TRANSIENT MERCHANTS
Act 51 of 1925

AN ACT to license and regulate the business of transient merchants, to provide penalties for the violation of this act, and to repeal certain inconsistent acts.

History: 1925, Act 51, Eff. Aug. 27, 1925.

The People of the State of Michigan enact:

445.371 Definitions.

Sec. 1. As used in this act

(a) "Transient merchant" means any person, firm, association, or corporation engaging temporarily in a retail sale of goods, wares, or merchandise, in any place in this state and who, for the purpose of conducting business, occupies any lot, building, room, or structure of any kind. The term shall not apply to any of the following:

(*i*) A person selling goods, wares, or merchandise of any description raised, produced, or manufactured by the individual offering the same for sale.

(*ii*) A person soliciting orders by sample, brochure, or sales catalog for future delivery or making sales at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises.

(*iii*) A person handling vegetables, fruits, or perishable farm products at any established city or village market.

(*iv*) A person operating a store or refreshment stand at a resort or having a booth on or adjacent to the property owned or occupied by him or her.

(*v*) A person operating a stand on any fairgrounds.

(*vi*) A person selling at an art fair or festival or similar event at the invitation of the event's sponsor if all of the following conditions are met:

(A) The sponsor is a governmental entity or nonprofit organization.

(B) The person provides the sponsor with the person's sales tax license number.

(C) The sponsor provides a list of the event's vendors and their sales tax license numbers to the county treasurer and the state treasurer.

(b) "Person" includes any corporation, or partnership, or 2 or more persons having a joint or common interest.

History: 1925, Act 51, Eff. Aug. 27, 1925;—CL 1929, 9748;—CL 1948, 445.371;—Am. 1988, Act 292, Imd. Eff. Aug. 4, 1988.

Former law: See Act 259 of 1899; Act 191 of 1901, being CL 1915, §§ 6984 to 7000; Act 294 of 1913, being CL 1915, §§ 7001 to 7009; Act 191 of 1915; and Act 383 of 1921.

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445.372 Transient merchants; license required.

Sec. 2. It shall be unlawful for any person, either as principal or agent, to engage in business as a transient merchant in the state of Michigan without having first obtained a license in the manner herein provided.

History: 1925, Act 51, Eff. Aug. 27, 1925;—CL 1929, 9749;—CL 1948, 445.372.

445.373 Application for license; contents; attachment; service of process; deposit or surety bond; fee; issuance and expiration of license; copies to state treasurer; display of license.

Sec. 3. Any person desiring to engage in a business shall make and file with the county treasurer of the county in which he or she intends to do business a written application stating the applicant's name, residence, federal taxpayer identification number, number of employees, state employer identification number, place where he or she intends to do business, and kind of business. A copy of the applicant's Michigan sales tax license shall be attached to the application, except for an applicant selling only food for human consumption as defined in section 4g of Act No. 167 of the Public Acts of 1933, being section 205.54g of the Michigan Compiled Laws. If the applicant is acting as agent for another person, the applicant shall cause to be filed with the county treasurer a power of attorney appointing the county treasurer the agent of the principal on whom service of process may be made in any suit commenced against the principal. The applicant shall at the same time deposit $500.00 with the county treasurer, or file a surety company bond for that amount. The applicant shall also pay the county treasurer a $25.00 license fee. Upon receiving the fees, the county treasurer shall issue to the applicant the license if satisfied that the business to be conducted by the person is not intended to cheat or defraud the public. A license issued under this section shall expire on the December thirty-first after its issuance. Not more than 10 days after issuing a license, the county treasurer shall send a copy of the license and the completed application to the state treasurer. The license shall be displayed in full view at the

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place of business.

History: 1925, Act 51, Eff. Aug. 27, 1925;—CL 1929, 9750;—CL 1948, 445.373;—Am. 1988, Act 292, Imd. Eff. Aug. 4, 1988.

