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Article 22.—LICENSES

19-2201. Itinerant vendors of drugs or appliances; fee. Any itinerant vendor of any drug, medicine, nostrum, ointment or appliance of any kind for the treatment of any disease, injury, or bodily defect, and all such itinerant vendors who publicly profess to treat or cure diseases, injury or deformity of the human body, shall pay to the county clerk of the county in which he wishes to pursue his occupation an annual fee of fifty dollars, upon receipt of which the county

clerk shall issue a license for one year from its date, authorizing such itinerant vendor to pursue his occupation within said county.

History: L. 1907, ch. 246, § 1; May 27; R.S. 1923, 19-2201.

Research and Practice Aids:

Hawkers and Peddlers § 4.

C.J.S. Hawkens and Peddlers §§ 8, 9.

19-2202. Same; penalties. Any such itinerant vendor who shall pursue such occupation without first obtaining a license as aforesaid, or who shall upon demand of any sheriff, constable or householder of the county, refuse to produce his license and permit the same to be read, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars.

History: L. 1907, ch. 246, § 2; May 27; R.S. 1923, 19-2202.

19-2203. Same; disposition of moneys. All sums received by the county clerk for itinerant vendors' licenses shall be by him deposited with the county treasurer and covered into the general fund for the use of the county.

History: L. 1907, ch. 246, § 3; May 27; R.S. 1923, 19-2203.

19-2204. Same; exemptions unaffected. Nothing contained in this act shall be deemed to conflict with or modify the provisions of K.S.A. 73-207.

History: L. 1907, ch. 246, § 4; May 27; R.S. 1923, 19-2204.

19-2205. Peddlers outside cities; annual taxes; exemptions. All persons plying the vocation of a peddler outside the limits of any incorporated city within any county in this state, shall pay for the use of the county an annual tax of \$25; those with an automobile or other vehicle, or selling by samples, \$50: *Provided*, That nothing in this section shall be held to apply to persons who have resided or transacted business continuously in the county in which they work for a period of one year next preceding the time of such sale; or to persons selling at wholesale to merchants; or to persons selling fresh meats, fruits, farm products, trees or plants exclusively: *And provided further*, That any person or persons paying license under K.S.A. 19-2201, 19-2202, 19-2203, 19-2204 or other general laws of the state of Kansas, shall not be required to pay a license under this section.

History: L. 1915, ch. 372, § 1; L. 1917, ch. 230, § 1; March 1; R.S. 1923, 19-2205.

Research and Practice Aids:

Counties ⇐ 28.
C.J.S. Counties § 54.

CASE ANNOTATIONS

1. Part of L. 1901, ch. 271, discriminating against nonresident, held unconstitutional. In re Jarvis, 66 K. 329, 330, 71 P. 576.
2. License cannot discriminate as to nonresident. In re Irish, 122 K. 33, 250 P. 1056.

19-2206. Same; license; where effective. A license shall be issued to any such peddler by the county clerk, upon the presentation of a receipt showing the payment of the proper tax to the county treasurer, and such license shall be good only in the county where issued, and shall not authorize peddling in cities or towns.

History: L. 1915, ch. 372, § 2; May 22; R.S. 1923, 19-2206.

19-2207. Same; penalties; costs. Any person violating any provisions of the last two preceding sections shall be deemed guilty of a misdemeanor; and the person actually peddling shall be liable, whether he be the owner of the goods sold or carried by him or not, and upon conviction thereof shall be fined in a sum not exceeding fifty dollars, and costs of suit; and shall stand committed until such fine and costs are paid, or he be discharged as provided by law. If any peddler refuse to exhibit his license to any person requiring a view of the same, he shall be presumed to have none, and if he produce a license on trial shall be held to pay all costs of prosecution.

History: L. 1915, ch. 372, § 3; May 22; R.S. 1923, 19-2207.

19-2208. Same; disposition of moneys. All sums received by the county treasurer for peddlers' licenses shall be by him credited to the general fund, for the use of the county.

History: L. 1915, ch. 372, § 4; May 22; R.S. 1923, 19-2208.

Research and Practice Aids:

Licenses ⇐ 33.
C.J.S. Licenses § 56.

19-2209. Same; construction. Nothing contained in this act shall be deemed to conflict with or modify the provisions of K.S.A. 73-207 and 73-208, nor the provisions of K.S.A. 19-2201 and 19-2202.

