

STATE TAX COMMISSIONER
Charleston, West Virginia

Series 13

April 20, 1964

Joe F. Burdett
Secretary of State
State of West Virginia
State Capitol
Charleston, West Virginia

Dear Sir:

Enclosed are two copies of regulations issued by the State Tax Commissioner to establish general operating rules and procedures in the office of the General License Division. These regulations are designated Series XIII of Chapter 11-12 of the West Virginia Administrative Regulations.

I hereby certify that the attached regulations are true and accurate copies of official regulations adopted by the State Tax Commissioner on April 20, 1964.

Very truly yours,

G. Thomas Battle

G. Thomas Battle
State Tax Commissioner

GTB/kc

Filed in Office of the Secretary of State
of West Virginia 4/20/64
JOE F. BURDETT
SECRETARY OF STATE

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE TAX COMMISSIONER

GENERAL LICENSE

(Chapter 11, Article 12 of the Code)

RULES AND REGULATIONS

G. Thomas Battle
State Tax Commissioner

Effective
June 20, 1964

Filed in Office of the Secretary of State
of West Virginia 4/20/64
JOE F. BURDETT
SECRETARY OF STATE

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE TAX COMMISSIONER

Chapter 11-12
(1964)

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE TAX COMMISSIONER

Chapter 11-12
Series XIII
(1964)

Subject: Rules and Regulations for General License.

Section 1. General.

1.01. Scope.--These regulations establish general operating rules and procedures in the office of the General License Division.

1.02. Authority.--These regulations are issued under authority of West Virginia Code, Chapter 11, Article 12, Section 3.

1.03. Effective Date.--These regulations are promulgated on April 20, 1964 and become effective on sixty days thereafter.

1.04. Filing Date.--These regulations were filed in the Office of the Secretary of State on April 23, 1964.

1.05. Certification.--These regulations are certified authentic by the State Tax Commissioner by certification number _____.

Section 2. DEFINITIONS. The term "person" shall mean and include natural persons, partnerships, associations, corporations, and all other organizations or groups by which any of the specified businesses, activities, trades or employments are engaged in or prosecuted.

The term "commissioner" shall mean the State Tax Commissioner.

The term "decal(s)" shall mean decalcomania stamps.

The term "machine" shall mean vending or coin operated devices.

The term "vending machine operators", "operator" or "operators" shall mean all persons installing, maintaining or operating coin-operated merchandise, service and amusement devices and vending machines.

Section 3. APPLICATION FOR AND ISSUANCE OF LICENSES. The licenses provided for in this article shall be issued in the form of a certificate by the commissioner to any person making proper application therefor on forms prescribed and furnished by the commissioner.

The commissioner shall issue, in addition to the license certificate, to the person owning coin operated devices, a decalcomania stamp or other evidence of said license certificate, at a cost as defined in Section 4 of these regulations.

Section 4. INSTALLING, MAINTAINING OR OPERATING COIN OPERATED MERCHANDISE, SERVICE AND AMUSEMENT DEVICES, AND VENDING MACHINES.

4.01. License Fee.--The annual license fee to keep or maintain a coin operated baggage or parcel checking machine or device which is used for the storage of baggage or parcels of any character, 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 keep or maintain any coin operated toilet locker or device, sanitary napkin device or vibrator device shall be fifty cents for every such locker or device which includes the issuance of a decal by this office for each device. The annual license fee to keep or maintain any other coin operated penny machine or device, which is not a gambling device under any law of this State, shall be based upon the total number of machines on location in this State by each operator with the tax to be assessed on a graduated scale according to such number of the machines on location and certified to as outlined hereinafter.

Particular attention is called to the fact that the license provided for in Section 3, Article 12, Chapter 11 of the Code, is an annual license, with no provision for pro-ration, therefore, any person who enters into the business of operating vending machines at any time on or after the first day of July or on or before the thirtieth day of the following June will be liable for and must secure the annual license and pay the applicable license fee.

The license fee for machines operated by pennies will be as follows:

- (1) For one machine, or more, but not exceeding four machines, two dollars per machine;
- (2) For five machines, or more, but not exceeding fifty machines, twenty-five dollars per operator;
- (3) For fifty-one machines, or more, but not exceeding one hundred fifty machines, seventy-five dollars per operator;
- (4) For one hundred fifty-one machines, or more, but not exceeding three hundred machines, two hundred dollars per operator;
- (5) For machines in excess of three hundred machines, six hundred dollars per operator.

