

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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Resident of Iowa is not entitled to a license in this state. Op. Atty. Gen. (16c), Dec. 31, 1935.

License held by Iowa resident in this state being void, it would constitute defense to criminal prosecution. Id.

Resident of another state may be licensed in any county to conduct sales of pure bred and grade livestock upon paying fee and putting up bonds. Op. Atty. Gen. (16c), Mar. 8, 1937.

A nonresident auctioneer cannot legally be teamed up

with Minnesota licensed auctioneer and conduct sales as agent of Minnesota licensee under his license. Id.

License may cover both pure bred and grade livestock. Id.

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

#### 7327. Unlicensed sales.

Owner of goods may not sell them at auction without license. Op. Atty. Gen., Oct. 5, 1929.

## CHAPTER 56A

### Hawkers, Peddlers, and Transient Merchants

#### HAWKERS AND PEDDLERS

##### 7328. Engaging in business without license, etc.

Op. Atty. Gen., June 5, 1933; note under §4367.

A salesman representing a wholesaler dealing exclusively with retail merchants and not consumers is not a "peddler." Op. Atty. Gen., July 2, 1930.

One holding a wholesale produce dealer's license is not thereby relieved from the necessity of taking out a peddler's license. Op. Atty. Gen., Mar. 12, 1931.

Persons who sell to dealers only are not peddlers. Op. Atty. Gen., July 8, 1933.

Game wardens are authorized to participate in and supervise sale of rough fish and are not subject to municipal ordinances regulating transient merchants. Op. Atty. Gen. (208i), Dec. 2, 1937.

Where a veteran conducting a general merchandise business employs another veteran to peddle from house to house, veteran operating store need not obtain a peddler's license, but his employee, though a veteran, must purchase license. Op. Atty. Gen. (290j), Dec. 7, 1937.

One taking an agency for purpose of selling merchandise manufactured by particular company and making deliveries when he receives orders must obtain a license. Op. Atty. Gen. (290j), March 14, 1938.

Many tank wagon operators, also remedy salesmen and tea and grocery truck operators, should have a license, and a tank wagon may call to deliver a telephone order of gasoline, and become a peddler when driver tries to sell and deliver other items carried with him. Op. Atty. Gen. (290j-8), July 27, 1939.

##### 7332. Right of municipalities, etc., to regulate.

Ordinances regulating hawkers and peddlers and solicitors must be reasonable and not prohibitory. Op. Atty. Gen. (477b-21), Sept. 30, 1935.

A municipality may ordain that practice of peddlers and solicitors in going upon private premises and homes and soliciting orders without an invitation by occupants thereof is a nuisance. Op. Atty. Gen. (477b-21), Oct. 16, 1935.

A municipality may prescribe reasonable conditions as to time when, places where, and manner in which right of farmer to sell product may be exercised, so long as no license is required, and conditions are reasonable. Id.

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1937.

Act of going upon private premises for purpose of establishing a sales route for butter and bakery products and obtaining permission of owner or occupants to come upon their premises in future for purpose of soliciting order for such commodities, is not "soliciting orders" or "disposing of or peddling or hawking" such commodities within meaning of so called "Green River Ordinance". Op. Atty. Gen. (59a-32), July 6, 1938.

Validity of municipal legislation imposing a tax on solicitation of orders for future delivery. 18MinnLaw Rev476.

Validity of ordinance making soliciting of orders at private residence a nuisance. 23MinnLawRev88.

##### 7334. Farm and garden products.

An ordinance which requires "transient merchants" selling or displaying for sale "natural products" of the farm, including such commodities as cattle, hogs, sheep, veal, poultry, eggs, butter and fresh or frozen fish, to be licensed and to file a bond and exempts from its provisions persons selling produce raised on farms occupied and cultivated by them, and persons selling milk, cream, fruit, vegetables, grain or straw, is violative of state and federal constitutional prohibitions against class legislation. State v. Pehrson, 287NW313. See Dun. Dig. 1673.

#### TRANSIENT MERCHANTS

##### 7337. Engaging in business without license.

175M374, 221NW428.

##### 7338. License, how applied for and issued—Fees.

A transient merchant who has obtained a license in compliance with city ordinance is also compelled to obtain a license from county auditor under this section. Op. Atty. Gen., Oct. 6, 1932.

##### 7340. Transient merchant defined.

A farmer who buys products from other farmers in the vicinity and sells them must take out a peddlers' license. Op. Atty. Gen., Oct. 14, 1931.

A farmer who occupies a stand on a public highway and sells the products of his garden and also products which he does not raise is a transient merchant who must have a license. Op. Atty. Gen., Oct. 23, 1931.

City of Pipestone has authority to regulate "transient merchants" but not "transient dealers." Op. Atty. Gen., Oct. 9, 1933.

A dry cleaner and dyer having a place of business in some other city and soliciting in neighboring towns is not a hawker, peddler or a transient merchant. Op. Atty. Gen. (477b-8), Apr. 25, 1935.

One who shipped furniture in car load lots to a local merchant for purpose of sale by the merchant at public auction is a transient merchant required to have a license if he does not part with title to the merchandise and no bona fide contract is made that would in any way bind local merchant to take goods. Op. Atty. Gen. (477b-21), May 16, 1935.

Vendors who go from house to house with truck selling tea, coffee and spices are not "transient merchants" and are not subject to be licensed and regulated under general law. Op. Atty. Gen. (477b-21), Oct. 15, 1937.

Selling bread from truck at houses is "peddling" and may be licensed or regulated. Id.

Soliciting for dry cleaning is not "peddling." Id.

Game wardens are authorized to participate in and supervise sale of rough fish and are not subject to municipal ordinances regulating transient merchants. Op. Atty. Gen. (208i), Dec. 2, 1937.

Section 1186(12) gives village authority to license and regulate transient dealers in accordance with §7340. Op. Atty. Gen. (290p), April 21, 1939.

##### 7342. Not applicable to certain sales.

A farmer who occupies a stand on a public highway and sells the products of his garden and also products which he does not raise is a transient merchant who must have a license. Op. Atty. Gen., Oct. 23, 1931.

A person selling goods by sample for future delivery is neither a peddler nor a transient merchant and his business is not subject to a regulation by a village. Op. Atty. Gen. (59a-32), May 9, 1934.

##### 7343. Right of municipalities, etc., to regulate.

Transient merchant obtaining license under city ordinance must also obtain one from county auditor. Op. Atty. Gen., Oct. 6, 1932.

A village may not, under guise of licensing, adopt an ordinance which is prohibitive. Op. Atty. Gen., May 18, 1933.

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1937.

Section contemplates that municipality adopting an ordinance regulating transient merchants must have power to do so under charter or laws under which it is operating. Id.