

CHAPTER 329

HAWKERS, PEDDLERS, AND TRANSIENT MERCHANTS

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329.01 TRANSIENT MERCHANT. The term "transient merchant" includes any person, individual, copartnership, and corporation, both as principal and agent, who engage in, do, or transact any temporary and transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares, and merchandise; and who, for the purpose of carrying on such business, hire, lease, occupy, or use a building, structure, vacant lot, or railroad car for the exhibition and sale of such goods, wares, and merchandise.

[1911 c. 39 s. 4; 1913 c. 504 s. 1] (7340)

329.02 HAWKERS AND PEDDLERS; LICENSE REQUIRED. No person shall engage in or follow the business or occupation of a hawker or peddler within this state without having first obtained a license for that purpose, as provided by sections 329.02 to 329.08.

[1911 c. 121 s. 1] (7328)

329.03 LICENSE, APPLICATION AND ISSUANCE. Every person desiring to engage in or follow the business or occupation mentioned in section 329.02 shall file an application for a license for that purpose with the auditor of the county in which he desires to do business, which application shall be made, in writing, to the auditor, wherein the applicant shall specify whether he intends to carry on his business by a wagon or other vehicle, or on foot. The applicant shall, on or before the time for filing his application for license, pay or cause to be paid to the treasurer of the county in which his application is filed the amount prescribed as and for such license as provided in section 329.04, and the treasurer shall issue a receipt for such sum to such person, which receipt he shall present to the auditor of such county, who thereupon shall issue the license.

[1911 c. 121 s. 2] (7329)

329.04 FEES. When such person shall use in such business or occupation a wagon or other vehicle drawn by two or more horses, or other beasts of burden, the sum of \$35.00; when he shall use in such business or occupation an automobile, or vehicle or conveyance propelled by any mechanical power, the sum of \$50.00; when he shall use in such business or occupation a wagon or other vehicle drawn by one horse, or other beast of burden, the sum of \$25.00; when he shall use in such business or occupation a push or hand cart, or other vehicle not drawn by horses, or other beasts of burden, or propelled by any mechanical power, the sum of \$15.00; and when he shall conduct such business on foot, by means of a pack, basket, or other means for carrying merchandise on foot, the sum of \$7.50.

[1911 c. 121 s. 3; 1925 c. 227] (7330)

329.05 TERMS OF LICENSE; FEES PUT IN COUNTY GENERAL REVENUE FUND. Upon the presentation of such receipt from the treasurer of such county, showing the payment of a fee as provided in section 329.04, the auditor of such county shall issue to the applicant a license for a period of one year from the date of the issuance of the receipt of such treasurer, the full license fee to be paid in every case. Every such license shall authorize the person receiving the same to use one wagon or other vehicle drawn by two or more horses, or other beasts of burden, and no more, or automobile or other vehicle or conveyance propelled by mechanical power; one wagon or other vehicle drawn by one horse, or other beast of burden, and no more; one push or hand cart or other vehicle not drawn by horse,

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or other beast of burden, and no more; or the baskets, packs, or other means necessary for one peddler carrying by himself merchandise on foot, as the case may be. Such license shall not be assigned or transferable, and but one person shall be authorized to carry on business under such license, and no persons shall conduct business under the same license as copartners, agents, or otherwise, and it shall be good only in the county in which the same was issued. All moneys received from the sale of such licenses shall be placed to the credit of the general revenue fund of the county.

[1911 c. 121 s. 4] (7331)

329.06 RIGHT OF MUNICIPALITIES TO REGULATE. Nothing contained in sections 329.02 to 329.08 shall be construed as prohibiting, or in any way limiting or interfering with, the right of any city, village, or other municipal corporation, or governmental subdivision of the state to regulate or license the carrying on within such municipality the business of hawker or peddler in any case where authority has been, or shall hereafter be, conferred upon it so to do, but the requirements of sections 329.02 to 329.08 shall be in addition thereto.

[1911 c. 121 s. 5] (7332)

329.07 LICENSE, EXHIBITION OF; FAILURE TO EXHIBIT; PENALTY. It shall be the duty of any person licensed as herein provided, upon the demand of any sheriff, deputy sheriff, constable, or police officer, to exhibit his license, and make affidavit that he is the person named therein. Any person failing to exhibit his license, when requested by the persons above designated, shall be guilty of a misdemeanor.

[1911 c. 121 s. 6] (7333)

329.08 FARM AND GARDEN PRODUCTS EXCEPTED. The provisions of sections 329.02 to 329.08 shall not apply to any person who may sell or peddle the products of the farm or garden occupied and cultivated by him.

[1911 c. 121 s. 7] (7334)

329.09 CITIES OF FIRST CLASS. Any person now or hereafter licensed by any city now or hereafter having over 50,000 inhabitants to engage or follow the business or occupation of hawker or peddler therein shall have the right and be entitled to engage in and follow that business or occupation within the limits of such city without paying any additional license therefor, and without obtaining any other or additional license therefor, notwithstanding any law of this state to the contrary.

[1911 c. 297 s. 1] (7336)

329.10 TRANSIENT MERCHANTS TO BE LICENSED. It shall be unlawful for any transient merchant to engage in, do, or transact any business as such without first having obtained a license as hereinafter provided.

