

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 ~~Passage~~



FILED IN THE OFFICE OF
JOE F. BOLLENT
SECRETARY OF STATE
THIS DATE 3-19-65

#944

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 944
(Originating in the Committee on the Judiciary)

[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 Mer-

2 chandise, Service, Music and Amusement Devices, or

3 Vending Machines.—Persons owning and operating coin-

4 operated merchandise, service, amusement or music de-

5 vices or vending machines shall obtain annual licenses

6 and pay the fees prescribed in this section on or before

7 July one of each year.

8 The liability for the license to operate any type of coin-

9 operated merchandise, service, amusement or music de-

10 vices or vending machines shall be upon the owner of

11 the machine. The ownership shall be established by either

12 a bill of sale, paid invoice or a conditional sales contract

13 which has been recorded in the applicable county clerk's

14 office. The leasing of such a machine shall not be con-

15 sidered as a transfer of ownership of the machine and

16 where a lessor-lessee relationship exists, the lessor shall

17 be liable for the applicable license and fees.

18 The annual license fee to own and operate a coin-

19 operated baggage or parcel checking machine or device
 20 which is used for the storage of baggage or parcels of any
 21 character, shall be fifty cents for each section of any such
 22 device which is operated on the coin-in-the-slot principle;
 23 the annual license fee to own and operate any coin-
 24 operated toilet locker or device, sanitary napkin device
 25 or bed vibrator device shall be fifty cents for every such
 26 locker or device. The state will not furnish decal stamps
 27 for these devices; however, the owner shall identify each
 28 machine by installing on each device an identification
 29 label, plainly legible and visible, in such a manner that
 30 the machine need not be moved to observe the identifica-
 31 tion label, and the identification label shall contain the
 32 name of the owner, his license number, his street address
 33 and name of city and state.

34 The annual license fee to own and operate a total of
 35 twenty or more coin-operated amusement or music de-
 36 vices of the following types shall be: One cent devices—
 37 fifty dollars; five cent devices—one hundred fifty dollars;
 38 ten cent devices—two hundred twenty-five dollars; over
 39 ten cent devices—three hundred dollars. The operator of

40 more than one type of such devices shall pay the highest
41 fee prescribed. The license fee to own and operate less
42 than twenty amusement or music devices shall be upon a
43 per device basis as follows: One cent devices—two dollars;
44 five cent devices—five dollars; ten cent devices—ten dol-
45 lars; over ten cent devices—twelve dollars and fifty cents.
46 Any device taking more than one denomination of coin
47 shall be licensed on the basis of the largest denomination
48 of coin taken or the total of the coins necessary to make
49 the device function or operate.

50 The annual license fee to own and operate a total of
51 twenty or more coin-operated merchandise or service
52 devices of the following types shall be: One cent devices—
53 fifty dollars; five cent devices—one hundred dollars; ten
54 cent devices—one hundred fifty dollars; over ten cent
55 devices—two hundred fifty dollars. The operator of more
56 than one type of such devices shall pay the highest fee
57 prescribed. The license fee to own and operate less than
58 twenty merchandise or service devices shall be upon a
59 per device basis as follows: One cent devices—two dollars;
60 five cent devices—five dollars; ten cent devices—ten dol-

61 lars; over ten cent devices—twelve dollars and fifty cents.

62 Any device taking more than one denomination of coin
63 shall be licensed on the basis of the largest denomination
64 of coin taken or the total of the coins necessary to make
65 the device function or operate.

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

72 No license fee shall be required of stores or businesses
73 owning and operating such machines or devices owned
74 by them in their own licensed stores: *Provided, however,*
75 That where the principal business is the operation of the
76 machines or devices, then licenses shall be obtained as
77 outlined above: *And provided further,* That any person
78 exempt from or not liable for such license shall identify
79 each machine by installing on each device an identification
80 label, plainly legible and visible, in such a manner that
81 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

103 furnish the commissioner with a certified statement as to
104 the total number of machines on location in this state,
105 and the applicant shall be subject to the penalties of false
106 swearing for any untrue statements contained in his ap-
107 plication.

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

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

124 other than the tax commissioner or his authorized agent
125 who shall break or tamper with such seals, or conceal or
126 move a sealed machine from its location shall be guilty
127 of a misdemeanor and subject to the criminal provisions
128 of this article.

129 The owner of a sealed machine may petition the tax
130 commissioner to remove seal(s) from the owners' ma-
131 chine(s) by filing a petition, on forms provided by the tax
132 commissioner, and paying to the tax commissioner a seal-
133 ing fee of ten dollars for each sealed machine. After re-
134 ceiving such petition and fee, and after the owner has
135 complied with all the provisions of this article, the tax
136 commissioner shall, within a reasonable time, cause such
137 petitioned seals to be removed by an agent of the tax
138 commissioner. If the owner of the sealed device has not,
139 within thirty days from the date the device was sealed,
140 paid a sealing fee of ten dollars to the tax commissioner as
141 well as having, to the satisfaction of the tax commissioner,
142 complied with all other provisions of this article, then
143 and in which event, the tax commissioner, or his agents,
144 shall take such sealed device into possession and deliver

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

158 Every person subject to the provisions of this article
159 shall make such reports and keep such records as may
160 be required by the rules and regulations of the commis-
161 sioner and shall permit him to inspect such records and
162 the stocks and supplies on hand at any time. Every such
163 person shall be required to make his records available
164 for inspection by the tax commissioner or his authorized
165 agents.

166 The commissioner is hereby authorized to make and
167 promulgate such reasonable rules and regulations as may
168 be necessary to administer the provisions of this article
169 and article thirteen-a of chapter eleven, to insure the
170 collection of the taxes imposed thereby: *Provided, how-*
171 *ever,* That nothing in this section shall affect the licensing
172 power of a municipality as authorized by a particular
173 municipal charter, general law or municipal ordinance.

Sec. 15. Application for and Issuance of Licenses;

2 **Evidence of Licenses; Fee.**—The licenses provided for in
3 this article shall be issued in the form of a certificate by
4 the tax commissioner to any person making proper ap-
5 plication 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 certificate
8 requested. The tax commissioner shall collect in full the
9 proper taxes and fees and determine to his satisfaction
10 that all the conditions precedent to the granting of such
11 license have been fulfilled by the applicant before issuing
12 a certificate of license.

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

A. Ray Parker
Chairman Senate Committee

James W. Loop
Chairman House Committee

Originated in the House.

Takes effect July 1, 1965.

Brown Thyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard H. Benson
President of the Senate

H. LaRue White
Speaker House of Delegates

The within *approved* this the *19*
day of *March*, 1965.

Stuart C. Smith
Governor