

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1963**

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**ENROLLED**

**SENATE BILL NO. 244**

(By Mr. McCourt.....)

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PASSED.....March 2.....1963

In Effect.....July 1, 1963.....Passage

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of West Virginia 3-12-63

**JOE F. BURDETT**  
**SECRETARY OF STATE**

#244

**ENROLLED**  
**Senate Bill No. 244**

(By MR. McCOURT)

[Passed March 2, 1963; in effect July 1, 1963.]

AN ACT to repeal section three, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new section, designated section three, relating to coin-operated service, merchandise, amusement devices and vending machines.

*Be it enacted by the Legislature of West Virginia:*

That section three, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and a new section, designated section three, be enacted in lieu thereof to read as follows:

**Article 12. License Taxes.**

**Section 3. Installing, Maintaining or Operating Coin-**

**2 Operated Merchandise, Service and Amusement Devices,**

3 **and Vending Machines.**—Persons installing, maintaining  
4 or operating coin-operated service merchandise and  
5 amusement devices or vending machines will be herein-  
6 after referred to as vending machine operators.

7 The liability for the license to operate any type of coin-  
8 operated service merchandise, amusement devices or  
9 vending machines shall be upon the owner of the machine.  
10 The ownership shall be established by either a bill of  
11 sale, paid invoice or a conditional sales contract which  
12 has been recorded in the applicable county clerks office.  
13 The leasing of such a machine shall not be considered as  
14 a transfer of ownership of the machine and where a  
15 lessor-lessee relationship exists, the lessor shall be liable  
16 for the applicable license and fees.

17 The annual license fee to keep or maintain a coin-  
18 operated baggage or parcel checking machine or device  
19 which is used for the storage of baggage or parcels of any  
20 character, shall be fifty cents for each section of any such  
21 device which is operated on the coin-in-the-slot principle;  
22 the annual license fee to keep or maintain any coin-  
23 operated toilet locker or device shall be fifty cents for  
24 every such locker or device.

25 The annual license fee to keep or maintain any coin-  
26 operated penny machine or device, which is not a gam-  
27 bling device under any law of this state, shall be based  
28 upon the total number of machines maintained in this  
29 state by each operator with the tax to be assessed on a  
30 graduated scale according to such number of the machines  
31 so maintained.

32 The license fee for machines operated by pennies will  
33 be as follows: (1) For one machine, or more, but not  
34 exceeding four machines, two dollars per machine; (2)  
35 For five machines, or more, but not exceeding fifty ma-  
36 chines, twenty-five dollars per operator; (3) For fifty-one  
37 machines, or more, but not exceeding one hundred fifty  
38 machines, seventy-five dollars per operator; (4) one hun-  
39 dred fifty-one machines, or more, but not exceeding three  
40 hundred machines, two hundred dollars per operator; (5)  
41 For machines in excess of three hundred, six hundred  
42 dollars per operator.

43 The annual license fee to keep or maintain any vending  
44 device operated by other than pennies, which is not a  
45 gambling device under any law of this state, shall be based

46 upon the total number of machines maintained in this state  
47 by each operator with the tax to be assessed on a gradu-  
48 ated scale according to such number of the machines so  
49 maintained.

50 The license fees for machines operated by other than pen-  
51 nies will be as follows: (1) For one machine, or more, but  
52 not exceeding nine machines, five dollars and fifty cents  
53 per machine; (2) For ten machines, or more, but not ex-  
54 ceeding forty-nine machines, one hundred seventy-five  
55 dollars per operator; (3) For fifty machines, or more, but  
56 not exceeding one hundred machines, four hundred fifty  
57 dollars per operator; (4) For one hundred one machines,  
58 or more, but not exceeding two hundred machines, eight  
59 hundred dollars per operator; (5) For two hundred one  
60 machines, or more, but not exceeding three hundred ma-  
61 chines, one thousand two hundred dollars per operator;  
62 (6) For three hundred one machines, or more, but not  
63 exceeding four hundred fifty machines, one thousand five  
64 hundred dollars per operator; (7) For in excess of four  
65 hundred fifty machines, one thousand eight hundred dol-  
66 lars per operator. Where an operator is operating both

67 penny and other than penny machines, he shall secure  
68 licenses for both types of machines in the appropriate  
69 brackets.

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

74 Application for the license required herein shall contain  
75 the number of machines that are to be kept or maintained  
76 on location by the licensee within this state during the  
77 ensuing license year. Each vending machine operator shall  
78 make application to the tax commissioner on forms pro-  
79 vided by him, and the applicant shall furnish such in-  
80 formation as may be required by the tax commissioner  
81 including the total number of vending machines on loca-  
82 tion in this state and the applicant shall be subject to the  
83 penalties of false swearing for any untrue statements con-  
84 tained in his application.

85 The annual license as determined by the application  
86 and the above listed brackets, shall be paid prior to the  
87 first day of July of each year: *Provided*, That each op-

88 erator will submit to the tax commissioner, not later than  
89 the thirty-first day of May and not later than the thirtieth  
90 day of November of each year, a certified statement as to  
91 the total number of machines he has on location in this  
92 state: *Provided, however,* That these semiannual re-  
93 ports shall be used to determine the license fee due for  
94 the immediate succeeding six-month period from the first  
95 day of July through the thirty-first day of December or  
96 from the first day of January through the thirtieth day  
97 of June. In the event the certified statement should show  
98 that the operator has increased the number of his ma-  
99 chines on location to such an extent that he would then  
100 be required to secure a license for the next higher bracket,  
101 then the licensee shall remit the difference between the  
102 two brackets; and likewise, if the certified statement  
103 should show that the licensee has reduced the number of  
104 machines on location to the extent that he would be li-  
105 censed in the next lower bracket, then a refund for the  
106 difference between the two brackets would be issued to  
107 the licensee.

