

CHAPTER 129.

PEDDLERS, TRUCKERS, TRANSIENT MERCHANTS, SECONDHAND DEALERS AND SHOWMEN.

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129.001 Department defined. The word "department" as used in this chapter means the state department of agriculture. [1943 c. 229]

129.01 Peddler, trucker license. (1) No person shall engage in the business of a trucker, hawker or peddler without having a license for that purpose as provided in this chapter, but nothing in this chapter shall prevent any person from distributing or selling any agricultural product which he has grown in this state.

(2) A "trucker" within the meaning of this chapter is a person who transports produce not grown by himself, in truck or other vehicles, from a point without or within the state, and who sells the same direct from such vehicle to retail merchants without advance order.

(3) Subsections (1) and (2) of this section shall not apply to a person who in the conduct of his business as trucker, hawker or peddler transports at any time a net load of more than three thousand pounds of personal property by motor truck or other vehicle. [1931 c. 370; 1933 c. 200; 1935 c. 550 s. 371, 372; 1939 c. 370]

Note: Where bakery companies made daily deliveries to regular customers through salesmen who drove company trucks along established routes and who received regular salaries with bonuses according to volume of sales and who were not authorized to sell to persons not on their route or to new customers at the time of solicitation of such customers, the companies and their salesmen were not peddlers so as to be required to be licensed. *National Baking Co. v. Zabel*, 227 W. 93, 277 NW 691.

Farmer who sells part of his excess honey by traveling about, carrying it with him, is not engaged in business of hawker or peddler. 19 Atty. Gen. 496.

Nursery products are included in term

"agricultural product" exempt from license requirements. 24 Atty. Gen. 286.

Cleaners and laundrymen are not transient merchants. 24 Atty. Gen. 521.

Persons engaged in business of taking tintype pictures of people on street, developing and delivering them to persons on street where pictures are taken, is not peddler. 27 Atty. Gen. 278.

Peddlers' license law, chapter 129, Stats., 1937, applies to dealer in household supplies such as extracts, spices, coffee, toilet articles, medicines and the like, where sales are made from house to house from stock carried in truck, regardless of fact that permission to call has been previously granted. 27 Atty. Gen. 732.

129.02 License fees. (1) Every person desiring to engage in any business mentioned in section 129.01 must first obtain a license and must pay into the state treasury an annual license fee, as follows: Where he uses in such business a vehicle drawn by two or more beasts of burden, or an automobile or other vehicle propelled by any mechanical power, forty dollars; where he uses a vehicle drawn by one beast of burden, twenty-five dollars; where he uses a handcart, fifteen dollars; and where he conducts such business on foot carrying his merchandise, ten dollars.

(2) Any ex-soldier of the United States in any war who has a twenty-five per cent disability or more or has a cardiac disability recognized by the United States veterans' bureau, and any person declared blind under section 47.08 (4), shall upon presenting proof to the department that he satisfies these conditions be granted a special license without payment of any fee. Such soldier or blind person must have been a bona fide resident of this state for at least five years preceding the application, and shall while engaged in such business carry on his person his license and the proof required for its issuance, and such blind person shall also carry a picture of himself which is not more than three years old. Such special license shall not entitle a blind person to peddle for hire for another person. [1931 c. 273; 1933 c. 356, 373; 1933 c. 450 s. 8; 1933 c. 470 s. 16; 1933 c. 494 s. 12; 1935 c. 104, 346; 1935 c. 550 s. 373; 1935 c. 551; 1939 c. 513 s. 34]

Note: Words "recognized by the United States veterans' bureau" modify entire phrase and no other certificate of disability may be substituted in lieu thereof. 28 Atty. Gen. 9.

State peddlers' license issued to war veteran pursuant to 129.02 (2) is valid as to

such veteran only, not to members of his family, under 129.06. 129.02 (2) and 129.07 must be regarded as creating valid classification under equality provisions of Amendment XIV, U. S. Const. and sec. 1, art. I, Wis. Const., in absence of supreme court decision to contrary. 29 Atty. Gen. 253.

129.03 Application; fees. (1) The application for a license as a trucker, hawker or peddler shall be made in writing to the department on blanks to be furnished by the department, wherein the applicant shall specify whether he intends to carry on his business by wagon or other vehicle, or on foot. The applicant shall at or before filing his application, pay the amount prescribed in section 129.02.