445.374 License; deposit; subjection to claims; balance, deposit.

Sec. 4. Deposits made with such county treasurer as required by the preceding section shall be subject to claims of creditors and claims for local license fees on behalf of any city, village or township in all cases where a judgment has been obtained against such transient merchant in any court in this state and the time for appealing such judgment has expired. In such cases garnishment proceedings may be commenced in such court against said county treasurer. It shall thereupon be the duty of the county treasurer to remit to any such court any balance of said cash deposit remaining in his hands not exceeding the amount of said judgment, for the purpose of satisfying the same. Any balance of said cash deposit remaining in the hands of the county treasurer 4 months after the expiration of said license shall be remitted to said transient merchant, provided, if, at such date, the county treasurer shall have received notice of any suit then pending against said transient merchant, said deposit shall not be returned until 60 days after the termination of such suit.

History: 1925, Act 51, Eff. Aug. 27, 1925;—CL 1929, 9751;—CL 1948, 445.374.

445.375 License; invalidation, exhaustion of deposit; revocation.

Sec. 5. Any such license shall be void as soon as the deposit made with the county treasurer as provided in section 3 hereof shall have been exhausted because of garnishment suits as mentioned in the preceding section. Such county treasurer may revoke any license issued by him hereunder, for good cause shown, after giving the licensee reasonable notice and opportunity to be heard.

History: 1925, Act 51, Eff. Aug. 27, 1925;—CL 1929, 9752;—CL 1948, 445.375.

445.376 Transient merchants; evidence.

Sec. 6. Transaction of business as defined in section 1 of this act by any person for a period of less than 6 months consecutively shall be prima facie evidence that such person was a transient merchant within the intent and meaning hereof.

History: 1925, Act 51, Eff. Aug. 27, 1925;—CL 1929, 9753;—CL 1948, 445.376.

445.377 Violation as misdemeanor; penalty; impounding goods; recovery or sale of impounded goods; notice; conduct of sale; disposition of proceeds; liability.

Sec. 7. (1) A person who violates this act is guilty of a misdemeanor, punishable by a fine of $1,000.00 or 10% of the value of any property impounded pursuant to this section, whichever amount is greater and court costs. If the county sheriff or local law enforcement officer has probable cause to believe that a person is engaging in business as a transient merchant without having first obtained a license in the manner provided for in this act, the county sheriff or local law enforcement officer shall immediately take into custody and impound all goods offered for sale by the transient merchant until the matter has been adjudicated by a court of proper jurisdiction.

(2) The transient merchant may obtain his or her impounded goods prior to adjudication by paying, either in cash or by security bond, $1,000.00 or an amount equal to the value of the impounded property, whichever amount is greater.

(3) If the transient merchant is convicted of violating this act and fails to pay the fine and court costs provided in subsection (1) within 7 days after the date of conviction, the sheriff or local law enforcement officer shall sell the impounded goods by publishing notice in a newspaper of general circulation in the county at least 5 days before the sale. The notice shall describe the property and shall state the time and place of public sale at which the impounded property may be purchased by the highest bidder.

(4) The sheriff or local law enforcement officer shall conduct the sale and shall deposit from the proceeds of the sale an amount equal to the fine and court costs provided in subsection (1) with the court in which the transient merchant was convicted. Any proceeds of the sale which exceed the fine shall be returned to the transient merchant. Any sheriff or local law enforcement officer disposing of property in the manner provided in this act shall not be liable to the transient merchant for the sale.

History: 1925, Act 51, Eff. Aug. 27, 1925;—CL 1929, 9754;—CL 1948, 445.377;—Am. 1988, Act 292, Imd. Eff. Aug. 4, 1988.

445.378 Effect of act as to local license or regulation.

Sec. 8. Nothing in this act contained shall interfere with the licensing or regulation of said business by any municipality, township, or county in this state not inconsistent with the provisions hereof.

History: 1925, Act 51, Eff. Aug. 27, 1925;—CL 1929, 9755;—CL 1948, 445.378.

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