

MINNESOTA STATUTES 1953 ANNOTATIONS

897

HAWKERS, PEDDLERS, TRANSIENT MERCHANTS 329.04

327.24 ENFORCEMENT

HISTORY. 1951 c 428 s 11.

327.25 OPERATION, PART OF YEAR

HISTORY. 1951 c 428 s 12.

327.26 NO LOCAL LICENSES

HISTORY. 1951 c 428 s 13.

327.27 FIRE PREVENTION

HISTORY. 1951 c 428 s 14.

327.28 UNLAWFUL PARKING OF TRAILER COACHES

HISTORY. 1951 c 428 s 15.

CHAPTER 328

CHAIN STORES AND MAIL ORDER COMPANIES

328.01-328.16 Obsolete.

CHAPTER 329

HAWKERS, PEDDLERS, TRANSIENT MERCHANTS

329.01 Renumbered 329.099.

HAWKERS, PEDDLERS

329.02 LICENSE REQUIRED

HISTORY. 1909 c 248 s 2; 1911 c 121 s 1; GS 1913 s 6089; GS 1923 s 7328; MS 1927 s 7328.

An optometrist visiting different communities in a mobile unit and practicing optometry in said unit, who sent out cards to patients announcing days and hours on which he would be in a given community, and would serve patients as they came without prior appointment, was not a "peddler" within the said community even though he had a definite home office elsewhere. OAG Dec. 19, 1950 (329-D).

329.03 LICENSE, APPLICATION AND ISSUANCE

HISTORY. 1909 c 248 s 3; 1911 c 121 s 2; GS 1913 s 6090; GS 1923 s 7329; MS 1927 s 7329.

329.04 FEES

HISTORY. 1909 c 248 s 2; 1911 c 121 s 3; GS 1913 s 6091; GS 1923 s 7330; 1925 c 227; MS 1927 s 7330.

MINNESOTA STATUTES 1953 ANNOTATIONS

329.05 HAWKERS, PEDDLERS, TRANSIENT MERCHANTS

898

There is no lottery where the element of chance is eliminated. Where as a trade stimulant, theater tickets are given for the collection and delivery to a firm of certain number of milk bottle tops, there is no element of chance. No decision is given as to whether or not the practice constitutes a violation of section 329.04. OAG Aug. 30, 1950 (510-B-5).

329.05 TERMS OF LICENSE FEES PUT IN COUNTY GENERAL REVENUE FUND

HISTORY. 1919 c 248 s 3; 1911 c 121 s 4; GS 1913 s 6092; GS 1923 s 7331; MS 1927 s 7331.

329.06 RIGHT OF MUNICIPALITIES TO REGULATE

HISTORY. 1909 c 248 s 6; 1911 c 121 s 5; GS 1913 s 6093; GS 1923 s 7332; MS 1927 s 7332.

A city or village council may enact an ordinance which imposes a reasonable license fee for the operation of a gasoline filling station and usually the amount of such license fee should be limited to the cost of issuing the license and supervising those engaged in the business; but in the instant case where there was no showing that the business was of questionable nature or likely to become a public nuisance so as to necessitate extra expense to the municipality for police supervision, the village ordinance requiring an annual license fee of \$35 for the first pump and \$10 for each additional pump was unreasonable and invalid because at least part of the license fee was a disguised tax. *State v Labo's Service*, 232 M 175, 44 NW(2d) 823.

329.07 LICENSE; EXHIBITION OF; FAILURE TO EXHIBIT; PENALTY

HISTORY. 1911 c 121 s 6; MS 1927 s 7333.

329.08 FARM AND GARDEN PRODUCTS EXCEPTED

HISTORY. 1909 c 248 s 9; 1911 c 121 s 7; GS 1913 s 6095; GS 1923 s 7334; MS 1927 s 7334.

329.09 CITIES OF FIRST CLASS

HISTORY. 1909 c 248 s 10; 1911 c 297 s 1; GS 1913 s 6097; GS 1923 s 7337; MS 1927 s 7336.