The license fees for machines operated by other than pennies will be as follows: (1) For one machine, or more, but not exceeding nine machines, five dollars and fifty cents per machine; (2) For ten machines, or more, but not exceeding forty-nine machines, one hundred seventy-five dollars per operator; (3) For fifty machines, or more, but not exceeding one hundred machines, four hundred fifty dollars per operator; (4) For one hundred one machines, or more, but not exceeding two hundred machines, eight hundred dollars per operator; (5) For two hundred one machines, or more, but not exceeding three hundred machines, one thousand two hundred dollars per operator; (6) For three hundred one machines, or more, but not exceeding four hundred fifty machines, one thousand five hundred dollars per operator; (7) For in excess of four hundred fifty machines, one thousand eight hundred dollars per operator. Where an operator is operating both penny and other than penny machines, he shall secure licenses for both types of machines in the appropriate brackets. For the purposes of administration, we have substituted letters for numerals for each bracket.

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

Application for the license required herein shall contain the number of machines that are to be kept or maintained on location by the licensee within this State during the ensuing license year. Each vending machine operator shall make application to the commissioner on forms provided by him, and the applicant shall furnish such information as may be required by the commissioner including the total number of vending 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.

Each vending machine operator is hereby required to furnish on or before May 31st of each year and November 30th of each year, a list of all the machines he has on location in this State and this list shall include, in part, the following information:

Name and mailing address of owner.

Type of Machines: Merchandise, such as cigarettes, candy, gum, nuts, food, soft drinks, coffee, dry goods, toiletries, service, music or amusement.

Denomination of coin(s) used to operate machine.

Business name, street address and name of town where each machine is located. Where an owner has more than one machine at the same location, it is required that each machine be listed on Schedule 9.02-A or B under the appropriate heading.

Forms for the listing of machines are designated as GLD 9.02-A and 9.02-B and will be furnished by the commissioner to each operator.

A certified statement, form GLD 9.02, furnished by the commissioner, will be completed or executed in its entirety and filed with the commissioner on or before May 31 and November 30 of each year. It is suggested that the form GLD 9.02 be made in duplicate and the copy be retained in the files of the operator.

Licensed machines may not be sold or ownership transferred without notification to the commissioner listing the name and address of new owner and showing the decal stamp license number of each machine sold or transferred.

The law provides that the commissioner will furnish with each license certificate, decalomania stamps in the exact number for which the licensee has applied. In addition to the license fee, each licensee shall pay five dollars to the commissioner for the required number of decal stamps which shall be the full payment for the decal stamps issued to the licensee. In the event the licensee shall purchase additional machines, the quantity of which shall not cause the licensee to be subject to the license fee of a higher bracket, the licensee shall, before placing the machines on location, submit a list of the locations in which these additional machines are to be placed. This list shall also include the full information as is required for all other machines and the commissioner will issue the additional decal stamps without charge. In the event a licensee acquires additional machines, the number of which would cause the licensee to be licensed in a higher bracket, then the licensee shall pay five dollars for the additional decal stamps. Operators who are in either Brackets A or H are required to pay five dollars for their decals in addition to the license fee, regardless of whether they have one or more, but not to exceed nine machines in Bracket A or one or more, and not to exceed four machines in Bracket H.

In the event an operator reduces or increases the number of his machines on location, in accordance with his certified report of November 30th, to the extent that he would consequently be licensed in a lower or higher bracket, the refund or additional fee would be based upon the difference between the two brackets involved. An example would be as follows: An operator in Bracket C who has paid his annual license fee of \$450.00 and who shows on his November 30th certified statement that he has reduced the number of his machines to Bracket B would be entitled to a refund of \$275.00.

Another example would be in the event an operator in Bracket B showed on his November 30th certified statement that he now has enough machines to be in Bracket C, he would be charged the difference between the two brackets involved which is \$275.00.

Some misunderstandings seem to exist and in order to clarify certain methods of operation, we will enumerate the following:

The owner of vending machines, may, under certain circumstances, find it more expedient to purchase licenses for his machines and place some of these machines in selected locations and make an agreement with the store, gasoline station or other place of business whereby the proprietor of the place of business will be given the key to the machine and the proprietor will stock the machine and remove the money from the machine. This does not effect a change in the ownership of the machine and as provided by law, ONLY, the owner is liable for the license tax and fees for the machines.

The Attorney General has ruled that the person who removes the money from the machine is liable for the consumers sales and gross sales tax but this does not release the owner of the machines of the responsibility of securing the license for the machine.

