

Prussian Law on Freedom of Trade, signed by Chancellor Hardenberg and King Frederick William III (September 7, 1811)

Abstract

This important law reflected the Prussian state's urgent need for a broader stream of tax revenue from the commercial-industrial sector, and it followed from Hardenberg's broader financial reforms of 1810. But in its thorough elimination of artisan guild monopolies and other corporate restraints on trade and commerce (including officially or corporatively fixed prices), and in its opening of these fields to all entrepreneurs, it realized major postulates of the economic liberalism born of the Enlightenment. The text offers insight into the occupational and social structure of the time.

Source

Law on Police Conditions, in Reference to the Edict of November 2, 1810, Regarding the Introduction of a General Commercial Tax

We, Frederick William, by the Grace of God, King of Prussia, etc. etc.

Announce and hereby let it be known that we have found it necessary, in pursuance of the Edict of November 2, 1810, regarding the introduction of a general commercial tax, to issue the following, more detailed and special regulations:

1. The purchase of a trade license does not alter the obligation to become a citizen or join the community as a member and take on communal burdens. A trade that, according to general laws or local statutes, can be pursued only by citizens or members of the community can be practiced on the basis of a trade license only after the attainment of citizenship or community membership. However, if someone has won citizenship in one city and is impelled by circumstances to settle in another city, then this does not alter his obligation to become a citizen there as well and to contribute to the communal charges, but such a person shall not bear the burden of double expenses; instead, for the citizenship in his new place or residence he shall pay a supplement only to the extent that it is more expensive than the previous one.
2. If someone is legally barred from becoming a citizen or member of the community because of ill-repute, then he may not, on the basis of a trade license, practice any trade that requires citizenship or the joining of the community.
3. A trade license does not grant a conscript the right to independently pursue a trade prior to the end of his obligation to perform military service, and he may not be licensed to trade for his own account according to the military constitution.
4. In reference to § 19 of the Edict of November 2, 1810, soldiers in the ranks may not purchase a trade license without the written permission of the head of the regiment. [...]
6. In accordance with the regulations of §§ 1 to 5, a person who was not previously a member of a guild may practice any trade on the basis of his trade license, without being compelled thereby to join a guild.
7. He is therefore also entitled to accept apprentices and helpers.

8. In such cases, the apprenticeship period or the duration of service, the possible apprenticeship fee, the wage, food, and medical treatment are determined solely by the free contract.

9. Whichever of these things is not determined will be handled in accordance with local custom.

10. Should a dispute arise, the police office of the locality shall decide what the local custom is.

11. A master or employer may not withhold from departing apprentices and assistants an attestation of their conduct and demonstrated skill.

12. This attestation will count as a certificate of apprenticeship or notification, if the local police authorities confirm that the issuer is known to be a man of integrity who personally practices the mentioned trade, that he has acknowledged the correctness of its content before them, and that nothing to the contrary is known to them.

13. No one may take on apprentices or assistants whose good reputation and right to thus oblige themselves has not been demonstrated in accordance with the general police laws.

14. Anyone who previously belonged to a guild may withdraw from the guild organization at any time.

15. However, the elder or senior master must be informed of this withdrawal in writing.

16. The withdrawal also does not free a person from liability for all guild obligations that exist on the day of the withdrawal as though the withdrawal had not taken place. The head of the guild is obliged to make this obligation explicitly known to every single departing person. [...]

18. Apprentices who belong to guilds may also work for non-guild members without any disadvantage to their guild rights.

19. Every guild may dissolve itself through a joint resolution. The decision is made by the majority vote of the masters. [...]

20. The superintendent or guild patron is obligated to present this decision without delay to the magistrate for permission.

21. This permission must be denied if the guild cannot simultaneously furnish adequate proof of how its debts are to be paid.

22. Other than that, the magistrate may not generally refuse permission.

23. However, should he have concerns about it, he must, in conjunction with the local police authorities, report immediately to the provincial government and ask for its decision.

24. If the dissolution is approved, first and foremost all guild debts must be paid off from its joint assets.

25. If anything is left over thereafter, it becomes the free property of the members, provided the guild has no bank liabilities, toward whose repayment this surplus must be used in accordance with § 39 of this decree.

26. The guild can designate this surplus for charitable purposes through a majority vote and with approval from the magistrate.

27. If no such agreement can be arrived at, it will be distributed in equal parts among all existing masters and master widows who have carried on the trade. [...]

29. The office of the territorial police is authorized to declare a guild as dissolved at any time.

[...]

31. If, in special cases, the territorial police deem it necessary for the good of the general welfare to group those practicing a certain trade into a corporation, then everyone is obligated to join that corporation as long as he is engaged in that trade.

