hawkers
22 or peddlers in the streets, roads or highways, from packs
23 or vehicles, nor to persons selling meat or the products of
24 the farm, garden or dairy, nor to any sales of goods, wares
25 or merchandise on the grounds of any agricultural asso-
26 ciation during the continuance of any annual fair held
27 by such association; nor to any sales by societies acting for
28 charitable, religious or benevolent purposes; nor to judi-
29 cial sales directed by law, or under the orders of any court;
30 nor to the sales of the common necessities of life in any
31 public market place.

32 (b) No itinerant vendor shall advertise, represent or
33 hold forth a sale of goods, wares or merchandise as a bank-

34 rupt, insolvent, assignee, trustee, estate, executor, ad-
35 ministrator, receiver, attorney, manufacturer's wholesale
36 or closing out sale, or a sale of any goods damaged by
37 smoke, fire, water or otherwise, unless before so doing he
38 shall state in writing, under oath, to the tax commissioner
39 at the time he makes application for a license, hereinafter
40 provided for, all the facts relating to the reason and char-
41 acter of such special sale as advertised, held forth, or repre-
42 sented, including a statement of the names of the persons
43 from whom such goods, wares or merchandise were pur-
44 chased, and the date of the delivery of the same to the
45 person applying for license; the place, if any where such
46 goods, wares or merchandise were previously exposed for
47 sale, and such details as are necessary to exactly locate
48 and fully identify all such goods, wares and merchandise
49 proposed to be sold. And such itinerant vendor shall also
50 include in such statement the name and residence of the
51 owner or owners in whose interest the business is con-
52 ducted, to be kept on file in the office of the tax commis-
53 sioner and a record shall be kept by said tax commissioner

54 of all such statements, in convenient form and open to
55 public inspection.

56 (c) Every itinerant vendor shall execute a continuing
57 bond in the form prescribed by the tax commissioner with
58 satisfactory corporate surety in the penalty of five thou-
59 sand dollars, payable to the state of West Virginia, con-
60 ditioned that such itinerant vendor will pay all damages
61 accruing to anyone by reason of any act or action done,
62 performed or taken by such itinerant vendor in or about
63 the conduct of his business and further conditioned that
64 such itinerant vendor will pay all taxes, fees and penalties
65 imposed by this state and the political subdivisions there-
66 of: *Provided, however,* That the aggregate liability of the
67 surety for all such damages, taxes, fees, and penalties shall,
68 in no event, exceed the sum of said bond.

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

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

74 (f) Every itinerant vendor who sells or exhibits for

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

Sec. 11. *Theatres and Public Shows*.—A theatre, opera
2 house or other permanent place for public shows, may be
3 kept or maintained upon the payment of the license fee
4 hereinafter specified. In a city or town with a population
5 of thirty thousand or more, according to the last official
6 census, for three months. the fee shall be one hundred
7 dollars; for six months, one hundred thirty dollars; and
8 for one year, one hundred sixty dollars. In a city or town

9 with a population of less than thirty thousand but more
10 than twenty thousand, as aforesaid, for three months, the
11 fee shall be seventy-five dollars; for six months, one hun-
12 dred dollars; and for one year, one hundred twenty-five
13 dollars. In a city or town with a population of less than
14 twenty thousand but more than ten thousand, as aforesaid,
15 for three months, the fee shall be forty dollars; for six
16 months, sixty dollars; and for one year, one hundred dol-
17 lars. In a city or town with a population of less than ten
18 thousand but more than five thousand, as aforesaid, for
19 three months, the fee shall be twenty dollars; for six
20 months, thirty dollars; and for one year, forty dollars.
21 In a city or town with a population of less than five thou-
22 sand but more than two thousand, as aforesaid, for three
23 months, the fee shall be ten dollars; for six months, fifteen
24 dollars; and for one year, twenty dollars. In a city or
25 town with a population of less than two thousand, as afore-
26 said, or at any other place within the state, for three
27 months, the fee shall be five dollars; for six months, eight
28 dollars; and for one year ten dollars: *Provided further,*
29 That if such theatre, opera house, or other permanent

30 place for public shows is conducted outside of but within
31 one mile of the corporate limits of any city or town, the
32 license fee shall be the same as if such performance were
33 given within such city or town; and, if outside of but
34 within one mile of the corporate limits of two or more
35 cities or towns, the license fee shall be the same as if it
36 had been given within the largest of such cities or towns:
37 *Provided further*, That any theatre, opera house or other
38 permanent place for public shows, including drive-in
39 theatres, kept, maintained or operated in such a location
40 as to be exempt from the foregoing provisions of this sec-
41 tion shall pay an annual license fee of fifty dollars.