[1911 c. 39 s. 1] (7337)

329.11 APPLICATION FOR LICENSE; ISSUANCE; FEE. Any transient merchant desiring to engage in, do, or transact business in any county in this state shall file an application for a license for that purpose with the auditor of the county in which he desires to do business, which application shall state his name, his proposed place of business, the kind of business proposed to be conducted, and the length of time for which he desires to do business. Such transient merchant shall pay to the treasurer of such county a license fee of \$150.00, and the treasurer of such county shall issue to such person a receipt therefor, and such transient merchant shall thereupon file the treasury receipt for such payment with the auditor of such county, who shall thereupon issue to such transient merchant a license to do business as such at the place described in his application, and the kind of business to be done shall be described therein. No license shall be good for more than one person unless such person shall be a member of a copartnership, nor for more than one place, and shall not be good outside of the county in which it was issued, and shall be good for a period of one year from the date of its issuance. The auditor shall keep a record for such licenses in a book provided for that purpose, which shall at all times be open for public inspection.

[1911 c. 39 s. 2] (7338)

329.12 LICENSE REQUIRED FOR CERTAIN SALES; APPLICATION, ISSUANCE; FALSE AFFIDAVIT; PENALTY. It shall be unlawful for any transient merchant to advertise, represent, or hold forth as being sold for an insurance, bankrupt, insolvent, assignee, trustee, testator, executor, administrator, receiver,

syndicate, wholesaler or manufacturer, or closing out sale, or as a sale of any goods, wares, and merchandise, damaged by smoke, fire, water, or otherwise, or in any similar form, unless such transient merchant shall file with the auditor of the county in which the application for license is filed and issued for such purpose an affidavit at the same time the application is filed, showing all the facts relating to the reasons and character of such sale so to be advertised or represented, and showing that such sale is in fact as is to be advertised and represented, including a statement of the names of the persons from whom the goods, wares, and merchandise so to be advertised or represented were obtained, the date of the delivery to the person applying for the license, and the place from which the goods, wares, and merchandise were last taken, and all details necessary to exactly locate and fully itemize all goods, wares, and merchandise to be sold. If such affidavit shall fail to show that such sale is of the character as the same is intended to be advertised or represented as shown in such affidavit, and fails to disclose the facts as herein required, then such auditor shall refuse the applicant a license for such sale. Should license be issued to such applicant, then such license shall state that such person is authorized and licensed to sell such goods, wares, and merchandise, and advertise and represent and hold forth the same as being sold as such insurance, bankrupt, insolvent, assignee, trustee, testator, executor, administrator, receiver, syndicate, wholesaler or manufacturer, or closing out sale, or as a sale of any goods, wares, and merchandise, damaged by smoke, fire, water, or otherwise, or in any similar manner present other facts as shown in such affidavit. The affidavit shall be sworn to before a person authorized to administer oaths by such person so applying for such license, or, if a partnership, by a member of such partnership, or, if a corporation, by one of the officers of such corporation. Every person making a false statement of any fact in such affidavit shall be guilty of perjury, and shall be punished for such offense as is provided by the criminal code of this state.

[1911 c. 39 s. 3] (7339)

329.13 EVIDENCE. When it appears that any such stock of goods, wares, and merchandise has been brought into any county in this state by a person not a resident therein, and that it is claimed that such stock is to be closed out at reduced prices, such facts shall be prima facie evidence that the person, copartnership, or corporation so offering such goods for sale is a transient merchant.

[1911 c. 39 s. 5] (7341)

329.14 CERTAIN SALES EXCEPTED. The provisions of sections 329.10 to 329.17 shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares, and merchandise by sample, for future delivery, or to hawkers on the street, or to peddlers from vehicles, baskets, or packs carried on their backs, or to sheriffs, constables, or other public officers selling goods, wares, and merchandise according to law; nor to bona fide assignees or receivers appointed in this state selling goods, wares, and merchandise for the benefit of creditors, nor to any person who may sell or peddle the products of the farm or garden occupied and cultivated by him.

[1911 c. 39 s. 6] (7342)

329.15 MUNICIPALITIES MAY REGULATE. Nothing in sections 329.10 to 329.17 contained shall be construed as prohibiting, or in any way limiting or interfering with, the right of any city, village, or other municipal corporation or governmental subdivision of the state, to regulate or license the carrying on within such municipality the business of a transient merchant in any case where authority has been, or shall hereafter be, conferred upon it so to do, but the requirements of sections 329.10 to 329.17 shall be in addition thereto.

[1911 c. 39 s. 7] (7343)

329.16 DISPOSAL OF FEES. All license fees collected under sections 329.10 to 329.17 shall be paid into the general revenue fund of the county.

[1911 c. 39 s. 8] (7344)

329.17 VIOLATIONS; PENALTIES. Subdivision 1. **Gross misdemeanor.** Every person, either as principal or agent, who shall in any manner engage in, do, or transact any business as a transient merchant, without having first obtained a license, or who shall conduct any sale, or who shall sell or expose for sale any goods, wares, and merchandise contrary to the provisions of sections 329.10 to 329.16, or who shall advertise, represent, or hold forth any sale of goods, wares, and mer-

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chandise, to be conducted contrary to the provisions of sections 329.10 to 329.16, shall be guilty of a gross misdemeanor.

Subdivision 2. **Misdemeanor.** Every person who shall engage in or follow the business of a hawker or peddler without having first obtained a license shall be guilty of a misdemeanor; and, upon conviction thereof, punished by a fine of not less than \$15.00, nor more than \$100.00; or, in default of the payment of such fine, by imprisonment in the county jail of the county in which he shall have been convicted for a period of not exceeding 60 days for each offense.

[1911 c. 39 s. 9; 1911 c. 121 s. 8] (7335) (7345)