

ARTICLE 2 TEMPORARY OR TRANSIENT MERCHANTS

33-20-201. Definition.

The words "**temporary or transient merchant**" for the purposes of this act shall include all persons, firms and corporations, both as principal and agent, who engage in, do or transact any temporary or transient business, either in one (1) locality or more or by traveling from one (1) or more places in this state, selling goods, wares or merchandise and who for the purpose of carrying on such business hire, lease or occupy a building, structure or car, for the exhibition and sale of such goods, wares or merchandise.

33-20-202. License; required.

Hereafter it shall be unlawful for any temporary or transient merchant to engage in, do or transact any business as such within this state without first having obtained a license as hereinafter provided.

33-20-203. License; application; fee; record to be kept; exemption if licensed by city or town.

(a) Any temporary or transient merchant desiring to engage in, do or transact business in this state, shall file an application for license for that purpose with the county clerk of the county in which he desires to do business, which application shall state his name, his proposed place of business, the kind of business proposed to be conducted and the length of time for which he desires to conduct business. Except as provided by subsection (b) of this section, the temporary or transient merchant shall pay to the treasurer of the county a license fee of two hundred dollars (\$200.00). The treasurer of the county shall issue to the person duplicate receipts. The temporary or transient merchant shall file the treasurer's receipt for payment with the county clerk of the county, who shall issue to the temporary or transient merchant a license to do business at the place described in the application and the kind of business to be done shall be described in the license. No license shall be good for more than one (1) person, unless the person shall be the member of a copartnership, nor for more than one (1) place of business, and shall be good for a period of one (1) year from the date of its issuance. The county clerk shall keep a record of the licenses in a book which shall at all times be open to public inspection.

(b) The license fee of two hundred dollars (\$200.00) under subsection (a) of this section may be modified by the county commissioners for an event, a fair or a celebration. The modification shall apply to all transient merchants conducting business at the event, fair or celebration. The county commissioners shall notify the county treasurer of the modification. The county treasurer shall issue duplicate receipts to the temporary or transient merchant for the modified license fee. The temporary or transient merchant shall file the treasurer's receipt with the county clerk of the county where the application is made. The county clerk shall issue a license that describes the event, fair or celebration and the kind of business to be done. The

license shall be good only for the event, fair or celebration and only for the kind of business identified. The county clerk shall keep a record of the modified licenses for an event, fair or celebration in a book that is open to public inspection at all times.

(c) If any city or town establishes by ordinance a temporary or transient merchant license and license fee for the conduct of business inside its corporate boundaries, subsections (a) and (b) of this section shall not apply to any temporary or transient merchant holding a valid license issued by the city or town when conducting business inside the boundaries of the city or town issuing the license. Any city or town issuing any license to any temporary or transient merchant shall notify the county clerk of the county in which the city or town is located that a license has been issued.

33-20-204. License; prosecution of action for recovery of fee.

If any person, firm or corporation who is liable for the payment of any license fee under this act shall after demand is made upon him or it by the county clerk of the county wherein such person, firm or corporation is engaged in business or by the sheriff or deputy sheriff of such county, refuse or neglect to pay such fee, unless such person comes within the provisions of W.S. 33-20-207, the county clerk may in his own name, but for the benefit of the county, immediately commence and prosecute an action at law against such delinquent person, firm or corporation for the recovery of such license fee, and for the purpose of securing any judgment which he might recover in such action, such county clerk may have the goods, wares and merchandise of such person, firm or corporation attached upon the grounds and in the manner provided for in cases of attachment.

33-20-205. Affidavit as to nature of sale required; advertising and representation.

It shall be unlawful for any temporary or transient merchant to advertise, represent or hold out any goods, wares or merchandise, as being sold as an insurance, bankrupt, railway wreck, insolvent, assignee, trustee, executor, administrator, receiver, syndicate, wholesale, manufacturer or closing out sale, or as a sale of any goods, wares or merchandise damaged by smoke, fire, water or otherwise, unless such temporary merchant shall file with the county clerk an affidavit showing all the facts relating to the reasons for and the character of such sale so to be advertised or represented, and showing that the goods, wares and merchandise of such sales are in fact in accordance with such advertisements and representations; such affidavit shall include a statement of the names of the persons from whom the goods, wares and merchandise so to be advertised or represented, were obtained, and the date of the delivery of said goods to the applicant and the place from which said goods, wares and merchandise were last taken, and all details necessary exactly to locate and fully to itemize all goods, wares and merchandise so to be advertised and represented. If such affidavit shall fail to show that such goods, wares and merchandise of such sale are in accordance with the proposed advertisements or representations as shown in such affidavit, or fails to disclose the facts as herein required, or if the county clerk learns that the said affidavit is untrue in any particular, then the county clerk shall refuse such applicant a license for such sale. Should a license be issued to such applicant it shall state that such person is authorized