Sec. 12. *Collection Agencies*.—The annual license fee
2 to engage in the business of a collection agency within
3 this state shall be one hundred dollars. For purposes of
4 this section, solicitation or collection by or through an
5 agent operating within this state shall be considered to be
6 engaging in the business of a collection agency within this
7 state. Before such certificate of license is issued, the per-
8 son applying for the same shall execute a continuing bond
9 in the form prescribed by the tax commissioner with satis-

10 factory corporate surety in the penalty of two thousand
11 dollars, conditioned that such person will pay all damages
12 resulting from any unlawful act or action by such person
13 or his or its agent in connection with the conduct of the
14 business of the collection agency. This bond shall be filed
15 with the tax commissioner.

Sec. 13. *Employment Agent.*—The annual license fee to
2 conduct the business of an employment agent, to receive
3 applications for employment, to hire or contract with per-
4 sons for employment shall be two hundred dollars, except
5 that the annual license fee for an agency or registry for
6 the employment of nurses, practical nurses or undergrad-
7 uate nurses, shall be twenty-five dollars.

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

Sec. 14. *Bowling Alleys, Billiard, Pool or Bagatelle*
2 *Tables.*—The annual license fee to keep or maintain a
3 bowling alley, a billiard, pool or bagatelle table, or table
4 of like kind, for public use, where any charge is made for

5 the use of the same, shall be twenty-five dollars; but, if
6 more than one of such alleys or tables be kept or main-
7 tained in the same building by the same person, the fee
8 shall be twenty-five dollars for the first one and fifteen
9 dollars for each additional one.

10 The licensee, his agents or employees shall not permit
11 any person in any manner to bet or wager any thing of
12 value upon any game played upon such alleys or tables.
13 Such licensee, his agents or employees shall not permit
14 any one to bring any intoxicating liquors of any kind into
15 such building or other place where such alleys or tables
16 are located.

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

Sec. 15. *Application for and Issuance of Licenses; Evi-*
2 *dence of License; Fee.*—The licenses provided for in this

3 article shall be issued in the form of a certificate by the
4 tax commissioner to any person making proper applica-
5 tion therefor on forms to be prescribed and furnished
6 by the tax commissioner and tendering the license tax
7 and a filing tax fee of fifty cents for each license cer-
8 tificate requested. In addition to the required license
9 certificate there shall be required and issued at the time
10 of the issuance of said certificate to the person owning
11 coin operated devices a decalcomania stamp or other evi-
12 dence of said license certificate, at a cost not to exceed
13 fifty cents each, for each coin operated device licensed by
14 said certificate. The tax commissioner shall collect in full
15 the proper taxes and fees and determine to his satisfaction
16 that all the conditions precedent to the granting of such
17 license have been fulfilled by the applicant before issuing
18 a certificate of license.

Sec. 16. *Conditions Precedent to Doing Business.*—Pay-
2 ment in full of the proper tax and fee as specified in this
3 article, the issuance of a certificate of license under the
4 provisions of the preceding section, and the fulfillment of
5 all terms and conditions of such grant shall be conditions

6 precedent to the transaction of any business, activity,
7 trade or employment for which a license is required by
8 this article.

Sec. 17. *Licenses Coextensive With the State.*—Except
2 as herein otherwise expressly provided, licenses issued
3 pursuant to this article shall be coextensive with the state.

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

Sec. 19. *Effect of State License within Municipalities.*—
2 When any municipality is authorized by its charter or by
3 any law of this state to impose a penalty for engaging in
4 or prosecuting any business, activity, trade or employment
5 within the limits of such municipality without first having
6 obtained a license therefor pursuant to the ordinances of
7 such town, no state license issued under this article shall
8 exonerate the licensee from any such penalty, unless other-
9 wise expressly provided, whether such penalty be greater

10 or less than that imposed for the violation of the provi-
11 sions of this article.