History: L. 1915, ch. 372, § 5; May 22; R.S. 1923, 19-2209.

19-2210.

History: L. 1917, ch. 331, § 1; R.S. 1923, 19-2210; L. 1941, ch. 193, § 1; L. 1955, ch. 158, § 1; L. 1957, ch. 177, § 5; Repealed, L. 1957, ch. 177, § 7; April 1, 1958.

Revisor's Note:

Later act, see ch. 21, art. 28.

CASE ANNOTATIONS

1. Act construed and held constitutional. The State v. Wilson, 101 K. 789, 790, 168 P. 679; The State v. Mercantile Co., 103 K. 733, 734, 737, 176 P. 321.
2. Attempt made to have trading-stamp act construed by suing state. Purity Oats Co. v. State, 125 K. 558, 264 P. 740.
3. Unlicensed company requiring purchase of certificates with limited redemption violated section. State v. Buchman, 151 K. 998, 999, 1001, 1002, 101 P.2d 885.

19-2211.

History: L. 1917, ch. 331, § 2; R.S. 1923, 19-2211; Repealed, L. 1957, ch. 177, § 7; April 1, 1958.

CASE ANNOTATIONS

1. Merchant who issues stamps without license guilty of misdemeanor. The State v. Mercantile Co., 103 K. 733, 738, 176 P. 321.
2. Unlicensed company requiring purchase of certificates with limited redemption violated 19-2210. State v. Buchman, 151 K. 998, 999, 1000, 1001, 101 P.2d 885.

19-2212, 19-2213.

History: L. 1917, ch. 331, §§ 3, 4; R.S. 1923, 19-2212, 19-2213; Repealed, L. 1957, ch. 177, § 7; April 1, 1958.

19-2214.

History: L. 1917, ch. 331, § 5; R.S. 1923, 19-2214; Repealed, L. 1957, ch. 177, § 7; April 1, 1958.

CASE ANNOTATIONS

1. Unlicensed company requiring purchase of certificates with limited redemption violated 19-2210. State v. Buchman, 151 K. 998, 999, 1001, 101 P.2d 885.

19-2215.

History: L. 1927, ch. 167, § 1; L. 1945, ch. 170, § 1; L. 1951, ch. 226, § 1; Repealed, L. 1969, ch. 151, § 1; July 1.

19-2216 to 19-2219.

History: L. 1927, ch. 167, §§ 2 to 5; Repealed, L. 1969, ch. 151, § 1; July 1.

19-2220.

History: L. 1927, ch. 167, § 6; L. 1935, ch. 136, § 1; Repealed, L. 1969, ch. 151, § 1; July 1.

19-2221 to 19-2225.

History: L. 1927, ch. 167, §§ 7 to 11; Repealed, L. 1969, ch. 151, § 1; July 1.

19-2226, 19-2227.

History: L. 1925, ch. 204, §§ 1, 2; Repealed, L. 1984, ch. 102, § 1; July 1.

19-2228.

History: L. 1925, ch. 204, § 3; Repealed, L. 1978, ch. 97, § 1; July 1.

19-2229.

History: L. 1925, ch. 204, § 4; Repealed, L. 1984, ch. 102, § 1; July 1.

19-2230.

History: L. 1961, ch. 167, § 1; L. 1963, ch. 178, § 1; L. 1965, ch. 167, § 1; L. 1975, ch. 462, § 15; Repealed, L. 1984, ch. 103, § 1; July 1.

TRANSIENT MERCHANT LICENSING ACT

19-2231. Citation of act. This act shall be known and may be cited as the transient merchant licensing act.

History: L. 1985, ch. 94, § 1; July 1.

Research and Practice Aids:

Licenses = 15(2).

C.J.S. Licenses § 34.

19-2232. Definitions. As used in this act:

(a) "Person" means any individual, corporation, partnership, association or other entity.

(b) "Temporary or transient business" means any business conducted for the sale or offer for sale of goods, wares, merchandise or services which is carried on in any building, structure, motor vehicle or railroad car, or on any real estate, for a period of less than six months in each year.

(c) "Transient merchant" means any person who engages in, does or transacts any temporary or transient business in the state, either in one locality or in traveling from place to place in the state, and includes merchants who, for the purpose of carrying on such business, hire, lease, use or occupy any building, structure, motor vehicle, railroad car or real estate.

