

No. 87, A.]

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CHAPTER 164

AN ACT to repeal 130.01, 130.02, 130.03, 130.04 and 130.05; and to amend 66.35 (1), (2), (3), (5) and (8) and 130.06 of the statutes, relating to granting villages and towns authority to regulate auctions.

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

SECTION 1. 66.35 (1), (2), (3), (5) and (8) of the statutes are amended to read:

66.35 (1) No person shall conduct in any city, *village or town* a "closing-out sale" of merchandise except * * * as hereinafter provided or * * * as provided by ordinance of such city, *village or town*. Every person shall obtain a city, *village or town* license before retailing or advertising for retail any merchandise represented to be merchandise of a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or of any business that is in liquidation, that is closing out, closing or disposing of its stock or a particular part or department thereof, that has lost its lease or has been or is being forced out of business, that is disposing of stock on hand because of damage by fire, water, smoke or other cause, or that for any reason is forced to dispose of stock on hand. Such license is denominated a "closing-out sale license" and such sale a "closing-out sale." Such license must be obtained in advance if such advertisement or representation, expressed or implied, tends to lead people to believe that such sale is a selling out or closing-out sale.

(2) Every person requiring a "closing-out sale license" shall make an application in writing to the city, *village or town* clerk in the form provided by said clerk and attach thereto an inventory containing a complete and accurate list of the stock of merchandise on hand to be sold at such sale and shall have attached thereto an affidavit by the applicant or his duly authorized agent, that the inventory is true and correct to the knowledge of the person making such affidavit. Said affidavit shall include the names and addresses of the principals, such as the partners, officers and directors and the principal stockholders and owners of the business, and of the inventoried merchandise. Said inventory shall contain the cost price of the respective articles enumerated therein, together with the date of purchases and the identity of the seller. If the merchandise was purchased for a lump sum or other circumstances make the listing of the cost price for each article impracticable, said inventory shall state the lump sum paid for said merchandise and the circumstances of the purchase. Said application shall further specify the name and address of the applicant, and, if an agent, the person for whom he is acting as an agent, the place at which said sale is to be conducted and the time during which the proposed sale is to continue. The license shall specify the period for which it is granted, which time shall not exceed 60 successive days, Sundays and legal holidays excepted, from the date of the license.

(3) The time during which a sale may be conducted may be extended by the * * * city, *village or town* clerk if, at any time during the term of the license, a written application for such extension, duly verified by affidavit of the applicant * * * is filed by said licensee with the * * * city, *village or town* clerk. Said application shall state the amount of merchandise, listed in the original inventory, which has been sold and the amount which still remains for sale and shall state the time for which an extension is requested. No extension shall be granted if any merchandise has been added to the stock, listed in the inventory, since the date of the license, and the applicant shall satisfy the * * * city, *village or town* clerk by affidavit or otherwise, as directed by him, that no merchandise has been added to the said stock since the date of issuance of the license. The * * * city, *village or town* clerk may grant or deny the application and if granted the period of the extension shall be determined by said * * * city, *village or town* clerk, but shall not exceed 30 days from the expiration of the original license. If said extension is granted, the same shall be issued by the * * * city, *village or town* clerk upon the payment of an additional license fee of \$25 per day for the time during which it is granted.

(5) The city, *village or town* clerk shall verify the details of such inventory as filed in connection with an application for such license and shall also verify the items of merchandise sold during any sale under

said license, and it * * * is unlawful for any licensee to refuse to furnish on demand to the city, *village or town* clerk, or any person designated by him for that purpose, all the facts connected with the stock on hand or any other information that he may reasonably require in order to make a thorough investigation of all phases of said sale, so far as they relate to the rights of the public.

(8) The city, *village or town* clerk shall on June 1 and December 1 of each year pay into the state treasury, 25 per cent of all license fees collected under this section. * * * This subsection shall not apply to license fees collected under * * * any closing-out sale ordinance of such city.

SECTION 2. 130.01, 130.02, 130.03, 130.04 and 130.05 of the statutes are repealed.

SECTION 3. 130.06 of the statutes is amended to read:

130.06 AUTHORITY OF CITIES, VILLAGES AND TOWNS. The common council of any city and the board of trustees of any *village or town board of any town* may regulate by ordinances the sale by auction, within the meaning of this chapter, of goods, wares and merchandise, *except household furniture which has been used as such*, or other property within their respective cities * * * , *villages or towns*; and thereby may prohibit, under proper fines or penalties, any sales at auction therein by any person without license; require daily reports of any sales made, verified by affidavits, to be made by every auctioneer to the clerk of such city * * * , *village * * * or town*, require sufficient bonds from the licensee for compliance with any such ordinance, and the payment of a license fee of not less than \$10 nor more than \$25 per day, or when fixed by the year not less than \$10 nor more than \$300 per year, in addition to any percentage they may fix, which shall not be less than \$10 nor more than 20 per cent upon the gross amount of sales made * * * *except this section shall not apply when sale is made by virtue of a chattel mortgage or conditional sales contract or of a rule, order or judgment of a court, or of some law of the state or the United States respecting the collection of some tax or duty; or in consequence of a general assignment of property or effects for the benefit of creditors; or when made of property belonging to the state or of the United States; or when made by or on behalf of any executor or administrator; or when made of his farm property by or on behalf of a resident farmer who has paid the taxes lawfully levied on his property; or when made of farm personal property at a market licensed under s. 95.70.*

Approved June 22, 1961.
