

TRANSIENT MERCHANTS

CHAPTER 257.

[S. B. No. 262—Spoonheim]

LICENSING TRANSIENT MERCHANTS.

AN ACT Relating to the Licensing of Transient Merchants and Providing a Penalty for the Violation Thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TRANSIENT MERCHANT DEFINED. FEE.] A transient merchant within the meaning of this act is defined as one who engages in the vending or sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. No person shall engage in or follow the business or occupation of a transient merchant, as hereinbefore defined, at any place in this state, without first obtaining a license authorizing him to do so. Any person desiring a license as a transient merchant shall, before receiving the same, pay into the state treasury the sum of seventy-five dollars, and he shall in addition to such amount, after receiving such license, also pay to the treasurer of any city or village where he may be conducting his business, a sum not to exceed twenty-five dollars 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 city or village; provided, further, that if complaint be made to the mayor of any city or president of any village that any person doing business therein is a transient merchant, and such person shall claim to be a permanent merchant, he may be required as a condition of transacting business in any such city or village, without the payment of a license fee to such city or village, to give bond to such city or village to secure the payment of the state and local license, in the event that he fails to become a permanent merchant, under the terms of this act, in a penal sum not to exceed five hundred dollars, to be determined by resolution or ordinance of such city or village, with sureties to be approved by the auditor or clerk of the municipality, and which bond shall be enforced, in case of a breach thereof, by the proper local officers of the city or village and upon its collection the amount of the state license shall be paid to the state treasurer and the remainder shall be paid into the treasury of the city or village and become a part of the license fund. The application for a license

as a transient merchant shall be made in writing to the secretary of state upon the blanks to be furnished by him, and upon the filing of such application with the secretary of state and the presentation to him of a receipt from the state treasurer showing the payment of the license fee hereinbefore provided for, the secretary of state shall issue such applicant a license for the period of one year from the date of its issue, and no longer.

§ 2. FIRE SALE MERCHANTS, LICENSE OF.] Every person, firm or corporation which shall not have become a permanent merchant or dealer in the town, city or village in which any such person, firm or corporation sells or exposes for sale any goods, wares or merchandise and which shall advertise, represent and hold forth that the sale thereof is an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver, job lot or closing out sale, or a sale of goods, wares or merchandise damaged by smoke, fire, water or otherwise, or that by reason of financial difficulty or other special or peculiar circumstances such goods, wares or merchandise will be disposed of for less than their real value, shall, before commencing or advertising a sale thereof, procure a state and local license in the manner hereinafter provided; provided, that nothing in said sections shall apply to any sale made by virtue of any judgment, order or process of any court, or pursuant to any law of this state or of the United States, or in enforcement of any contract right or lien.

§ 3. APPLICATION, HOW MADE.] The application for a state license under the preceding section shall be made to the secretary of state under oath, shall disclose the name and residence of the applicant, who shall, before making such sale advertising so to do, state in his original or supplementary application the details concerning such sale, including all the facts relating to the insurance, bankruptcy, insolvency or other reasons for making the same, with sufficient fullness as to time, place and persons to permit the verification thereof. Such statement shall be copied on the license issued by said secretary of state, and all applications shall be filed by him and a record of all licenses issued shall be made. All files and records of the secretary of state and of the town, city and village auditors shall be in convenient form and be open for public inspection.

§ 4. FEE. PENALTY.] Upon application in the proper form and the payment of seventy-five dollars as a fee the secretary of state shall issue to the applicant a license authorizing him to advertise and make such sales as are specified in section two of this act for the term of one year from the date of its issue. Every license shall contain a copy of the application therefor. Such license shall not be transferable nor authorize more than one person, firm or corporation to sell or advertise goods, wares or merchandise in the manner specified, either by agent or clerk or in any other way than in the proper person of the licensee, ex-

cept that when the licensee is a firm or corporation the sale may be conducted by the members of the partnership or the officers of the corporation, and any licensee may have the assistance of one or more persons who shall not, however, have authority to act for him in his absence. Any agent or employe who conducts or advertises a sale for his principal shall be liable to the penalty hereinafter prescribed if such principal has failed to comply with any of the provisions of law.

§ 5. LOCAL LICENSE FEE.] Any town board, village board or city council may, by resolution, ordinance or order, require the payment by every person, firm or corporation intending to make such sale a per diem license fee not exceeding twenty-five dollars. Before making or offering to make any such sale under the state license every such person, firm or corporation shall exhibit said license to the auditor or clerk of the town, city or village where it is proposed to make sale, and upon payment to said auditor or clerk of such fee as is required by the local authorities he shall record the state license, indorse upon it the words "local license fees paid," affix his official signature with the date of such indorsement, and issue a license authorizing sales within the limits of his town, city or village. Making sales or offering to do so without such license or indorsement shall subject such person to the same penalty as he would be liable to if no state license had been issued.

§ 6. PENALTY.] Every person violating any of the provisions of this act and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than sixty days or by both such fine and imprisonment.

§ 7. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 8, 1907.