History: L. 1985, ch. 94, § 2; July 1.

Research and Practice Aids:

Licenses = 15(2).

C.J.S. Licenses § 34.

Attorney General's Opinions:

Exemptions to act. 85-93.

Exemptions to act; sales to public by transient merchant from yard of vacant private residence not exempt. 85-99.

19-2233. Exemptions from act. (a) The provisions of this act shall not apply to:

(1) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;

(2) sales or displays at trade shows, expositions or conventions;

(3) sales of goods, wares or merchandise by sample catalogue or brochure for future delivery;

(4) sales or displays at fairs, conventions or shows operated primarily for purposes of amusement, entertainment, recreation or education;

(5) sales or displays at sales, fairs, auctions or bazaars operated by church, religious or charitable organizations;

(6) garage sales held on premises devoted to residential use;

(7) sales or displays at sales or shows of crafts or items made by hand and sold, offered for sale or displayed by the individual making such crafts or handmade items;

(8) sales of agricultural products, except nursery products and foliage plants, sold or offered for sale by the individual raising or producing such products;

(9) sales to the owner or legal occupant of residential premises, at such premises pursuant to an invitation issued by such owner or legal occupant;

(10) sales or displays at sales, bazaars or concessions sponsored or operated by public or private schools or educational institutions;

(11) sales of paraphernalia used in the celebration of any nationally recognized holiday;

(12) sales or displays at flea markets or at sales, exchanges or shows of antique or other personal property having an enhanced value by reason of its age or unique characteristics;

(13) retail sales of fireworks;

(14) sales or displays at fairs or expositions sponsored by the state, a county or another governmental entity or a convention or tourism committee created pursuant to either K.S.A. 12-1695 or 12-16,101, and amendments thereto;

(15) sales or displays at sales, exchanges or shows of collectibles or hobby or investment items of personal property, including but not limited to pets, gems and minerals, stamps, coins, photographs and photographic equipment, guns and belt buckles;

(16) sales or displays in connection with, and at the site of, athletic tournaments, events, contests or expositions;

(17) events sponsored by nonprofit organizations; or

(18) any person who has a permanent business location in this state for not less than six months in each year but who may carry on a transient business at locations in this state other than at the person's permanent business location.

(b) The exemption provided by subsection (a) shall apply regardless of whether the transient merchant is sponsoring or operating the activity giving rise to the exemption or is participating in the activity as a seller or exhibitor.

(c) A transient merchant not otherwise exempted from the provisions of this act shall not be relieved or exempted from the provisions of this act by reason of temporary association with any local dealer, auctioneer, trader, contractor or merchant or by conducting temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

History: L. 1985, ch. 94, § 3; L. 1986, ch. 104, § 1; March 13.

Research and Practice Aids:

Licenses ← 19(3).

C.J.S. Licenses §§ 35, 36.

Attorney General's Opinions:

Exemptions to act. 85-93.

Exemptions to act; sales to public by transient merchant from yard of vacant private residence not exempt. 85-99.

Exemptions; exhibitors at state or county fairs are exempt from licensure. 85-107.

Fairs conducted for amusement and entertainment and craftsmen and artisans exhibiting products for sale at such fairs are exempt from licensure. 85-117.

19-2234. Noncompliance with act unlawful. It is unlawful for any transient merchant to transact business in any county in this state unless such merchant and the owners of any goods, wares or merchandise or the providers of any services to be offered for sale or sold by the merchant, if such are not owned or provided by the merchant, first comply with the requirements of this act.

History: L. 1985, ch. 94, § 4; July 1.

19-2235. Application for license; filing; information required. (a) Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a license in each county in which such merchant desires to transact business.

(b) The application for license shall be filed with the county clerk and shall include the following information:

(1) The name and permanent address of the individual or transient merchant making the application and, if the transient merchant is not an individual, the names and addresses of the officers of the corporation or the members of the partnership, association or other entity, as the case may be;

(2) if the applicant is a corporation, a statement of the date of incorporation, the state of incorporation and, if the applicant is a corporation formed in another state, the date on which such corporation qualified to transact business as a foreign corporation in this state;

(3) a statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of such proposed place of business; and

(4) the name and permanent address of the transient merchant's registered agent or office.

