

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. 370

(By Mr. Cason, Mr. President and
Mr. McCurt)

PASSED March 11, 1967

In Effect July 1, 1967 Passage



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

#370

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Senate Bill No. 370

(By MR. CARSON, MR. PRESIDENT, and MR. McCOURT)

[Passed March 11, 1967; in effect July 1, 1967.]

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ten, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections eight and twenty of said article and chapter be amended and reenacted to read as follows: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
2 peddler" shall mean and include all persons who engage
3 or conduct, within this state, in traveling from place to
4 place, a temporary or transient business of selling goods,
5 wares or merchandise for delivery at the time of sale; and
6 who, for the purpose of carrying on such business may
7 use, lease or occupy either in whole or in part, a shed or
8 sheds, open ground, streets, roads or highways, a room,
9 building or other structure, or who use, lease or occupy
10 for such purposes a room or rooms in any hotel or lodging
11 house, for the exhibition and sale of goods, wares and mer-
12 chandise; or any person who shall carry goods, wares, or
13 merchandise from place to place on foot or with a vehicle,
14 either in person or by agent or employee, and sell, for
15 delivery at the same time, any such goods, wares or mer-
16 chandise to any purchaser at wholesale or retail, and any
17 person who shall solicit for the purpose of rendering any
18 service shall be deemed a hawker and peddler under this
19 section. The person so engaged shall not be relieved from

20 the provisions of this section by reason of association tem-
21 porarily with any local dealer, trader, merchant or auc-
22 tioneer, or by conducting such temporary or transient
23 business in connection with or as part of the business of,
24 or in the name of any local dealer, trader, merchant or
25 auctioneer.

26 The annual license fee to act as a hawker and peddler,
27 if the person licensed travels without a vehicle, shall be
28 ten dollars; if he travels with a vehicle of not more than
29 one-half ton capacity, fifteen dollars; if he travels with a
30 vehicle of more than one-half ton capacity, but not exceed-
31 ing one ton capacity, fifty dollars; if he travels with a
32 vehicle of more than one ton capacity, but not exceeding
33 two tons' capacity, one hundred dollars; and if he travels
34 with a vehicle of more than two tons' capacity, one hun-
35 dred fifty dollars, plus one hundred dollars for each addi-
36 tional ton or fraction thereof over two tons' capacity; and
37 the person licensed shall pay at the same rate for each and
38 every vehicle so used. Such person shall carry his license
39 in some conspicuous place in his vehicle or about his pack;
40 and in addition thereto he shall cause to be painted or

41 stenciled in a conspicuous place on the left-hand side of
42 his vehicle the number of such license and the words
43 "West Virginia Hawker and Peddler" and the license year
44 for which said license is issued, which said information
45 shall be in black letters on a white background, and the
46 whole thereof shall be at least eight by twenty inches in
47 size.

48 (b) The provisions of this section shall not apply to
49 any person who sells any goods, wares or merchandise to
50 be delivered in the future; or to any of the following who
51 offer immediate delivery of the goods, wares, or merchan-
52 dise being sold:

53 1. Any person or persons engaged within this state in
54 the business or calling of agriculture, horticulture or graz-
55 ing, who sells or sell individually or collectively, one or
56 more for the other or others, the products derived from
57 his or their business or calling aforesaid;

58 2. Any retail or wholesale business concern, established
59 and operating continuously for one year or more within
60 this state in the sale of any product or products over reg-
61 ular routes who are licensed under other provisions of this
62 article.

63 3. Any wholesaler or jobber selling soft drinks or
64 non-intoxicating beer for which he is duly licensed under
65 other provisions of this or another chapter of this code.

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

71 5. Sales made to persons by commercial travelers, or
72 selling agents in the usual course of business, nor to bona
73 fide sales of goods, wares or merchandise by sample for
74 future delivery; nor to any sales of goods, wares or mer-
75 chandise on the grounds of any agricultural association
76 during the continuance of any annual fair held by such
77 association; nor to any sales by organizations acting for
78 charitable, religious or benevolent purposes; nor to annual
79 showings or street exhibits, which may include sales of
80 their showings or exhibits conducted by members of art
81 associations; numismatic or philatelic societies or antique
82 associations or societies when such showing or exhibit
83 does not continue for more than one week each calendar

84 year; nor to judicial sales directed by law, or under the
85 orders of any court.

86 6. Any agent or salesman selling manufactured prod-
87 ucts produced by his employer, and who sells the same to
88 retail dealers for the purpose of resale.

89 7. Any firm, corporation, or individual having a stock
90 of goods, or merchandise, or manufacturing or processing
91 plant or plants kept or operating at a fixed situs in the
92 state of West Virginia, and declared for taxation in the
93 county where located, and using a vehicle or vehicles over
94 a fixed route or routes for the purpose of selling or dis-
95 tributing, at wholesale, their, his or its said merchandise,
96 stock of goods or plant products.

97 8. Any person exempt from license as provided by this
98 section, shall obtain from the tax commissioner a license
99 receipt, without cost, showing that he is so exempt, which
100 shall be effective for the period as provided for annual
101 licenses in this article and shall be co-extensive with the
102 entire state; but to obtain such license receipt, he shall
103 make an affidavit and produce such other evidence as to
104 the fact entitling him to such exemption as the tax com-

105 missioner, in his discretion, may require, which shall be
106 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,
2 all annual licenses issued under the provisions of this
3 article shall be for a period of one year beginning on the
4 first day of July and ending on the thirtieth day of the fol-
5 lowing June: *Provided*, That licenses issued prior to the
6 first day of January of any year shall be charged at the
7 full annual fee and all licenses issued on or after the first
8 day of January shall be charged at one half of the full
9 annual fee, as prescribed in this article.

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

William Tamm
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1967.

Thomas Meigs
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. Laban White
Speaker House of Delegates

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

Stewart C. Smith
Governor

**PRESENTED TO THE
GOVERNOR**

Date 3/17/67

Time 2:50pm