

MASON'S MINNESOTA STATUTES

1927

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EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED
BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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CHAPTER 56

AUCTIONEERS

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7322. Licenses—Persons entitled to—Authority under—Fee for—Records of—Auctioneers for sale of purebred or grade livestock—Non-resident auctioneers—Bonds—The county board or auditor may license any voter in its county as an auctioneer. Such license shall be issued by the auditor and shall authorize the licensee to conduct the business of an auctioneer in the state of Minnesota for the period of one year. It shall be recorded by the auditor in a book kept for that purpose. Before such license is issued the licensee shall pay into the county treasury a fee of ten dollars (\$10.00). Provided, that any person may be licensed as an auctioneer for the purpose of making sales of purebred or grade livestock only upon the payment of the fee and the giving of the bond as above provided. Provided, further, that any person resident in an adjoining state which issues auctioneers' licenses to residents of Minnesota on the same basis as to the residents of such adjoining state, may be licensed as an auctioneer upon payment of the fee required therefor in such adjoining state and giving an approval of a bond as provided in the next succeeding section. (R. L. '05, § 2813; amended '09, c. 249; '13, c. 11, § 1; '17, c. 87, § 1; '27, c. 173) [6083]

Sale of land—Return of earnest money. 163-362, 204+26.

These Statutes are not violative of federal and state constitutions. (124-150, 149+9; 133-274, 158+394).

7323. Bond to be given—Every auctioneer, before making sales, shall give bond to the county in a penal sum of not less than one thousand dollars nor more than three thousand dollars, to be fixed, and with sureties approved by the treasurer, conditioned that he will pay all auction dues required by law, and in all things conform to the laws relating to auctioneers. The treasurer shall indorse his approval upon such bond, and file it in his office. (2814) [6084]

7324. Account of sales—Every such auctioneer shall keep an accurate account of all property sold by him, the names of the persons from whom the same was received, and of those to whom it was sold, and the price. (2815) [6085]

7325. Receiving goods from minors or servants—Any licensed auctioneer who shall receive property for sale from any minor or servant, knowing him to be such, shall forfeit to any person injured a sum not exceeding two hundred dollars. (2816) [6086]

7326. Sales in unauthorized places—Any person occupying or having control of any building, who knowingly permits the sale of property at public auction in such building, or in any apartment or yard appertaining thereto, contrary to the provisions of this chapter, shall be guilty of a misdemeanor. (2817) [6087]

7327. Unlicensed sales—If any person shall sell or attempt to sell any property at auction without being licensed as an auctioneer as herein provided, he shall be guilty of a misdemeanor; but the provisions of this chapter shall not extend to sales made by sheriffs, coroners, constables, collectors of taxes, or sales of personal property under chattel mortgage or other lien. (2818) [6088]

CHAPTER 56A

HAWKERS, PEDDLERS AND TRANSIENT MERCHANTS

Hawkers and Peddlers, §§ 7328-7336.

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HAWKERS AND PEDDLERS

7328. Engaging in business without license unlawful—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 by this act provided. ('11 c. 121 § 1) [6089]

7329. License, how applied for and issued—Every person desiring to engage in, or follow the business or occupation mentioned in the preceding section 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 such 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 is hereinafter

provided, 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 a license as hereinbefore provided. ('11 c. 121 § 2) [6090]

133-274, 158+394.