(2) Upon the receipt of an application for license or any license fees under the provisions of this chapter, the department shall immediately file the application, and pay such fees into the state treasury in the name of the applicant, and deliver or forward to such applicant his proper license. [1933 c. 200; 1935 c. 550 s. 374, 375]

129.04 Issue of license; tags. (1) Upon the filing of a license application and the payment of the fee the department shall issue to the applicant a license for a period of one year, from the date of the issuance thereof which license shall specify what the licensee may do and how he shall operate thereunder, and such license shall not be assignable or transferable, except on written approval of the department.

(2) Any person having a license in one class may, with approval of the department, and on application have his license changed to a higher class by paying the difference between the fee for the license he has and the fee for the higher class applied for, the time of expiration of the license to remain unchanged. A licensee may peddle in any class below the class he has paid for.

(3) The department shall also deliver to each licensee an official number plate, or in the case of a peddler carrying merchandise on foot, an official badge. The official number plates shall be of uniform size and design and contain a distinguishing number to be assigned to the licensee, and the date of expiration of such license followed by the letter "W". The official number plate shall be placed in a conspicuous place on the handcart, wagon, automobile or other vehicle, and be so kept at all times where the same can be readily and distinctly seen. The official badge shall be of uniform size and design, containing the distinguishing number to be assigned to the peddler, and the year covered by the license and the letter "W". The official badge shall be worn in a conspicuous place by the licensee while engaged in doing any act for which the license is required, and shall be displayed at all such times where the same can be readily and distinctly seen. [1935 c. 550 s. 376]

129.045 [Renumbered section 129.01 (2) by 1935 c. 550 s. 372]

129.05 Transient merchant defined; fee. (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.

(2) Any person desiring a license as a transient merchant shall, before receiving the same, pay to the department seventy-five dollars, and he shall in addition to such amount, pay to the treasurer, of every town, city or village where he conducts his business, a sum not to exceed fifty dollars per day for each day that he may be engaged in carrying on his business, such amount to be determined by ordinance or resolution of such town, city or village.

(3) If complaint be made to the chairman of any town, mayor of any city, or the president of any village, that any person doing business therein is a transient merchant, and such person shall claim to be a permanent merchant, he may be required as a condition of transacting business in any such town, city or village, without the payment of a licensee fee, to give a bond to such town, city or village to secure the payment of the state and local license, in the event that he fails to become a permanent merchant, in a sum not to exceed five hundred dollars to be determined by resolution or ordinance of such town, city or village, with sureties to be approved by the clerk of the municipality, and which bond shall be enforced in case of a breach thereof, by the proper local officers of the town, city or village, and upon its collection the amount of the state license shall be paid to the department and the remainder shall be paid into the treasury of the town, city or village and become a part of the license fund.

(4) The application for a license as a transient merchant shall be made in writing to the department upon blanks to be furnished by it, and upon the filing of such application and the payment of the license fees, the department shall issue to such applicant a license for a period of one year, commencing on the first day of May, or for such portion of a

year as may intervene between the date of the issuance of the receipt and the first day of May next ensuing, the full license fee to be paid in every case, which license shall authorize the person receiving the same to engage in the business of a transient merchant. [1933 c. 200; 1935 c. 550 s. 377]

Note: Dealer in automobiles who transports number of secondhand automobiles from his regular established place of business to another city, where he rents vacant lot and sells them, is transient merchant and should procure license. 19 Atty. Gen. 273.

Man who owns store, pays taxes on same and sells merchandise from said store for short period every year is not transient merchant under (1). 22 Atty. Gen. 454.

Person moving about from place to place fashioning keys according to order at work bench is not transient merchant within contemplation of this section. 22 Atty. Gen. 686.

Person selling merchandise from stationary truck at same place and time each day is transient merchant. 22 Atty. Gen. 714.

Nonresident temporarily doing business in this state under profit sharing agreement with citizen of state is required to take out license when he aids in sale of goods here. If nonresident sells vegetables to Wisconsin resident with proviso that resident can return all vegetables not sold, nonresident is not required to take out transient merchant's license. 22 Atty. Gen. 860.

Driver of truck with miniature store carrying complete line of groceries, following established routes and having written list of customers to call upon, is peddler. 25 Atty. Gen. 498.