108 In addition to the semiannual certified statements from

109 each operator, it is required that all manufacturers, job-  
110 bers, distributors or other sources of obtaining vending  
111 machines will be required to file monthly with the tax  
112 commissioner copies of all invoices or other evidence in  
113 writing, covering all shipments and deliveries of vending  
114 machines into this state and showing the name of con-  
115 signee and his address, date, number of machines shipped  
116 delivered to any operator in this state.

117 One license certificate shall be issued to each person  
118 keeping or maintaining such machines or devices as afore-  
119 said, but the tax commissioner shall issue to any such  
120 licensee a decalcomania stamp for each such machine or  
121 device, which decalcomania stamp shall be securely at-  
122 tached to each such machine or device properly protected  
123 and plainly visible. Every such machine or device shall  
124 also bear so as to be plainly visible the name and address  
125 of the person keeping or maintaining such machine or  
126 device. Each license certificate when issued by the state  
127 tax commissioner shall be accompanied by a decalcomania  
128 as described above to the exact number the licensee has  
129 applied for and each licensee shall pay to the state tax

130 commissioner in addition to his proper licensing fee the  
131 sum of five dollars (\$5.00) which sum shall be his full  
132 payment for the decalcomania issued the licensee. These  
133 decalcomania shall be attached to each machine on loca-  
134 tion but may be transferrable from machine to machine  
135 by the licensee. The state tax commissioner shall have  
136 clearly visible on each decalcomania the tax period for  
137 which said decalcomania are issued.

138 If any licensee shall need additional decalcomania dur-  
139 ing any one tax period he shall be issued such decal-  
140 comania by the state tax commissioner with no additional  
141 cost unless the number requested shall put such licensee  
142 in a new licensing class and then said licensee shall pay  
143 an additional five dollars (\$5.00) for the additional decal-  
144 comania.

145 The proprietor or owner of the business conducted in  
146 the place where any such machine is kept or maintained  
147 is charged with the responsibility of satisfying himself  
148 that such decalcomania stamp or other evidence of owner-  
149 ship and license is so attached before permitting its in-  
150 stallation in his place of business and in the event any

151 machine is found on location without such decalcomania  
152 stamp then the machine will be considered to be un-  
153 licensed and the tax commissioner, or his agents, may  
154 take such machine or device into possession and deliver  
155 the same to the sheriff of the county in which such ma-  
156 chine or device is found, or the sheriff of such county on  
157 his own initiative or upon order or direction of the tax  
158 commissioner, or his agents, may take such machine or  
159 device into possession, and in either event, said machine  
160 or device shall be impounded until such license fee is paid;  
161 in the event the license fee and penalties are not paid to  
162 the sheriff within ten days after the date of such impound-  
163 ing, then the sheriff shall sell such machine or device  
164 in the manner provided by law for the sale of personal  
165 property for taxes, within the time specified by the tax  
166 commissioner which shall not be less than twenty days  
167 nor more than sixty days from the date of the order or  
168 direction of the tax commissioner; and from the proceeds  
169 thereof shall discharge and pay the license fee due on  
170 such machine or device and his costs, including costs of  
171 impounding, storage, penalties and other fees due the

172 state and the sheriff; and the balance, if any there be,  
173 shall be forfeited to the state.

174 No license fee shall be required of businesses keeping  
175 or maintaining such machines or devices owned by them  
176 in their own licensed store: *Provided, however, That*  
177 where the principal business is the operation of the ma-  
178 chines or devices, then licenses shall be obtained on the  
179 graduated scale as outlined above: *And provided further,*  
180 That any person exempt from such license shall obtain  
181 from the tax commissioner a license receipt, decalcomania  
182 stamp, or other evidence of exemption, at a cost not to  
183 exceed fifty cents each, showing that he is so exempt,  
184 which shall be effective for the period as provided for  
185 annual licenses in this article; but to obtain such license  
186 receipt or other evidence of exemption, he shall make an  
187 affidavit and produce such other evidence as to the fact  
188 entitling him to such exemption as the tax commissioner,  
189 in his discretion, may require, which shall be on a form  
190 to be prescribed by the tax commissioner.

191 Every person subject to the provisions of this article  
192 shall make such reports and keep such records as may be

193 required by the rules and regulations of the commissioner  
194 and shall permit him to inspect such records and the  
195 stocks and supplies on hand at any time. Every such  
196 person shall be required to make his records available for  
197 inspection by the tax commissioner or his authorized  
198 representative.

199 The commissioner is hereby authorized to make and  
200 promulgate such reasonable rules and regulations as may  
201 be necessary to administer the provisions of this article  
202 and to insure the collection of the tax imposed hereby.

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

*C. Roy Parker*  
Chairman Senate Committee

*Estel L. Crandall*  
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1963 passage.

*Thomas Meyer*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*Howard Wilson*  
President of the Senate

*Julius W. Sargentou Jr.*  
Speaker House of Delegates

The within approved this the 11<sup>th</sup>  
day of March, 1963.

*W. M. Barron*  
Governor