32. Exclusive, hereditary, and sellable trade licenses in cities that are registered as such in the mortgage books, shall, with reference to § 17 of the Edict of November 2 of last year, be redeemed, and until this can be done, they shall have interest paid on them.

33. Even trade authorizations that were formerly linked inseparably to city properties are not exempt from this, because this inseparability was already abolished by § 4 of the Edict of November 9, 1807. [...]

39. For every guild based on the provisions of §§ 32, 33, a *separate* redemption fund will be set up. It consists

a) of the joint assets of the guild, after subtracting the debts against it;

b) an annual income of one-and-a-half percent of the value of all relevant entitlements [...]

c) the interest saved through the redemptions.

40. The redemption is done through cash payment from this fund, to the extent that it is adequate in each case.

41. The claims that are repaid first are those offered at the best rate. If several are put forth at an equally good price, then those that carry the largest debts are repaid first. If that does not produce a right of priority, the drawing of lots will decide. Whether the entitlement is still being used or is dormant has no influence on the redemption. [...]

49. The magistrate is personally responsible for seeing to it that the redemption fund of each guild is not used for anything other than the redemption of the relevant entitlements and that the redemption is not delayed in any way. The governments are obligated to pay special attention to this. [...]

51. With respect to his own consumption, no one is subject any longer to milling or beverage prescriptions. [...]

57. Every person's trade authorization is henceforth to be judged by the content of his trade license.

58. If there are doubts about the limits of that authorization, the decision belongs solely to the police authorities.

59. In accordance with § 9 of the Edict of November 2, 1810, the trade license also gives each holder the right to deal in the products made on the basis of the same. This right is herewith defined in detail in what follows.

60. He may offer these products for sale *in his place of residence* in his house, also in open shops, in stalls, to the extent that their erection is permitted by the police, or in open market squares, or also by carrying them around, and he can have them offered for sale by the lodgers in his house.

61. In addition, he may send them out, visit fairs with them also outside of his residence and display them there in shops or stalls.

62. On the other hand, he may peddle them outside of his residence in cities and in the country only to the extent that he has purchased a separate trade license as an itinerant trader in accordance with § 136.

63. Everyone may manufacture the materials and tools he needs for his trade, though only for his own use, without obtaining a separate trade license for that purpose.

64. Anyone who is authorized by his trade license to perform *works of a specific kind* may, on the basis of that license, perform all the tasks necessary to complete *these works*.

For example, a wagon maker can perform all the work of cartwrights, wheelrights, joiners, turners, locksmiths, beltmakers, leathersmiths, saddlers, varnishers, and painters, as well as other work done in his workshop as part of the production of his wagons, or as part of the repair of similar ones, without obtaining *separate* trade licenses for these various jobs.

65. The trade licenses for *works of a certain kind* should be issued as generally as possible, and overly detailed trade distinctions shall be avoided. [...]

79. Everyone can obtain as many different trade licenses and pursue as many different trades as he wishes on a simultaneous basis.

80. Exceptions are made only to the extent that they are explicitly spelled out in § 20 of the Edict of November 2 of the previous year, or may be specifically ordered in the future by the state police authorities.

81. It is left to the discretion of every agency to decide which trades its officers are prohibited from practicing in accordance with § 19 of the Edict of November 2. No officer is authorized to gainsay such refusals. However, in the case of officers, the possession of landed estates always entails the permission to engage in the trades that are commonly connected to the running of agricultural operations.

82. Although § 21 of the Edict of November 2 has already stipulated the trades for which the permission to pursue the same shall depend on proof of special qualities, a few other trades shall be subject to the same special oversight, and the following regulations shall be observed with respect to this: [...]

135. Persons who practice a trade as itinerants shall be given a trade license only after presenting an authorization from the government.

136. This includes, specifically, itinerant traders of any kind. However, it shall be seen to include merchants, manufacturers, and tradesmen who visit fairs with their goods, and offer them for sale there in open shops and stalls; also, no farmers and rural tradesmen who bring their goods to market: but only those who take their own or foreign goods outside of their usual residence from place to place to sell, and offer them on the open road, in taverns, or private houses as they move about.

137. In addition, it includes hucksters and collectors of every kind. But it does not include those who travel about in order to purchase materials for their own manufacture, something that can be done without offense with a mere manufacturing license and police travel pass. Nor does it include those who visit fairs to procure goods wholesale to resell; but only those whose trade lies in traveling about the land in order to purchase, in private houses, taverns, or on the open road, goods of any kind for reselling.