In the event an operator suspends or ceases his business as a vending machine operator, no refunds or credits will be allowed. It is suggested that any operator who plans to cease his business should schedule the cessation or sale of his machines so that the date of cessation or sale will fall on either June 30 or December 31 of the current calendar year. In the event an operator sells his machines to another operator, it would be advantageous to both parties to arrange the date of transfer of ownership of the machines as outlined above so that the seller would not lose any of the time for which he has been licensed and the purchaser would be able to operate for a full six months period. The purchaser must secure a license and new decals in his name

prior to placing machines on location and must submit a list to the commissioner as outlined in Article twelve, Chapter eleven of the Code.

Another situation exists whereby a vending machine operator will make arrangements to sell machines to a place of business by reducing the percentage of commission or by the owner of the place of business making certain monthly payments until the selling price agreed upon has been paid. This type of an arrangement does not relieve the owner or seller of a machine from his responsibility to secure the license for the machine. The liability for securing the proper license rests upon the owner of the machine and the ownership of a machine is established only by a bill of sale or a conditional sales contract. Operators who sell machines on any kind of terms to a place of business should explain to the purchaser that the purchaser will be liable for the licensing of the machine only after title has passed as above outlined and the operator should also explain to the purchaser that his ownership of a vending machine makes the purchaser liable for the securing of a General Store License. The law provides that neither soft drinks, cigarettes nor tobacco products shall be sold over the counter nor through a vending machine owned by the place of business unless the place of business has secured a General Store License.

Where operators find it expedient to have one machine on top of a counter or other place which makes the machine available to the public and also desires to have one or more machines in reserve and sometimes stored under a counter or in a back room or other place of storage, it is required that ALL machines on the same premises and same street address and location, shall have the required decal license stamp attached to each machine as herein specified.

4.02. OWNERSHIP OF MULTIPLE OPERATIONS. --Each application for licenses under this section will be reviewed by the commissioner and where one owner applies for licenses under two or more names, the owner will be required to furnish evidence to the commissioner that such applications are not submitted in order to reduce the license tax liability of the owner by applying for licenses in two classes under different names when the owner operates two or more vending machine businesses at the same place of business.

Section 5. LICENSE TAX LIABILITY FOR MULTIPLE COIN OPERATED MACHINES.

The mere joinder of several devices capable of independent functioning does not constitute them one machine and a separate license tax must be collected for each unit, unless the owner thereof is licensed under other than Bracket A or H, in which event, each unit must be taken into account to arrive at the total number of units or devices which are to be licensed under Brackets B through G and J through M inclusive.

Where each unit comprising a battery of vending machines has its own kind of slot and receptacle for receiving the coin(s) and delivery of the merchandise, thus being independent of the other units insofar as the actual machine function is concerned, each such unit is a separate "machine" or "device" within the contemplation of Section 3, Article 12, Chapter 11 of the Code, as set forth above and is to be licensed accordingly. For example; a cigarette vending machine with a coin operated match dispenser shall be counted as two separate devices.

If the functioning of a machine is dependent upon some function of other parts of the machine, the interplay of forces would be such as to constitute the entire device a single machine. There are numerous types of these "machines or devices" which are best exemplified by cigarette vending and candy machines with a single set of coin slots, but with a device permitting the vendee to

indicate his choice of merchandise, which he may or may not, receive from the machine.

Section 6. LEASES AND CONDITIONAL SALES CONTRACTS. It is a frequent occurrence that various types of vending machines are leased or sold on a conditional basis. Perhaps the best examples are cigarette and soft drink machines. No license will be issued to any person for a vending machine or device until the ownership has been definitely established to the satisfaction of the commissioner. Ownership can not be merely delegated for the purpose of licensing and the payment of taxes. Bona fide ownership must be clearly established to be with the buyer of a machine under a conditional sales contract, or a bill of sale, or the seller will be held liable for all licenses applicable to such machine. Wherever a lessor-lessee situation exists, the lessor shall be liable for all such licenses.

Section 7. HAWKERS AND PEDDLERS. Chapter 11, Article 12, Section 8 of the West Virginia Code, in part, is as follows:

"Any person who shall carry goods, wares or merchandise from place to place either in person or by agent or employee and sell for delivery at the same time 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."

A hawker's and peddler's license must be obtained for each vehicle operated, since the license tax is determined by the capacity of the vehicle involved.

The hawkers' and peddlers' license law provides various exemptions and some clarifications are indicated:

A hawker's and peddler's license does not apply to persons who make sales for delivery at a future date.