129.06 License several; penalty. But one person shall carry on business under the terms of any license provided for in this chapter and no person shall conduct business under the same license as copartners, agents or otherwise. Any person licensed as herein provided, upon the demand of department or any of its deputies, or of any sheriff, constable or police officer shall exhibit his license and make affidavit that he is the person named therein. Any person failing to exhibit his license when so requested shall forfeit not less than ten dollars nor more than fifty dollars for each such offense. [1935 c. 550 s. 378]

129.07 Local license. This chapter does not in any way limit or interfere with the rights of any town, city or village to further license truckers, hawkers, peddlers, or transient merchants to trade within the corporate limits thereof except in the case of ex-soldiers, as provided in section 129.02. [1931 c. 273; 1933 c. 200; 1935 c. 550 s. 379]

Note: Disabled war veteran is subject to municipal peddlers' license ordinance, notwithstanding 129.07, until he has obtained state license under 129.02 (2). 129.07 is valid

limitation on municipalities' power to license peddlers, notwithstanding home-rule amendment. 29 Atty. Gen. 253.

129.08 Revocation of license. Any license issued by the department pursuant to this chapter may be revoked by the department upon the conviction of the licensee of fraud, false representation or imposition in the sale of any merchandise or the sale of any adulterated food, drink or drug, or of any food deleterious to health, and the filing with the department of a certified copy of the judgment of conviction shall be sufficient authority for the revocation of such license, and any license issued under section 129.14 may otherwise be revoked for any violation by the licensee or with his consent, express or implied, of the statutes which prohibit gambling or immoral exhibitions. [1935 c. 550 s. 380]

129.09 Penalty for peddling without license. Every person who shall engage in the business of a trucker, hawker, peddler or transient merchant, without a license, or shall when licensed as a transient merchant neglect or refuse to pay the per diem fee required by law, or who shall fail to comply with the provisions of subsection (3) of section 129.04, shall, for each such offense, forfeit not less than twenty-five dollars nor more than fifty dollars. [1933 c. 200; 1935 c. 550 s. 381]

129.10 Village licenses. (1) The supervisors of towns containing villages not incorporated and the trustees of incorporated villages are authorized to establish rates for and license and regulate the traffic of all peddlers endeavoring to procure the sale of any merchandise of whatever description, by putting up booths or stalls or stopping with their conveyances in any street, alley, public square or vacant lot within or near the limits of any of said villages, which shall be designated and determined by said supervisors or trustees, during days of public assemblages held therein, such as county or monthly cattle fairs, election or town meeting days, not to exceed twenty days in any year.

(2) The license or permit provided for in this section shall be good only for the days designated therein, and may be issued by the town or village clerk, under the regulations adopted by such supervisors or trustees. [1935 c. 239; 1935 c. 550 s. 382, 383, 391]

129.11 [Renumbered sections 93.07, 93.12, 129.03 (2) by 1935 c. 550 s. 8, 13, 375]

129.11 [Renumbered 110.10 by 1943 c. 229]

129.12 Penalty. Whenever the supervisors of any town or the trustees of any village shall have adopted the system provided for in section 129.10 any person violating the provisions of said section or of the regulations adopted thereunder, for each such violation shall forfeit not less than twenty-five dollars nor more than fifty dollars; the provi-

sions of this section and section 129.10 shall in no way affect existing laws regulating agricultural societies. [1935 c. 550 s. 384]

129.13 [Renumbered section 93.12 by 1935 c. 550 s. 13]

129.14 Showmen's state licenses. (1) Every owner, manager or agent of a caravan, circus or menagerie, before he shall be allowed to exhibit the same in this state, shall procure a license as a public showman by making application in writing to the department, which application shall state in detail the manner in which he intends to travel and the nature and character of his exhibition, and shall pay into the treasury therefor the sum of one hundred dollars; and every owner or manager of a so-called side show, traveling vaudeville, Ferris wheel, merry-go-round, ocean wave, whip, seaplane, caterpillar, butterfly or similar device, or so-called "rides" operated for amusement, or transient shooting gallery, and, except at a regular theater or vaudeville house, every person exhibiting for money any trained animal, wild animal or any object of curiosity shall procure a state license as a public showman and pay therefor twenty dollars; provided, that if such person, owner, manager or agent shall state in the application that he applies for the license solely for the purpose of exhibiting at fairs, expositions, exhibits or carnivals held on the grounds and under the direction of a society, association or board receiving state aid, the license shall be granted upon the payment of the following fees: For a caravan, circus or menagerie, twenty-five dollars; for a side show, traveling vaudeville, the exhibit of any trained animal, wild animal, or any object of curiosity, ten dollars; for any Ferris wheel, merry-go-round, ocean wave, whip, seaplane, caterpillar, butterfly or similar device, or so-called "rides" operated for amusement, or transient shooting gallery, the license shall be granted without charge. No such license shall be issued until the department shall have ascertained from the industrial commission that the applicant has complied with the provisions of subsection (2) of section 102.28 of the statutes. This section shall not apply to a concessionaire or lessee of the state on state property where by reason of contract or otherwise the state would be obligated to furnish the license.

