

## CHAPTER 329

## HAWKERS, PEDDLERS, AND TRANSIENT MERCHANTS

**329.01 TRANSIENT MERCHANT.**

**HISTORY.** 1911 c. 39 s. 4; 1913 c. 504 s. 1; G.S. 1913 s. 6101; G.S. 1923 s. 7340; M.S. 1927 s. 7340.

An ordinance which attempts to regulate the sale of goods, by sample for future delivery, is void. 1934 OAG 125, May 9, 1934 (59a-32).

A farmer who buys products from other farmers in the vicinity, and sells them, must take out a peddler's license. OAG 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. OAG Oct. 23, 1931.

The city of Pipestone does not have authority to regulate transient dealers. OAG Oct. 9, 1933.

A dry cleaner who has a place of business in another city, and solicits in neighboring towns, is not a hawker, peddler or a transient merchant. OAG April 25, 1935 (477b-8).

One who ships furniture in carload lots, to a local merchant for purpose of sale by such merchant at public auction, is a transient merchant and must have a license if he does not part with title to such merchandise, and local merchant is not bound under a bona fide contract to take the goods. OAG May 16, 1935 (477b-21).

Vendors who go from house to house, with a truck, selling tea, coffee, and spices, are not transient merchants and are not subject to license and regulation under general law. OAG Oct. 15, 1937 (477b-21).

Selling bread from a truck at houses is peddling and may be licensed. OAG Oct. 15, 1937 (477b-21).

Soliciting for dry cleaning is not peddling. OAG Oct. 15, 1937 (477b-21).

Game wardens are not subject to municipal ordinances regulating transient merchants. OAG Dec. 2, 1937 (208i).

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

**329.02 HAWKERS AND PEDDLERS; LICENSE REQUIRED.**

**HISTORY.** 1911 c. 121 s. 1; G.S. 1913 s. 6089; G.S. 1923 s. 7328; M.S. 1927 s. 7328.

One who holds a wholesale produce dealer's license is not relieved from need of taking out a peddler's license. OAG March 12, 1931.

Persons who sell to dealers only are not peddlers. OAG July 8, 1933.

Game wardens are not subject to municipal ordinances regulating transient merchants. OAG Dec. 2, 1937 (208i).

A veteran conducting a general merchandise business, and employing another veteran to peddle from house to house, need not obtain a peddler's license; but such veteran, so peddling, must. OAG Dec. 7, 1937 (290j).

One who takes an agency for the purpose of selling merchandise of a particular company, and who makes deliveries when the orders are received, must have a license. OAG March 14, 1938 (290j).

The driver of a tank wagon, who when calling to deliver a telephone order of gasoline tries to sell and deliver other items carried with him, becomes a peddler and must have a license. OAG July 27, 1939 (290j-8).

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### 329.03 LICENSE, APPLICATION AND ISSUANCE.

HISTORY. 1911 c. 121 s. 2; G.S. 1913 s. 6090; G.S. 1923 s. 7329; M.S. 1927 s. 7329.

Receiving from villages ten per cent of the fees paid to them for liquor, auctioneer, and peddlers' licenses, was outside the scope of the official authority of the county auditor, and his sureties are not liable for his misappropriation of such funds. The county treasurer was the only officer authorized to receive such payments. County of Mower v American Bonding Co. 133 M 274, 158 NW 394.

### 329.04 FEES.

HISTORY. 1911 c. 121 s. 3; G.S. 1913 s. 6091; G.S. 1923 s. 7330; M.S. 1927 s. 7330.

### 329.05 TERMS OF LICENSE; FEES PUT IN COUNTY GENERAL REVENUE FUND.

HISTORY. 1911 c. 121 s. 4; G.S. 1913 s. 6092; G.S. 1923 s. 7331; M.S. 1927 s. 7331.

### 329.06 RIGHT OF MUNICIPALITIES TO REGULATE.

HISTORY. 1911 c. 121 s. 5; G.S. 1913 s. 6093; G.S. 1923 s. 7332; M.S. 1927 s. 7332.