and licensed to sell such goods, wares and merchandise, and advertise, represent and hold out the same as being sold as such insurance, bankrupt, railway wreck, insolvent, assignee, trustee, executor, administrator, receiver, syndicate, wholesale, manufacturer or closing out sale of any goods, wares and merchandise, or as being damaged by smoke, fire, water or otherwise, or in any similar manner present any other fact, as shown by such affidavit. Such affidavit shall be sworn to by the applicant before a person authorized to administer oaths. If the applicant be a partnership it shall be sworn to by a member of such partnership, or if the applicant be a corporation it shall be sworn to by one of the officers of such corporation. Every person making a false statement of any fact in such affidavit shall be deemed guilty of perjury and shall be punished for such offense as provided by the laws of Wyoming.

33-20-206. Reduced price sale by new merchant evidence of transient merchant.

Provided, further, that whenever it appears that any such stock of goods, wares and merchandise has been brought into any county in this state by a person, firm or corporation who has not previously conducted a merchandise business therein, and it is claimed that such stock is to be closed out at reduced prices such facts shall be prima facie evidence that the person, firm or corporation so offering such goods for sale is a transient merchant as defined by this act.

33-20-207. Bond required upon complaint; designation of agent for service; affidavit required; becoming permanent merchant.

If complaint be made to the county clerk that any person, firm or corporation doing business in any county of this state is a transient merchant and such person, firm or corporation shall claim to be a permanent merchant, the county clerk shall require of such person, firm or corporation, and he or it shall furnish, a bond in the sum of five hundred dollars (\$500.00), with surety or sureties to be approved by the county clerk. Such bond shall run to the county clerk as obligee and it shall secure the payment of the license in the event that such person, firm or corporation does not continue in the business which he or it is conducting in such county for a period of one (1) year from the time when such business was started; said bond shall also be for the protection of all persons, firms or corporations having claim or claims against the obligor arising out of said business. At the time of delivering such bond to the county clerk the obligor shall also deliver to the county clerk a duly executed instrument making the county clerk the agent of the obligor for the purpose of being served with process in the event of suit on such bond. Such merchant so complained against shall also furnish to the county clerk the affidavit required in W.S. 33-20-205 before advertising or holding out any goods, wares or merchandise as being sold as an insurance, bankrupt, railway wreck, insolvent, assignee, trustee, executor, administrator, receiver, syndicate, wholesale, manufacturer or closing out sale, or as a sale of any goods, wares or merchandise damaged by smoke, fire, water or otherwise. ***But after such merchant has been conducting the particular business in which he or it is engaged in such county for a period of one (1) year, such merchant shall be held to be a permanent merchant and the provisions of this act shall no longer be applicable to such merchant.***

33-20-208. Exceptions.

The provisions of this chapter shall not apply to sales made to dealers by commercial travelers selling in the usual course of business, or to sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy, or other public officers selling goods, wares and merchandise according to law, nor to any person selling fruits, vegetables, dressed meats, fowls or farm products, by a bona fide resident of the state.

33-20-209. Penalty.

Any person, firm or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor, whether he or it be the owner of such goods, wares and merchandise sold or carried by him or it or not, and on conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than four hundred dollars (\$400.00), or imprisoned in the county jail not less than ten (10) days nor more than ninety (90) days, or both.

33-20-210. Provisions not to affect interstate commerce; city or town powers not limited.

Nothing in this act shall be construed as prohibiting or in any way limiting, restricting or interfering with interstate commerce or the federal statutes regulatory thereof. Nor with the power of cities or towns to require additional licenses from or make additional regulations for temporary or transient merchants.