

CHAPTER 247

AN ACT to repeal 129.05 (3); to renumber and amend 130.065 (6); to amend 129.05 (1) and (2), 130.065 (1), (2) (intro. par.) and (a) and (3) to (5); and to create 130.065 (2) (e), (f) and (g) and (6) to (11) and (12) (b) and (c) of the statutes, relating to sales conducted by transient merchants, and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 129.05 (1) and (2) of the statutes are amended to read:

(1) A transient merchant is one who engages in the sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. No person shall engage in the business of transient merchant, without a license authorizing him to do so. For purposes of this section, sale of merchandise includes * * * a sale in which the personal services rendered upon or in connection with such merchandise, constitutes the greatest part of value for the price received, *but does not include a farm auction sale conducted by or for a resident farmer of his personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state.*

(2) Any person desiring a license as a transient merchant shall, before receiving the same, pay to the department \$75, and he shall in addition to such amount, pay to the treasurer * * * of every * * * county where he conducts his business, * * * or of the village or city if such business is conducted in a village or city, \$100 for each day that he may be engaged in carrying on his business, * * * and if any auction sale, liquidation sale or other sale of more than 4 articles of merchandise in one location, is to be conducted * * * he must obtain a license under s. 130.065. But no license shall be required of a transient merchant while lawfully engaged in business at the state fair or at agricultural fairs held on the grounds and under the direction of an agricultural society, association or board receiving state aid under s. 94.08, nor to a person while lawfully engaged in such business or lawfully operating any concession on the grounds where a fair, festival or celebration is being held under the direction of a non-profit association.

SECTION 2. 129.05 (3) of the statutes is repealed.

SECTION 3. 130.065 (1) of the statutes is amended to read:

130.065 SALES BY TRANSIENT MERCHANTS. (1) In addition to the requirements of s. 129.05 governing the transacting of business by transient merchants, no transient merchant as defined by s. 129.05 (1) shall conduct an auction sale, liquidation sale or other sale of * * * more than 4 articles of merchandise in one location in this state (except as otherwise governed by s. 130.07) unless licensed to do so by the city, * * * village or county in which the * * * sale is proposed to be held.

SECTION 4. 130.065 (2) (intro. par.) and (a) of the statutes are amended to read:

130.065 (2) (intro. par.) * * * *Any person desiring a license under this section shall * * * at least 10 days before the sale is to be held, file with the county clerk, or the village or city clerk if the sale is to be held within a village or city, a sworn application which * * * contains the following:*

(a) The applicant's *name*, residence and business address for the prior 2-year period;

SECTION 5. 130.065 (2) (e), (f) and (g) of the statutes are created to read:

130.065 (2) (e) The exact time and place of the sale.

(f) Whether the applicant or anyone interested in the sale has within 2 years prior to the application conducted or had any connection with a similar sale either in the same place or any other place in the county, and if so, to give dates and places of such other sales.

(g) Other information required under any village, city or county ordinance adopted under this section.

SECTION 6. 130.065 (3), (4) and (5) of the statutes are amended to read:

130.065 (3) The applicant shall attach to the application an itemized list of all merchandise to be offered for sale at the proposed auction, reciting as to each item a description thereof including the serial number, if any, the owner's actual cost thereof and a designation by number corresponding with the number to be affixed to each item by a tag which shall be fastened to the item at all times until sold. *Nothing shall be offered for sale at any such sale which is not so listed.*

(4) Before being entitled to a license under this section, the applicant shall pay to the * * * *village, city or county* clerk a license fee * * * of \$100 * * * per day * * *. The applicant shall in addition post a corporate surety bond with the clerk in the sum of \$2,000 with surety to be approved by the county judge, provided, that the aggregate liability of the surety for all such losses shall in no event exceed the sum of said bond. Such bond shall be conditioned on the compliance with all * * * *laws* and on compliance with all material oral or written statements and representations made by or in behalf of the merchant with reference to merchandise sold or offered for sale and on the faithful performance under all warranties made with reference thereto.

(5) * * * *Before* receiving a license under this section, the applicant shall in writing appoint the * * * *village, city or county* clerk his attorney to accept service of process in any action commenced against the applicant arising out of the sale. Such action shall be brought in the county where the sale was held.

SECTION 7. 130.065 (6) of the statutes is renumbered 130.065 (12) (a) and amended to read:

130.065 (12) PENALTIES; CITY AND COUNTY ORDINANCES. (a) Whoever violates * * * this section shall * * * *be fined* not less than * * * \$100 nor more than \$200 * * * *or imprisoned for not to exceed 60 days, or both.* Each day * * * of such violation * * * *is* a separate offense.

SECTION 8. 130.065 (6) to (11) and (12) (b) and (c) of the statutes are created to read:

130.065 (6) CLERK TO NOTIFY ENFORCEMENT OFFICERS. When he issues any such license the county or village clerk shall notify the sheriff and district attorney and the city clerk shall notify the chief of police and city attorney, who shall take all necessary steps to enforce this section.

(7) ATTENDANCE. Wherever any such licensed sale is being conducted, the person to whom the license has been granted shall remain in continuous attendance at all times while such sale is being conducted, and shall be responsible for any violation of this section.

(8) PREVIOUS SALE. No license shall be granted for any such sale if it appears that the applicant or any agent or affiliate or assignee or

other person for him has, within the period of 2 years prior to the application, conducted a similar sale either in the same place of business or at any other place in the county.

(9) FALSE BIDS. No person shall offer any false bid for the purpose of raising the bidding on any article offered for sale or articles to be sold subsequently at such auction.

(10) SALE IN NAME OF BONA FIDE OWNER. No such sale shall be conducted in the name of any person other than the bona fide owner of the merchandise.

(11) EXHIBIT MERCHANDISE 48 HOURS. No merchandise shall be sold at any such sale which has not been placed on the sales premises at least 48 hours before the sale begins, and made available for the inspection of interested persons between 10 a.m. and 10 p.m. during said 48-hour period.

(12) (b) Any village, city or county may adopt ordinances which substantially conform to this section and provide for forfeitures for violation of such ordinances. A county ordinance adopted under this section shall not apply within any village or city in the county.

(c) This section shall be enforced by the proper officers whether or not any ordinance is in force in a village, city or county.

Approved June 14, 1955.