An ordinance which attempts to regulate the sale of goods by sample for future delivery is void. 1934 OAG 125, May 9, 1934 (59a-32).

When no license is required, a municipality may prescribe reasonable conditions as to the time when, places where, and the manner in which, a farmer may exercise his right to sell his product. OAG Oct. 16, 1935 (477b-21).

A municipality may ordain that the practice of peddlers and solicitors going to private homes and premises to solicit orders is a nuisance. OAG Oct. 16, 1935 (477b-21).

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

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit them from doing business within the village. OAG Oct. 15, 1937 (477b-21).

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 so come in the future, is not soliciting orders or peddling, within meaning of the ordinance. OAG July 6, 1938 (59a-32).

Hawkers, peddlers, and solicitors. 18 MLR 475.

Validity of ordinance making soliciting of orders for sale of goods at private residence a nuisance. 23 MLR 88.

### 329.07 LICENSE, EXHIBITION OF; FAILURE TO EXHIBIT; PENALTY.

HISTORY. 1911 c. 121 s. 6; G.S. 1913 s. 6094; G.S. 1923 s. 7333; M.S. 1927 s. 7333.

### 329.08 FARM AND GARDEN PRODUCTS EXCEPTED.

HISTORY. 1911 c. 121 s. 7; G.S. 1913 s. 6095; G.S. 1923 s. 7334; M.S. 1927 s. 7334.

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 file a bond, and exempts (a) persons selling produce raised on farms occupied and cultivated by them; and (b) persons selling milk, cream, fruit, vegetables, grain, or straw, violates state and federal constitutional prohibitions against class legislation. State v Pehrson, 205 M 573, 287 NW 313.

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Police power beyond city limits. 10 MLR 575.

### 329.09 CITIES OF FIRST CLASS.

HISTORY. 1911 c. 297 s. 1; G.S. 1913 s. 6097; G.S. 1923 s. 7336; M.S. 1927 s. 7336.

### 329.10 TRANSIENT MERCHANTS TO BE LICENSED.

HISTORY. 1911 c. 39 s. 1; G.S. 1913 s. 6098; G.S. 1923 s. 7337; M.S. 1927 s. 7337.

An ordinance attempting to regulate the sale of goods by sample, for future delivery, is void. 1934 OAG 125, May 9, 1934 (59a-32).

### 329.11 APPLICATION FOR LICENSE; ISSUANCE; FEE.

HISTORY. 1911 c. 39 s. 2; G.S. 1913 s. 6099; G.S. 1923 s. 7338; M.S. 1927 s. 7338.

### 329.12 LICENSE REQUIRED FOR CERTAIN SALES; APPLICATION, ISSUANCE; FALSE AFFIDAVIT; PENALTY.

HISTORY. 1911 c. 39 s. 3; G.S. 1913 s. 6100; G.S. 1923 s. 7339; M.S. 1927 s. 7339.

### 329.13 EVIDENCE.

HISTORY. 1911 c. 39 s. 5; G.S. 1913 s. 6102; G.S. 1923 s. 7341; M.S. 1927 s. 7341.

### 329.14 CERTAIN SALES EXCEPTED.

HISTORY. 1911 c. 39 s. 6; G.S. 1913 s. 6103; G.S. 1923 s. 7342; M.S. 1927 s. 7342.

### 329.15 MUNICIPALITIES MAY REGULATE.

HISTORY. 1911 c. 39 s. 7; G.S. 1913 s. 6104; G.S. 1923 s. 7343; M.S. 1927 s. 7343.

### 329.16 DISPOSAL OF FEES.

HISTORY. 1911 c. 39 s. 8; G.S. 1913 s. 6105; G.S. 1923 s. 7344; M.S. 1927 s. 7344.

### 329.17 VIOLATIONS; PENALTIES.

HISTORY. 1911 c. 39 s. 9; 1911 c. 121 s. 8; G.S. 1913 ss. 6096, 6106; G.S. 1923 ss. 7335, 7345; M.S. 1927 ss. 7335, 7345.