138. In addition, it includes pig, cattle, and horse castrators, tinkers, pot-binders, whetters, provided the latter do not practice their trade in shops or permanent stalls.

139. Finally, it includes puppeteers, rope walkers, balancers, jugglers, animal handlers, itinerant musicians, in fact, all those who travel about to display any kind of thing or contraption for money.

140. All tradespeople identified in § 136-139 must seek the permission of the government in whose province they wish to ply their trade.

141. If their travels extend across two or three neighboring provinces, then permission must be sought from each relevant government.

142. Valid permits that cover the entire state can be issued only by the general police department, which will notify all governments in such cases. [...]

144. This permit is usually issued for three years, though after its expiration it can be extended for three years at a time through a simple notice of extension. [...]

146. The authorities that issue or extend such permits have the discretion to choose the means that they will use to convince themselves of the trustworthiness and legality of the applicant.

147. They can also deny such permits, or their extension, if they lack this conviction, and recourse against this decision can be had only with the next-highest police authority.

148. Moreover, resident and known persons must have the police authority in their place of residence validate their permit on an annual basis to show that no justified complaint against their legality has occurred.

149. Non-residents or unknown persons in the Prussian states must request such an attestation [as mentioned in] § 148 from the relevant police authorities during their respective stay.

150. The trade license for the trades listed in §§ 136-139 can be issued only for those permits that are properly endowed with the attestations of §§ 148, 149, and of which the most recent one is not more than four weeks old.

151. The trade with colonial and other highly taxed goods, such as wine, foreign liquors and the like; in addition, factories that process such goods, e.g., tobacconists, shall be allowed in the land only upon the express permission of the tax committee of the governments, and this permission shall be issued only if the state taxes are completely secured through existing controls.

152. All attestations and declarations that are issued solely for the purpose of obtaining trade licenses with them shall be prepared free of stamps and costs, since the intent is not to indirectly increase the trade tax through stamp taxes and fees. [...]

154. Foreigners who enter the land merely to make purchases at annual or weekly fairs do not need a trade license for this business.

155. However, foreigners who visit annual or weekly fairs to sell goods there, or to engage in commission, carrying trade, and currency exchange businesses, or who seek orders for their wares, must take out a trade license. [...]

156. Foreigners are permitted to take out only a three-month trade license, provided their business in the land is completed within the time period for which such a trade license is valid.

[...]

157. In such singular cases where special personal qualities are important, every legal and blameless resident of the state is entitled to use the assistance of a foreigner in whom he has special trust. However, the latter must likewise be a person beyond suspicion.

158. The extent to which such foreigners shall be called on for taxes and charges for individual services they render in the Prussian states remains initially left to the appropriate judgment of the governments, given the great variety of the cases.

159. By contrast, foreigners who come into the land to offer their services in commercial matters, or who, if they are particularly qualified, do not limit their services to a single, specific case, are subject to all obligations, without exception, that would be imposed on a native engaged in the same trade. Accordingly, foreign carters, in particular, who enter the land specifically to search for loads, are required to take out a trade license. However, carters and shippers who come from foreign locations with goods, and who merely accept return cargo, or who only occasionally load something up while passing through, do not need a carter trade license.

160. In particular, foreigners shall be permitted by governments to ply an itinerant trade only for special reasons, and the regulations under §§ 135-150 must be applied especially to them with appropriate strictness.

161. All police taxes on food, grocer's wares, and baker's goods are herewith repealed everywhere and completely.

162. Tavern keepers, too, are henceforth no longer subject to a police tax: however, all tavern keepers in cities of the first and second class are obligated, on a monthly basis, to set a tax, namely each for himself in particular, to post it in all taverns, and to pay it within a month. It is left to the police authorities in cities of the third class to introduce this practice also there, if they deem it appropriate to the traffic of the city.

163. All wage taxes for work performed by tradesmen are generally and completely abolished.

[...]

Source: *Gesetz-Sammlung für die Königlichen Preußischen Staaten 1811*. Berlin: Georg Decker, [1811], pp. 263–80; reprinted in Walter Demel und Uwe Puschner, eds., *Von der Französischen Revolution bis zum Wiener Kongreß 1789-1815*, Deutsche Geschichte in Quellen und Darstellung, ed. Rainer A. Müller. Vol. 6. Stuttgart: P. Reclam, 1995, pp. 289–300.

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Recommended Citation: Prussian Law on Freedom of Trade, signed by Chancellor Hardenberg and King Frederick William III (September 7, 1811), published in: German History in Documents and Images, <<https://germanhistorydocs.org/en/the-holy-roman-empire-1648-1815/ghdi:document-3555>> [July 15, 2025].