TRANSIENT MERCHANTS

329.099 DEFINITION

HISTORY. 1909 c 248 s 1; 1911 c 39 s 4; 1913 c 504 s 1; GS 1913 s 6101; GS 1923 s 7340; MS 1927 s 7340.

A transient photographer is not a transient merchant. OAG May 14, 1953 (290-K).

The fact that a person is a nonresident of the state has no bearing on the question as to whether or not he is a transient merchant. To be a transient merchant the person must engage in, do or transact, temporary and transient business either in one locality or by traveling from place to place. He may sell goods and hire, lease, occupy and use a building, vacant lot or railroad car, in making the sales. Commercial travelers, manufacturers representatives, wholesalers or jobbers, generally are not transient merchants. OAG Aug. 25, 1953 (290-P).

A person who practices optometry in a mobile unit in 40 or 50 communities is not required to obtain a transient merchant's license. OAG Dec. 19, 1950 (329-D).

MINNESOTA STATUTES 1953 ANNOTATIONS

899

AUCTIONEERS 330.01

329.10 LICENSE

HISTORY. 1909 c 248 s 4; 1911 c 39 s 1; GS 1913 s 6098; GS 1923 s 7337; MS 1927 s 7337.

329.11 LICENSE; APPLICATION, ISSUANCE, FEE; BOND; AGENT FOR SERVICE OF PROCESS

HISTORY. 1909 c 248 s 4; 1911 c 39 s 2; GS 1913 s 6099; GS 1923 s 7338; MS 1927 s 7338; 1953 c 271 s 1.

Section 329.11, as amended by Laws 1953, Chapter 271, is not applicable to a corporation or its salesmen selling siding for houses by sample. The salesmen cannot be classed as transient merchants. OAG June 9, 1953 (290-P).

329.13 EVIDENCE

HISTORY. 1909 c 248 s 1; 1911 c 39 s 5; GS 1913 s 6102; GS 1923 s 7341; MS 1927 s 7341.

329.14 CERTAIN SALES EXCEPTED

HISTORY. 1909 c 248 s 9; 1911 c 39 s 6; GS 1913 s 6103; GS 1923 s 7342; MS 1927 s 7342.

An agent, acting within the scope of his authority was not personally liable for the purchase price of tires ordered by him for a disclosed principal. *Firestone Tire Co. v Robinson*, 225 M 493, 31 NW(2d) 18.

Unless the farm or garden is occupied and cultivated by the seller, Laws 1953, Chapter 271, relating to transient merchants, is not applicable to persons selling products of farm or garden, regardless of location within or without the state. OAG May 21, 1953 (290-P).

The fact that a person is a nonresident of the state has no bearing on the question as to whether or not he is a transient merchant. To be a transient merchant the person must engage in, do or transact, temporary and transient business either in one locality or by traveling from place to place. He may sell goods and hire, lease, occupy and use a building, vacant lot or railroad car, in making the sales. Commercial travelers, manufacturers representatives, wholesalers or jobbers, generally are not transient merchants. OAG Aug. 25, 1953 (290-P).

329.17 VIOLATIONS; PENALTIES

HISTORY. 1909 c 248 s 8; 1911 c 39 s 9; 1911 c 121 s 8; GS 1913 s 6096, 6106; GS 1923 s 7335, 7345; MS 1927 s 7335, 7345.

CHAPTER 330

AUCTIONEERS

330.01 AUCTIONEERS' LICENSES, TO WHOM GRANTED

HISTORY. 1854 c 26 s 1, 2; PS 1858 c 132 s 1, 2; 1862 c 35 s 1; GS 1866 c 28 s 1; GS 1878 c 28 s 1; 1889 c 97 s 1; GS 1894 s 2295; 1895 c 41; 1901 c 158; RL 1905 s 2813; 1909 c 249; 1913 c 11 s 1; GS 1913 s 6083; 1917 c 87 s 1; GS 1923 s 7322; 1927 c 173; MS 1927 s 7322; 1937 c 313 s 1; 1941 c 170; 1943 c 311 s 1; 1949 c 516 s 1.

The administrator of an estate acting under an order of the court to sell real estate of the decedent at public sale need not employ a licensed auctioneer to conduct the sale. OAG Aug. 3, 1953 (16-B).