A resident of West Virginia who is engaged in the production of agricultural, horticultural or grazing products may sell either his products or those of another such person without obtaining this license. This exemption does not apply in the case of a non-resident or in the case of a resident who buys such merchandise for resale and is not the producer of such products.

No license will be required of a person (resident or non-resident) who engages in the operation of a retail merchandise store to exchange goods, wares or merchandise from such store for agricultural, horticultural or grazing products, or who resells any such products received in the operation of this business. A license will not be required of any other retail business concern selling merchandise over regular routes, provided it has been so operating for at least one year within this State.

Jobbers or wholesalers of beer and soft drinks are not required to purchase a hawker's and peddler's license. Neither are persons who sell items such as petroleum products, ice, wood, meats, milk, ice cream, bread, cake, pies or other baking products, butter and eggs if such products are manufactured, grown or produced by the person. If, however, this type of merchandise is purchased for resale then the selling would be subject to a license. Exemptions are permitted for societies, groups or organizations selling for charitable, religious or benevolent purposes.

Agents or salesmen selling merchandise manufactured by their employers to retail establishments for the purpose of resale are not required to obtain a hawker's and peddler's license. This exemption will not, however, apply to the same agents if they sell such items as green groceries and canned or bottled fruit products.

A person who maintains a stock of merchandise at a fixed place of business in the State will not be liable for a license if sales are made over regular routes and are sold entirely at wholesale, however, before this exemption applies the merchandise must be assessed in the county where located. A wholesaler is not required to have had his routes established for one year or more. The law merely specifies regular routes for selling at retail.

Any person exempt from a license under the above qualifications shall obtain from the commissioner a receipt or exemption decal without cost showing that he is exempt. The exemption shall be effective only for the period specified and shall be coextensive with the entire State. The commissioner shall prescribe and furnish the application form for the exemption receipt or decals, furthermore he is authorized to require the producing of additional evidence if he considers it necessary to definitely establish the qualifications of the applicant for an exemption.

Section 8. JUNK DEALERS AND THEIR AGENTS. Junk shall mean old or scrap gold, copper, brass, rope, rags, batteries, paper, rubber, automobile parts, iron, steel and other old scrap ferrous or non-ferrous metals.

The term "junk dealers" shall include all persons engaged in the business of buying or selling junk.

The term "junk dealer's agents" shall include all persons who buy or sell junk on behalf of a junk dealer on other than a salaried basis.

The term "itinerant junk collector" shall include only persons who gather junk from place to place with the aid of a cart or vehicle hand drawn or propelled, who have no fixed place of business.

Inasmuch as there are restrictions as to who can qualify for a license to engage in the junk business, the affidavit application form provided by

the commissioner must be completed in its entirety. Failure to use the official application or to supply all required information will only serve to delay issuance of the license.

In applying for a Junk Dealer's license the complete address must be shown and the applicant must indicate on his application whether or not his place of business is located WITHIN or OUTSIDE the corporate limits of a municipality. If inside, the name of the municipality must be stated. Applications for salvage yards located outside municipalities should be sent to the State Road Commission in care of Outdoor Advertising Division.

Every resident, except salaried employees of a duly licensed junk dealer, who buys or sells junk for or on behalf of one who is a junk dealer and does not otherwise buy or sell junk, is required to secure a junk dealer's agent's license.

Every resident who gathers junk, free from cost, as distinguished from one who buys or sells junk, by means of a cart or vehicle, and who has no fixed place of business, is required to secure an itinerant junk collector's license.

It is understood that a resident who buys or sells junk on his own behalf or for or on behalf of one other than a junk dealer duly licensed by the commissioner and in addition buys or sells junk for or on behalf of a junk dealer so licensed, is required to secure a junk dealer's license.

Any resident junk dealer with an established place of business engaging in sales or parts or items from his inventory to the public is also liable for a "special" store license.

Reference to Other Statutes.--Article 23, Chapter 17 of the Code of West Virginia, as amended, relating to salvage yards provides that salvage yards

located OUTSIDE the corporate limits of municipalities are exempt from the provisions of Chapter 11, Article 12, Section 7 (General License Law) and Chapter 11, Article 13-A (Store License Law) of the Code.

General License Law, Chapter 11, Article 12 of the Code, was not amended or changed in any manner by the 1963 Legislature, however Chapter 17, Article 23 of the Code (State Road Commission) was amended and relates to salvage yards. As a matter of general information the State Road Commission will administer Chapter 17, Article 23 of the Code, which relates ONLY to salvage yards located OUTSIDE the corporate limits of municipalities and the SRC will issue licenses at the rate of \$50.00 each and the license period will be on a calendar year basis from the first day of January to the thirty-first day of December of each year.