7330. 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 Fifty (\$50.00) dollars; 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 Twenty-five dollars (\$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, Fifteen (\$15.00) dollars, 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 Seven dollars and fifty cents (\$7.50). ('11, c. 121, § 3; amended '25, c. 227) [6091]

7331. Terms of license, etc.—Disposition of fees—Upon the presentation of such receipt from the treasurer of such county showing the payment of a fee as hereinbefore provided, 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 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 person shall conduct business under the same license as co-partners, agents, or otherwise, and 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. ('11 c. 121 § 4) [6092]

7332. Right of municipalities, etc., to regulate—Nothing in this act 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 hawker or peddler in any case where authority has been or shall hereafter be conferred upon it so to do, but the requirements of this act shall be in addition thereto. ('11 c. 121 § 5) [6093]

7333. License to be exhibited—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. ('11 c. 121 § 6) [6094]

7334. Farm and garden products—The provisions of this act shall not apply to any person who may sell or peddle the products of the farm or garden occupied and cultivated by him. ('11 c. 121 § 7) [6095]

7335. Violation of act a misdemeanor—Every person who shall engage in, or follow the business of a hawker or peddler without having first obtained a license shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifteen (\$15) dollars, nor more than one hundred (\$100) dollars, 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 sixty days for each offense. ('11 c. 121 § 8) [6096]

7336. Cities of first class—Any person now or hereafter licensed by any city, now or hereafter, having over fifty thousand 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 said 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. ('11 c. 297 § 1) [6097]

TRANSIENT MERCHANTS

7337. Engaging in business without license unlawful—That hereafter 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. ('11 c. 39 § 1) [6098]

1909 c. 248, "An act to tax the occupation of, and to license, hawkers, peddlers and transient merchants," etc., was declared to be unconstitutional (109-147, 123+400).
See 1911 c. 19.

7338. License, how applied for and issued—Fees—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 one hundred and fifty (\$150) dollars, 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 the member of a co-partnership, nor for more than one place, and shall not be good outside of the county in which the same 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 to public inspection. ('11 c. 39 § 2) [6099]

7339. Certain sales, etc., without license unlawful—License, how applied for and issued—False affidavit—Penalty—Provided further, that 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, wholesale or manufac-

turer, 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 county auditor of the county in which the application for license is filed and issued for such purpose, an affidavit at the same time that said 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 said 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 such 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, wholesale 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 fact as shown in such affidavit. Such 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 deemed guilty of perjury, and shall be punished for such offense as is provided by the criminal code of this state. ('11 c. 39 § 3) [6100]

7340. Transient merchant defined—The words "transient merchant" as herein used, shall include all persons, individuals, co-partners and corporations 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, struc-

ture, vacant lot or railroad car for the exhibition and sale of such goods, wares and merchandise. ('11 c. 39 § 4, amended '13 c. 504 § 1) [6101]

7341. Evidence—Provided further, that whenever 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, co-partnership or corporation so offering such goods for sale, is a transient merchant as defined in this act. ('11 c. 39 § 5) [6102]

7342. Not applicable to certain sales—The provisions of this act 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. ('11 c. 39 § 6) [6103]

7343. Right of municipalities, etc., to regulate—Nothing in this act 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 as in this act defined, in any case where authority has been or shall hereafter be conferred upon it so to do, but the requirements of this act shall be in addition thereto. ('11 c. 39 § 7) [6104]

7344. Disposition of fees—All license fees collected under this act shall be paid into the general revenue fund of the county. ('11 c. 39 § 8) [6105]

7345. Violation a 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 as before provided, or who shall conduct any sale, or who shall sell or expose for sale any goods, wares and merchandise contrary to the provisions of this act, or who shall advertise, represent, or hold forth any sale of goods, wares and merchandise, to be conducted contrary to the provisions of this act, shall be guilty of a gross misdemeanor. ('11 c. 39 § 9) [6106]

CHAPTER 56B

TRADE NAMES

Commercial business—Trade and individual names	
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7346. Commercial business—Trade and individual names—Certificate—No person or persons shall hereafter carry on or conduct or transact a commercial

business in this state under any designation, name or style, which does not set forth the full individual name or names of every person interested in such business unless such person or persons shall file in the office of the clerk of the district court of the county or counties, in which said person, or persons, conduct or transact, or intend to conduct or transact such business, a certificate, setting forth the name under which said business is conducted or transacted, or is to be conducted or transacted and the true or real full name,