(c) There shall be attached to any application filed pursuant to this section a copy of the agreement of the registered agent designated by the applicant as provided by K.S.A. 19-2237 and amendments thereto.

History: L. 1985, ch. 94, § 5; L. 1986, ch. 104, § 2; March 13.

19-2236. License application and certificate forms; duty of county clerk. The county clerk in each county shall design and cause to be printed appropriate forms for applications for licenses and for the license certificates to be issued to applicants under this act.

History: L. 1985, ch. 94, § 6; July 1.

19-2237. Registered agent; designation of; duties of county clerk; service of process, notice or demand. (a) Each registered agent designated by a transient merchant in the application for a license shall be a resident of the county and shall be agent of the transient merchant upon whom any process, notice or demand required or permitted by law to be served upon the transient merchant may be served. The registered agent shall agree in writing to act as such agent and a copy of the agreement to so act shall be filed by the applicant with the application for a license.

(b) The county clerk of each county shall maintain an alphabetical list of all transient mer-

chants in the county and the names and addresses of their registered agents.

(c) If any transient merchant doing business or having done business in any county within this state fails to have or maintain a registered agent in the county or if such registered agent cannot be found at such registered agent's permanent address, the county clerk shall be an agent of such transient merchant for service of all process, notices or demands. Service on the county clerk shall be made by delivering to and leaving with the clerk or any person designated by the clerk to receive such service, duplicate copies of the process, notice or demand. When any such process, notice or demand is served on the clerk, the clerk shall immediately cause one copy thereof to be forwarded by registered or certified mail to the permanent address of the transient merchant.

(d) The provisions of this section shall not limit or otherwise affect the right of any person to serve any process, notice or demand in any other manner now or hereafter authorized by law.

History: L. 1985, ch. 94, § 7; July 1.

19-2238. License fee; bond requirements. Each application for a transient merchant license shall be accompanied by a license fee of \$250 and by a cash bond or a surety bond issued by a corporate surety authorized to do business in this state in the amount of \$2,000 or 5% of the wholesale value of any goods, wares, merchandise or services to be offered for sale, whichever is less. The bond shall be in favor of the state of Kansas and shall assure the payment by the applicant of all taxes that may be due from the applicant to the state or any political subdivision of the state, the payment of any fines that may be assessed against the applicant or its agents or employees for violation of the provisions of this act and the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares, merchandise or services within one year from the date of the sale by such transient merchant. The bonds shall be maintained so long as the transient merchant conducts business in the county and for a period of one year after the termination of such business and shall be released only when the transient merchant furnishes satisfactory proof to the county clerk that such merchant has satisfied all claims of purchasers of goods, wares, merchandise or serv-

ices from such merchant and that all state and local sales taxes and other taxes have been paid.

History: L. 1985, ch. 94, § 8; July 1.

Research and Practice Aids:

Licenses ← 26, 29.

C.J.S. Licenses §§ 42, 66.

Attorney General's Opinions:

Exemptions to act. 85-93.

19-2239. Conditions and limitations of license. (a) A transient business license shall be issued under this act only when all requirements of this act have been met.

(b) A license issued under this act shall:

(1) Not be transferable;

(2) be valid only within the territorial limits of the issuing county;

(3) be valid only for a period of 90 days;

(4) be valid only for the business stated in the application; and

(5) be valid for only one person, unless such person is a member of a partnership or association or an employee of a firm or corporation obtaining such license.

History: L. 1985, ch. 94, § 9; July 1.

19-2240. Penalty for violation of act. Any person who transacts a transient business in this state without having first obtained a license in accordance with the provisions of this act or who knowingly advertises, offers for sale or sells any goods, wares, merchandise or services in violation of the provisions of this act is guilty of a class A misdemeanor.

History: L. 1985, ch. 94, § 10; July 1.

19-2241. Enforcement of act. It is the duty of the sheriff and other law enforcement officers in each county and the county or district attorney of each county to enforce the provisions of this act.

History: L. 1985, ch. 94, § 11; July 1.

19-2242. Compliance with city ordinance. Nothing in this act shall be interpreted to authorize any person licensed under this act to transact business as a transient merchant in violation of any city ordinance governing the conduct of transient merchants within the corporate limits of the city.

History: L. 1985, ch. 94, § 12; July 1.