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

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

Sec. 22. *Exhibition of Licenses.*—Every person to whom
2 a certificate of license shall be issued under the provisions
3 of this article shall keep such certificate posted in a con-
4 spicuous position in the place where the privileges of such

5 license are exercised, except as otherwise specifically pro-
6 vided for in this article.

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

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

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

Sec. 25. *Collection by Distraint.*—The tax commissioner,
2 or his agents, may distraint upon any personal property,
3 including intangibles, of any person delinquent in the pay-

4 ment of taxes and penalties accrued and unpaid under the
5 provisions of this article and may require the assistance
6 of the sheriff of any county in levying such distress in the
7 county in which such sheriff is an officer. A sheriff so
8 collecting taxes due hereunder shall be entitled to com-
9 pensation in the amount of all penalties collected over and
10 above the principal amount of tax due, but in no case shall
11 such compensation exceed twenty-five dollars. All taxes
12 and penalties so collected, less the compensation above,
13 shall be remitted within ten days after the collection to
14 the tax commissioner. The tax commissioner shall pre-
15 scribe by general regulation the manner of remittance of
16 such funds and of allowing the collecting officer the com-
17 pensation due him under this section. The sheriff shall be
18 authorized to distrain immediately upon request, as afore-
19 said, for the amount with which any person may have been
20 assessed under the provisions of this article, and to sell
21 upon ten days notice so much of said person's personal
22 property, subject to such distress, as may be necessary to
23 pay the tax so assessed, including penalties.

Sec. 26. *Injunction against Unlicensed Business.*—If any

2 person engages in or prosecutes any business, activity,
3 trade or employment contrary to any of the provisions of
4 this article, whether without obtaining a license therefor
6 after the termination of the effective period of any such
5 before commencing the same, or by continuing the same
7 license, the circuit court, or the judge thereof in vacation,
8 of the county in which such violation occurred, shall, upon
9 proper application in the name of the state, and after ten
10 days written notice thereof to such person, grant an in-
11 junction prohibiting such person from continuing such
12 business, activity, trade or employment until he has fully
13 complied with the provisions of this article. The remedy
14 provided in this section shall be in addition to all other
15 penalties and remedies provided by law.

Sec. 27. Additional Penalties when Business Transacted

2 *without License.*—Any person engaging in or prosecuting
3 any business, activity, trade or employment contrary to
4 the provisions of this article, whether without obtaining
5 a license therefor before commencing the same, or by
6 continuing the same after the termination of the effective
7 period of any such license, shall, in addition to paying the

8 license tax, be liable to the following penalties: If the
9 license tax to which he is subject is an annual one, or for
10 a period of one month or more, ten per cent of such tax
11 for each month or part thereof during which he had been
12 in default; if the license tax aforesaid is for any period
13 less than one month, ten per cent of such tax for each
14 such tax period or part thereof during which he has been
15 in default. It shall be the duty of the tax commissioner
16 to collect the full amount of the license and penalty there-
17 for.

Sec. 28. *Collection of Back Taxes.*—Any person engag-
2 ing in or prosecuting any business, activity, trade or em-
3 ployment contrary to the provisions of this article,
4 whether without obtaining a license therefor before com-
5 mencing the same, or by continuing the same after the
6 termination of the effective period of any such license,
7 shall, in addition to all other penalties provided for in this
8 article, be liable to the payment of all back taxes and
9 penalties for a period not exceeding five years.

Sec. 29. *Collection by Action or Suit.*—The tax com-
2 missioner may collect any license tax and penalty unpaid

3 under the provision of this article by action in debt, mo-
4 tion for judgment or other appropriate proceeding, includ-
5 ing suit in the court of any justice in the county in which
6 the defaulting licensee resides or in the county in which
7 the activity subject to license was engaged in.

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

Sec. 31. *Interpretation of Preceding Sections.*—None of
2 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.

E. N. Mc Court
Chairman Senate Committee

W. C. Chilton
Chairman House Committee

Originated in the House of Delegates

Takes effect *July 1, 1957* passage.

Thomas Meyer
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Reep J. Bean
President of the Senate

W. E. Harman
Speaker, House of Delegates

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

Jeff A. Henderson
Governor



Filed In the Office of the Secretary of State
of West Virginia **MAR 15 1957**
D. PITT O'BRIEN
SECRETARY OF STATE