Junk Dealers, Junk Dealer's Agents, Itinerant Junk Collectors, Non-Resident Junk Dealers or Non-Resident Junk Dealer's Agents will continue to be licensed under the General License Law regardless of their location. Junk Dealers, Junk or Salvage Yards located WITHIN the corporate limits of any municipality will also continue to be licensed under the General License law. No change has been made in the license fee for any of the above classifications under the General License Law.

Section 9. TRADING STAMPS.--Chapter 11, Article 12, Section 5 of the West Virginia Code, in part, is as follows:

"The annual license fee to sell or offer for sale merchants' trading stamps, premium stamps or stamps or certificates of like nature, or to undertake to redeem such stamps or certificates in money or goods, shall be one hundred seventy-five dollars."

This fee does not apply to any coupon or similar device issued and redeemed by a manufacturer or packer.

The license imposed under this section of the statute shall not be coextensive with the State, but a separate license shall be required for each county in which the licensee operates.

Trading stamp companies will not be permitted to withdraw from a county on or after July 1st to escape the license tax. Any withdrawal must occur prior to that date or the license tax must be paid for the full year.

Section 10. FORTUNE TELLING.-- Chapter 11, Article 12, Section 6 of the West Virginia Code is as follows:

"The annual license to act as a fortune teller, palmist, phrenologist, spiritualist, medium, clairvoyant, mind reader or any other person who performs the art or profession of telling the past or forecasting the future, shall be two hundred dollars."

A fortune telling license is not valid unless it bears the name of the person. Trade names will not be acceptable--the license certificate shall show the real name and the trade name as:

Matilda Roxbora - DBA Madam Rosetta

but not just Madam Rosetta.

The person designated by the license certificate is the only one who is legally authorized to act as a fortune teller.

Section 11. COLLECTION AGENCIES.--Chapter 11, Article 12, Section 12 of the Code of West Virginia, in part, is as follows:

"Solicitation or collection by or through an agent operating within this State shall be considered to be engaging in the business of a collection agency within this State."

Any person desiring to qualify as a collection agent shall before applying for a license execute a continuing bond on a form prescribed and furnished by the commissioner. The bond shall be in the sum of five thousand dollars (\$5,000.00) payable to the State of West Virginia with satisfactory corporate surety. The collection agency bond shall be filed with the state tax commissioner.

Section 12. EMPLOYMENT AGENT. Any person desiring to be licensed as an employment agent shall first present his application to the Commissioner of the West Virginia Department of Labor for approval. The Commissioner of Labor shall determine the eligibility of all applicants for an employment agent's license and shall notify the tax commissioner as to those qualifying to be duly licensed. The tax commissioner shall then issue the license upon receipt of the proper payment of the required license fee.

Section 13. COIN OPERATED LAUNDRIES. Notwithstanding all other provisions of Chapter eleven, Article twelve of the Code, the owner or operator of a coin operated laundry shall not be required to obtain any license except a general store license, as provided in Article thirteen-a, Section two, and a decalcomania stamp for each coin operated machine owned by the operator of said laundry and situate in said laundry. The decalcomania stamp for each of the said machines shall be obtained from the commissioner at a cost not exceeding fifty cents.

Section 14. ITINERANT VENDORS. Chapter 11, Article 12, Section 10 of the Code of West Virginia, in part, is as follows:

"The term 'itinerant vender' shall mean and include all persons who engage or conduct within this State, either in one locality, or in

traveling from place to place, a temporary or transient business of selling goods, wares and merchandise; and who, for the purpose of carrying on such business, use, lease or occupy either in whole or part, a room, building or other structure, or who use, lease or occupy for such purpose, a room or rooms in any hotel or lodging house, for the exhibition and sale of such goods, wares and merchandise -----."

No person shall engage in the business of an itinerant vendor without having obtained a license at a cost of five hundred dollars. Every itinerant vendor, before becoming eligible for a license, shall execute a continuing bond in the form prescribed and furnished by the commissioner, with satisfactory corporate surety, in the penalty of five thousand dollars payable to the State of West Virginia. The bond shall be filed with the commissioner.

Section 15. PHOTOGRAPHY. Photographers having no fixed place of business and traveling about from place to place selling photographs enclosed in picture frames to the public generally and making deliveries at the time sales are made are required to have a hawker's and peddler's license.

