WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED

Committee Substitute for
HOUSE BILL No. 944

(By Mr. Bedell)

PASSED March 13, 1965
In Effect July 1, 1965
AN ACT to amend and reenact sections three and fifteen, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to coin-operated merchandise, service, amusement or music devices and vending machines, and requiring decalcomania stamps thereon.

Be it enacted by the Legislature of West Virginia:

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

**Article 12. License Taxes.**

**Section 3. Owning and Operating Coin-operated Merchandise, Service, Music and Amusement Devices, or Vending Machines.**—Persons owning and operating coin-operated merchandise, service, amusement or music devices or vending machines shall obtain annual licenses and pay the fees prescribed in this section on or before July one of each year.

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

The annual license fee to own and operate a coin-
operated baggage or parcel checking machine or device
which is used for the storage of baggage or parcels of any
class, 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 own and operate any coin-
operated toilet locker or device, sanitary napkin device
or bed vibrator device shall be fifty cents for every such
locker or device. The state will not furnish decal stamps
for these devices; however, the owner shall identify each
machine by installing on each device an identification
label, plainly legible and visible, in such a manner that
the machine need not be moved to observe the identifica-
tion label, and the identification label shall contain the
name of the owner, his license number, his street address
and name of city and state.

The annual license fee to own and operate a total of
twenty or more coin-operated amusement or music de-
vice of the following types shall be: One cent devices—
fifty dollars; five cent devices—one hundred fifty dollars;
ten cent devices—two hundred twenty-five dollars; over
ten cent devices—three hundred dollars. The operator of
more than one type of such devices shall pay the highest fee prescribed. The license fee to own and operate less than twenty amusement or music devices shall be upon a per device basis as follows: One cent devices—two dollars; five cent devices—five dollars; ten cent devices—ten dollars; over ten cent devices—twelve dollars and fifty cents. Any device taking more than one denomination of coin shall be licensed on the basis of the largest denomination of coin taken or the total of the coins necessary to make the device function or operate.

The annual license fee to own and operate a total of twenty or more coin-operated merchandise or service devices of the following types shall be: One cent devices—fifty dollars; five cent devices—one hundred dollars; ten cent devices—one hundred fifty dollars; over ten cent devices—two hundred fifty dollars. The operator of more than one type of such devices shall pay the highest fee prescribed. The license fee to own and operate less than twenty merchandise or service devices shall be upon a per device basis as follows: One cent devices—two dollars; five cent devices—five dollars; ten cent devices—ten dol-
Any device taking more than one denomination of coin shall be licensed on the basis of the largest denomination of coin taken or the total of the coins necessary to make the device function or operate.

The fees herein prescribed are on an annual basis, commencing July one of each year, expiring on the following June thirtieth, and are not pro-ratable if taken out during the license year nor shall fees paid be refundable if a license is revoked, suspended or business ceased during the license year.

No license fee shall be required of stores or businesses owning and operating such machines or devices owned by them in their own licensed stores: Provided, however, that where the principal business is the operation of the machines or devices, then licenses shall be obtained as outlined above: And provided further, that any person exempt from or not liable for such license shall identify each machine by installing on each device an identification label, plainly legible and visible, in such a manner that the machine need not be moved to observe the identi-

82 fication label, and the identification label shall contain
83 the name of the owner, his store license number, his street
84 address and name of city and state.
85 The provisions of this section shall not be applicable to
86 any pay telephone, postage stamp vending machines or
87 currency changing machines operated on the coin-in-the-
88 slot principle.
89 Application for license required herein shall contain the
90 necessary information for the proper licensing under the
91 foregoing fee schedule for machines that are owned and
92 operated on location by the licensee within this state
93 during the ensuing license year or any part of a fiscal
94 year. Each vending machine operator shall make appli-
95 cation to the tax commissioner on forms provided by him,
96 and the applicant shall furnish such information as may
97 be required by the tax commissioner including a certified
98 statement of the total number of machines, by location,
99 of each coin denomination type in each classification, viz.
100 service, music or amusement, and merchandise or service
101 machines: Provided, That vending machine operators
102 operating twenty or more machines are only required to
furnish the commissioner with a certified statement as to the total number of machines on location in this state, and the applicant shall be subject to the penalties of false swearing for any untrue statements contained in his application.

The tax commissioner shall assign each license issued hereunder a number. It shall be the responsibility and duty of the owners of all coin-operated devices subject to the licenses herein provided to properly identify each machine by installing on each device an identification label, plainly legible and visible, in such a manner that the machine need not be moved to observe the identification label, and the identification label shall contain the name of the owner, his license number, his street address and name of city and state.

In the event any coin-operated device is found on location and not bearing the owner's address and current license number as prescribed above, the tax commissioner, or his agents, may seal the device in such a manner as to make it inoperable. The seal shall state the date sealed and bear the signature and title of the sealer. Anyone
other than the tax commissioner or his authorized agent

who shall break or tamper with such seals, or conceal or

move a sealed machine from its location shall be guilty

of a misdemeanor and subject to the criminal provisions

of this article.

The owner of a sealed machine may petition the tax

commissioner to remove seal(s) from the owners' ma-

chine(s) by filing a petition, on forms provided by the tax

commissioner, and paying to the tax commissioner a seal-

ing fee of ten dollars for each sealed machine. After re-

ceiving such petition and fee, and after the owner has

complied with all the provisions of this article, the tax

commissioner shall, within a reasonable time, cause such

petitioned seals to be removed by an agent of the tax

commissioner. If the owner of the sealed device has not,

within thirty days from the date the device was sealed,

paid a sealing fee of ten dollars to the tax commissioner as

well as having, to the satisfaction of the tax commissioner,

complied with all other provisions of this article, then

and in which event, the tax commissioner, or his agents,

shall take such sealed device into possession and deliver
the same to the sheriff of the county in which such ma-
chine or device is found, or the sheriff of such county upon
order or direction of the tax commissioner, or his agents,
shall take such sealed device into possession and forth-
with sell such sealed device in the manner provided by
law for the sale of personal property for taxes; and from
the proceeds of sale, including any currency found in the
sealed machine and removed prior to sale, shall pay his
costs, including drayage, storage, penalties and other fees
due the state and sheriff; and the balance, if any there
be, shall be paid to the tax commissioner for deposit and
and credit in the same manner as are the license fees
collected under this section.

Every person subject to the provisions of this article
shall make such reports and keep such records as may
be required by the rules and regulations of the commis-
sioner and shall permit him to inspect such records and
the stocks and supplies on hand at any time. Every such
person shall be required to make his records available
for inspection by the tax commissioner or his authorized
agents.
The commissioner is hereby authorized to make and promulgate such reasonable rules and regulations as may be necessary to administer the provisions of this article and article thirteen-a of chapter eleven, to insure the collection of the taxes imposed thereby: Provided, however, That nothing in this section shall affect the licensing power of a municipality as authorized by a particular municipal charter, general law or municipal ordinance.

Sec. 15. Application for and Issuance of Licenses;

Evidence of Licenses; 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 application 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 certificate requested. 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 1, 1965.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within............ this the 19

day of............, 1965.

Governor