CHAPTER 329

PEDDLERS, TRANSIENT MERCHANTS

329.095	DEAF OR MASQUERADING AS DEAF.	329.13	EVIDENCE.
329.099	DEFINITION.	329.135	PROHIBITED SALES.
329.10	LICENSE REQUIRED.	329.14	CERTAIN SALES EXCEPTED.
329.11	LICENSE APPLICATION REQUIREMENTS.	329.15	MUNICIPALITIES MAY REGULATE.
329.12	LICENSE REQUIRED FOR CERTAIN SALES; FALSE AFFIDAVIT.	329.16	DISPOSAL OF FEES.
		329.17	VIOLATIONS; PENALTIES.

329.01 [Renumbered 329.099]

329.02 MS 2000 [Repealed, 2001 c 53 s 1]

329.03 MS 2000 [Repealed, 2001 c 53 s 1]

329.04 MS 2000 [Repealed, 2001 c 53 s 1]

329.05 MS 2000 [Repealed, 2001 c 53 s 1]

329.06 MS 2000 [Repealed, 2001 c 53 s 1]

329.07 MS 2000 [Repealed, 2001 c 53 s 1]

329.08 MS 2000 [Repealed, 2001 c 53 s 1]

329.09 MS 2000 [Repealed, 2001 c 53 s 1]

329.095 DEAF OR MASQUERADING AS DEAF.

Subdivision 1. **Prohibition.** No person shall, while engaged in the business of peddling, sell or distribute finger alphabet cards or printed matter stating that the person is deaf, or use finger alphabet cards or such printed matter or masquerade as a deaf person in any way as a means of inducement in the sale of merchandise; and no state or local license as provided in this chapter shall be issued to any person for the purpose of peddling finger alphabet cards or printed matter stating that the person is deaf, or masquerading as a deaf person.

Subd. 2. **Penalties.** Any person who, while engaged in the business of peddling, sells or distributes finger alphabet cards or such printed matter, or uses the same, or masquerades as a deaf person in any way as a means of inducement in the sale of merchandise shall be guilty of a misdemeanor.

History: *1969 c 406 s 1*

329.099 DEFINITION.

The term "transient merchant" includes any person, individual, copartnership, limited liability company, 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. The term "transient merchant" does not include a seller or exhibitor in a firearms collector show involving two or more sellers or exhibitors.

History: *(7340) 1911 c 39 s 4; 1913 c 504 s 1; 1984 c 654 art 2 s 123; 1995 c 64 s 1*

329.10 LICENSE REQUIRED.

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.

History: *(7337) 1911 c 39 s 1*

329.11 LICENSE APPLICATION REQUIREMENTS.

Any transient merchant desiring to engage in, do, or transact business by auction or otherwise, in any county in this state shall file an application for a license for that purpose with the auditor of the county in which the desired business is to be conducted, which application shall state the name of the applicant, the proposed place of business, the kind of business proposed to be conducted, and the length of time desired to do business. Such transient merchant shall pay to the treasurer of such county a license fee of $150, and shall give bond to the county in an amount to be determined by the county treasurer, which shall be not less than $1,000 nor more than $3,000. The bond shall be approved by the treasurer and be conditioned that the merchant will in all things conform to the laws relating to transient merchants and further conditioned on full compliance with all material oral or written statements and representations made by the seller, the seller's agents, representatives, or auctioneers with reference to merchandise sold or offered for sale and on faithful performance under all warranties made with reference thereto. The treasurer of such county shall issue to such person receipts therefor, and such transient merchant shall thereupon file such receipts 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 the 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. Such license shall be good for a period of one year from the date of its issuance. The auditor shall keep a record of such licenses in a book provided for that purpose, which shall at all times be open for public inspection. No license shall be issued unless the merchant produces evidence that the merchant is the holder of a valid seller's permit issued under section 297A.83, or a written statement from the merchant that the merchant is not offering for sale any item that is taxable under chapter 297A.

The application shall further contain the applicant's residence and business address for the prior two-year period; the type of business engaged in during the previous two years; and the name and address of the auctioneer who will conduct the sale. No such sale shall be conducted in the name of any person other than the bona fide owner of the merchandise.

The applicant shall attach to the application an itemized list of merchandise to be offered for sale reciting as to each item a description thereof including serial number if any, the owner's actual cost thereof, and a designation by number corresponding with a number to be affixed to each item by a tag which shall be kept fastened to the item at all times until sold.

Prior to the issuance of the license and approval of bond, the applicant shall in writing appoint the county auditor as the applicant's agent to accept service of process in any action commenced against the applicant

arising out of the sale for which the license is sought. Such action shall be brought in the county where the sale was held.

History: *(7338) 1911 c 39 s 2; 1953 c 271 s 1; 1986 c 444; 1988 c 719 art 10 s 19; 2000 c 418 art 1 s 44*

329.12 LICENSE REQUIRED FOR CERTAIN SALES; FALSE AFFIDAVIT.

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.

History: *(7339) 1911 c 39 s 3*

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.

History: *(7341) 1911 c 39 s 5*

329.135 PROHIBITED SALES.

No transient merchant or seller at a flea market, except an authorized manufacturer's representative, shall offer for sale any of the following items:

(1) infant formula or other food intended primarily for consumption by a child under the age of two years; and

(2) over-the-counter drugs, medical devices, and cosmetics.

History: *1995 c 64 s 2*

329.14 CERTAIN SALES EXCEPTED.

The provisions of sections 329.10 to 329.13 and 329.14 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, catalog, or brochure, for future delivery, or to hawkers on the street, or to peddlers from vehicles, baskets, or packs carried on their backs, or to sheriffs 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 persons who may sell or peddle the products of the farm or garden occupied and cultivated by themselves, nor to sales made by a seller at a residential premises pursuant to an invitation issued by the owner or legal occupant of the premises.

History: *(7342) 1911 c 39 s 6; 1986 c 444; 1995 c 64 s 3; 2005 c 10 art 2 s 4*

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, 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. A city, or with respect to the area outside the corporate limits of a city, a county, may enact a transient merchant licensing requirement excluding certain classes of transient merchant events, or determine by resolution of its governing body that certain classes of transient merchant events need not comply with section 329.11.

History: *(7343) 1911 c 39 s 7; 1973 c 123 art 5 s 7; 1984 c 594 s 1*

329.16 DISPOSAL OF FEES.

All license fees collected under section 329.11 shall be paid into the general revenue fund of the county.

History: *(7344) 1911 c 39 s 8; 1984 c 594 s 2*

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

Subd. 2. **Misdemeanor.** Every person who shall engage in or follow the business of a hawker or peddler without having first obtained a license is guilty of a misdemeanor.

History: *(7335, 7345) 1911 c 39 s 9; 1911 c 121 s 8; 1986 c 444; 2005 c 10 art 3 s 18*