WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED
SENATE BILL NO. 370

(By Mr. Cassman, Mr. Presedent, and
Mr. McClint)

PASSED_________________________March 11, 1967

In Effect________________________July 1, 1967

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-67

#370
AN ACT to repeal section ten, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections eight and twenty of said article and chapter, relating to license taxes on itinerant vendors, hawkers and peddlers, and the time for which licenses are granted.

Be it enacted by the Legislature of West Virginia:

That section ten, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections eight and twenty of said article and chapter be amended and reenacted to read as follows:
ARTICLE 12. LICENSE TAXES.

§11-12-8. Hawkers and peddlers.

(a) When used in this section the term "hawker and peddler" shall mean and include all persons who engage or conduct, within this state, in traveling from place to place, a temporary or transient business of selling goods, wares or merchandise for delivery at the time of sale; and who, for the purpose of carrying on such business may use, lease or occupy either in whole or in part, a shed or sheds, open ground, streets, roads or highways, 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 goods, wares and merchandise; or any person who shall carry goods, wares, or merchandise from place to place on foot or with a vehicle, 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 and peddler under this section. The person so engaged shall not be relieved from
the provisions of this section by reason 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 annual license fee to act as a hawker and peddler, if the person licensed travels without a vehicle, shall be ten dollars; if he travels with a vehicle of not more than one-half ton capacity, fifteen dollars; if he travels with a vehicle of more than one-half ton capacity, but not exceeding one ton capacity, fifty dollars; if he travels with a vehicle of more than one ton capacity, but not exceeding two tons' capacity, one hundred dollars; and if he travels with a 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 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.

(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 merchan-
dise being sold:

1. Any person or persons engaged within this state in
the business or calling of agriculture, horticulture or graz-
ing, 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 retail or wholesale business concern, established
and operating continuously for one year or more within
this state in the sale of any product or products over reg-
ular routes who are licensed under other provisions of this
article.
3. Any wholesaler or jobber selling soft drinks or non-intoxicating beer for which he is duly licensed under other provisions of this or another chapter of this code.

4. Any person who sells petroleum products, ice, wood, meat, ice cream, dairy products, bread, cakes, pies and other bakery products, butter and eggs, manufactured, grown or produced by any such person and not purchased by him for resale.

5. 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 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 organizations acting for charitable, religious or benevolent purposes; nor to annual showings or street exhibits, which may include sales of their showings or exhibits conducted by members of art associations; numismatic or philatelic societies or antique associations or societies when such showing or exhibit does not continue for more than one week each calendar
6. Any agent or salesman selling manufactured 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.

8. Any person exempt from license as provided by this section, 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 co-extensive 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 com-
missioner, in his discretion, may require, which shall be on a form to be prescribed by the tax commissioner.

§11-12-20. Time for which licenses granted: License tax for part of year.

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, That licenses issued prior to the first day of January of any year shall be charged at the full annual fee and all licenses issued on or after the first day of January shall be charged at one half of the full annual fee, as prescribed in this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Sampar
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1967.

J. Howard Moore
Clerk of the Senate

W.G. Rankin
Clerk of the House of Delegates

Howard W. Carver
President of the Senate

W. Laban White
Speaker House of Delegates

The within approved this the 17 day of March, 1967.

Hulet E. Smith
Governor
PRESENTED TO THE GOVERNOR

Date  3/7/67
Time  2:50pm