(2) No caravan, circus, or menagerie, nor any so-called side show, or traveling vaudeville, nor any animal, wild animal, or object of curiosity exhibited for money shall exhibit or be exhibited at or during the continuance of any fair, exposition, or carnival given by and on the grounds of any society, association, or board drawing aid from the state under the statutes, nor shall any such society, association, or board permit any such exhibit, or give license, permit, or concession for such exhibit unless the department shall have previously granted to such owner, manager, or agent, a permit to make such exhibit at such fair, exposition or carnival.

(3) Upon application of any owner, manager, or agent of any such caravan, circus, menagerie, side show, traveling vaudeville, animal, or object of curiosity exhibited for money, which shall have obtained a license under the provisions of subsection (1) hereof, the department after determining that the performance or exhibit is not immoral, indecent, disorderly, degrading, or otherwise objectionable, shall issue a permit to such owner, manager, or agent permitting such exhibit or performance at a stated fair, exposition, or carnival of such society, association or board and at no other time or place.

(4) Any person violating any requirements of this section for each such violation, failure or refusal, such employer, employe or other person, shall forfeit and pay into the state treasury a sum not less than twenty dollars nor more than fifty dollars. [1935 c. 550 s. 385]

Note: Private corporation operating number of rides on which charge is made for each person is required to pay annual license fee of twenty dollars for each such device so operated. 19 Atty. Gen. 463.

129.15 Selling patent; exhibiting show, etc. Any person who shall sell or offer to sell any patent right or patented articles, goods, wares or merchandise by traveling from place to place for the purpose of such selling, or who shall set up or exhibit any show, spectacle, entertainment or exhibition when a license to do so is required by law, without first obtaining such license, or contrary to the terms and conditions of such license, or while the same is suspended shall be punished by fine not exceeding one hundred dollars nor less than twenty dollars. [1935 c. 550 s. 386, 391]

129.16, 129.17 [Repealed by 1935 c. 550 s. 391]

129.17 Peddling finger alphabet cards prohibited. No person shall in this state engage in the business of peddling finger alphabet cards or use finger alphabet cards 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. Any person who shall peddle finger alphabet cards or use finger alphabet cards in any way as a means of inducement in the sale of merchandise in this state and any person who shall issue any state or local license as provided in this chapter for that purpose shall be deemed guilty of a misdemeanor and shall be

punished by imprisonment in the county jail not more than 60 days or by a fine of not less than \$10 nor more than \$50. [1941 c. 223]

129.18 Secondhand goods; dealers; regulations. (1) Every dealer or manufacturer of articles composed, in whole or in part, of gold, silver, precious stones, copper, lead or brass, doing business in cities of this state, who shall obtain, by purchase or exchange, any secondhand article made in whole or in part, of gold, silver, precious stones, copper, lead or brass, shall, within twenty-four hours after receiving such article, report to the chief of police the fact that the same has been received, with the name, address and description of the person from whom such article was received, together with a description of such article and no such dealer or manufacturer shall destroy or alter the form of any such secondhand article until the expiration of twenty-four hours from the time the same was received by him.

(2) He shall enter, in ink, in a book to be kept for that purpose a correct description, in the English language, of all secondhand articles composed, in whole or in part, of gold, silver, precious stones, copper, lead or brass so received by him and the name and residence and description of, the person from whom such articles were received, and no entry made in such book shall be erased, obliterated or defaced.

(3) Such book, and entries as well as every such secondhand article received by such dealer or manufacturer, shall, at all reasonable times be open to the inspection of the chief of police of such city, or any policeman designated by the chief for such purpose.

(4) Such chief of police may cause any article referred to in subsection (1) which he shall have reason to believe was sold or exchanged by some person other than the owner, to be held for the purpose of identification by its owner, for such reasonable length of time as said chief shall deem necessary.

(5) Every person violating any of the provisions of this section shall be punished by a fine not exceeding one hundred dollars nor less than ten dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. [1935 c. 550 s. 387]

129.19 to 129.21 [Repealed by 1935 c. 550]

129.22 [Renumbered section 129.01 (1) by 1935 c. 550 s. 382]

129.23 [Renumbered section 129.10 (2) by 1935 c. 550 s. 383]

129.24 [Renumbered section 129.12 by 1935 c. 550 s. 384]

129.25 [Renumbered section 66.35 by 1935 c. 550 s. 389]