A photographer operating a stand or concession at carnivals or other shows will be required to pay the same fee as other concessionaires.

Coin operated photograph machines will be subject to automatic devices licenses as provided in Chapter 11, Article 12, Section 3 of the Code of West Virginia.

Section 16. COIN OPERATED RADIOS AND TELEVISION SETS. Coin operated radios and television sets will be licensed under Chapter 11, Article 12, Section 3 of the Code of West Virginia, relating to coin operated devices. The statute

contemplates no exemption, therefore license certificates and decal stamps will be required of and issued to all operators of coin operated radios and television sets which are on location in this State.

Section 17. LICENSING OF VENDING STANDS SET UP BY THE DEPARTMENT OF VOCATIONAL REHABILITATION AND OPERATED BY BLIND PERSONS. Vending stands established and operated by blind persons under the direction or supervision of the Director of Public Assistance are not subject to state license taxes.

Section 18. TIME FOR WHICH LICENSES ARE GRANTED. Chapter 11, Article 12, Section 20 of the West Virginia Code, in part, is as follows:

"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-----."

The only license categories which do not indicate an annual license fee effective July 1, 1957 are Circuses, Carnivals and Other Public Shows and Theatres and Public Shows.

Section 19. TRANSFERS AND REPLACEMENT OF LICENSES. Every license issued under this article shall confer a personal privilege to transact the business, activity, trade or employment specified and shall not be exercised by any other person. The license shall not be assignable.

The change in the status of a firm will not affect the validity of a license so long as one or more members of the original licensing group remains.

A vending machine operator is privileged to move a licensed machine or device from location to location as often as necessary without the payment of an additional fee.

Section 20. EFFECT OF STATE LICENSE. Payment for and the issuance of a license certificate shall not be deemed as legalizing any act which may be in violation of law, nor exempting any person from any penalty prescribed for such violation.

The commissioner and his deputies are not required to pass upon the merits of a case as to whether or not a game, device or activity for which a license is issued is legal under the criminal statutes of the State. This is a responsibility reposing with the law enforcing agencies. The commissioner shall not be liable for any refunds arising out of such circumstances.

Section 21. PENALTIES WHEN BUSINESS IS TRANSACTED WITHOUT LICENSE. Any person engaging in or prosecuting any business, activity, trade or employment without obtaining a license before commencing same or continuing the same beyond the termination date of the license shall, in addition to paying the license tax, be liable to the following penalties:

"If the license tax to which he is subject is an annual one, or for a period of one month or more, ten per cent of such tax for each month or part thereof during which he had been in default; if the license tax aforesaid is for any period less than one month, ten per cent of such tax for each such tax period or part thereof during which he has been in default ----."
(See Code 11-12-27)

A delinquent taxpayer shall, in addition to all other penalties, be liable to the payment of all back taxes and penalties for a period not exceeding five years which shall be construed to mean the current fiscal year plus the immediate past four fiscal years.

Section 22. UNPAID CHECKS COVERING LICENSE FEES AND PENALTIES. This regulation is promulgated in order to clarify situations where non-certified checks have

been received with applications for license and the license has been issued and, at a later date, the checks are returned unpaid by the banks because of insufficient funds. Such a situation results in a person having a current license in his possession but the commissioner has not received the license tax.

Under these conditions, the commissioner will consider the license tax and fees as unpaid and delinquent as of the date the bad check was received after having been returned unpaid by its bank and will add the penalties as provided for in the General License Law.

The purpose of this regulation is to give the commissioner authority to suspend or revoke or to repossess the unpaid for license. The commissioner may, in his discretion, invoke injunction proceedings.

Section 23. REFUNDS. The general license statute does not make any specific provision for refunds. It shall be the policy to recognize erroneous payments for licenses and make proper refunds. It is to be understood that, if and when refunds are recommended to the State Auditor, that the amount will reflect only the license tax but any fees paid will be forfeited. The fees will not be refunded since they constitute payment for services rendered. Even though the license may have been issued in error the issuing agent has performed the service for which the fee was paid, therefore, the fee(s) will not be included in the reimbursements. This regulation does not apply to Section 3, Article 12, Chapter 11 of the Code of West Virginia.

Section 24. RECORDS AND REPORTS. Every person subject to the provisions of Article 12, Chapter 11 of the Code, shall make such reports and keep such records as may be required by the rules and regulations of the commissioner 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 commissioner or his authorized representatives.

FILING OF ADMINISTRATIVE REGULATIONS

References are to sections in W. Va. Adm. Reg. 11-12, Series XIII

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