

No. 671, S.]

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CHAPTER 509

AN ACT to amend 129.05 (2), as amended by chapter 92, laws of 1953; and to create 130.065 of the statutes, relating to the licensing of transient merchants conducting sales by auction.

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

SECTION 1. 129.05 (2) of the statutes, as amended by chapter 92, laws of 1953, is amended to read:

129.05 (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 town, city or village where he conducts his business, a sum not to exceed \$50 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 *provided if any sale is to be conducted by auction, licensing by the municipality shall be governed by the provisions of 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 nonprofit association.

SECTION 2. 130.065 of the statutes is created to read:

130.065 AUCTION SALES BY TRANSIENT MERCHANTS. (1) REQUIREMENTS OF LICENSE. 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 of any merchandise in this state (except as otherwise governed by s. 130.07) unless licensed to do so by the city, town or village in which the auction is proposed to be held.

(2) APPLICATION FOR LICENSE. Applications for license under this section shall be addressed to the clerk of the municipality and shall contain the following:

- (a) The applicant's residence and business address for the prior 2-year period;
- (b) The type of business in which he has been engaged during the previous 2 years;

(c) The name, address and occupational history of the auctioneer; and

(d) Whether the applicant will be present and in continuous attendance at the proposed auction sale.

(3) INVENTORY. 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.

(4) FEE AND BOND. Before being entitled to a license under this section, the applicant shall pay to the municipal clerk a license fee to be fixed by the governing body of the municipality, which shall be not less than \$100 nor more than \$200 per day and which may also, in the discretion of the governing body, include a percentage of the gross receipts from such sales not exceeding 20 per cent thereof. 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 applicable statutory and ordinance requirements 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) APPOINTMENT OF CLERK AS ATTORNEY. Prior to receiving a license under this section, the applicant shall in writing appoint the municipal 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.

(6) PENALTIES. Whoever violates any provision of this section shall forfeit to the municipality for its exclusive use not less than \$25 nor more than \$200 for each violation and each day that such violation continues shall be deemed a separate offense.

Approved July 9, 1953.
