

1 SEC. 3. Section seventy-one hundred eighty-two (7182), Code,  
2 1935, is hereby amended by changing the words "board of assessment  
3 and review" to "tax commission" in line two (2) thereof.

1 SEC. 4. Section seventy-one hundred eighty-three (7183), Code,  
2 1935, is hereby amended by changing the words "board of assessment  
3 and review" to "tax commission" in line two (2) thereof.

1 SEC. 5. Section seventy-one hundred eighty-three-a two (7183-a2),  
2 Code, 1935, is hereby amended by changing the words "board of as-  
3 sessment and review" to "tax commission" in line three (3) thereof.

1 SEC. 6. Section seventy-one hundred eighty-three-a three (7183-  
2 a3), Code, 1935, is hereby amended by changing the words "board of  
3 assessment and review" to "tax commission" in line one (1) and two  
4 (2) thereof.

Approved April 3, 1939.

## CHAPTER 209

### LICENSING AND TAXING ITINERANT MERCHANTS

#### H. F. 155

AN ACT to define, regulate, license, and tax itinerant merchants; to provide for the administration and enforcement of this act by the motor vehicle department of the state and by peace officers and magistrates; to provide for the disposition of the revenues derived from said license fees and taxes; to require itinerant merchants to obtain and carry motor vehicle liability and property damage insurance, and bonds conditioned to pay damages for civil liability incurred and conditioned to pay taxes; to provide for exemptions from this act; to provide criminal penalties and civil liabilities for violation of this act; to provide for restraining by injunction violation of this act; and to provide that this act shall take effect upon publication.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Definition of the included class.  
2 (a) When used in this act:  
3 (1) "Motor vehicle" shall have the same meaning as when used in  
4 any statutes regulating the use and operation of motor vehicles; pro-  
5 vided, that in this act the term shall always include as one vehicle a  
6 tractor-semitrailer or tractor-trailer combination.  
7 (2) "Highway" shall mean any thoroughfare defined by any statute  
8 or ordinance as a public highway or street.  
9 (3) "Person" shall mean a natural person, firm, partnership, asso-  
10 ciation, corporation, trust, trustee, lessee, or receiver, as the context  
11 may require, regardless of the gender of the pronoun used in conjunc-  
12 tion therewith.  
13 (4) "Department" shall mean the motor vehicle department of the  
14 state.  
15 (5) "Established place of business" shall mean any permanent ware-  
16 house, building, or structure, at which a permanent business is carried  
17 on throughout the year or usual production or marketing season in  
18 good faith, and at which stocks of the property being transported are  
19 produced, stored, or kept in quantities reasonably adequate for, and

20 usually carried for the requirements of such business, and which is  
21 recognized as a permanent place of business. It shall not mean tents,  
22 temporary stands or other temporary quarters.

23 (5a) "Insurance company" shall mean any insurance company,  
24 insurance association, reciprocal or interinsurance exchange authorized  
25 to do business in the state of Iowa.

26 (6) "Itinerant merchant" shall mean any person who transports  
27 personal property for sale by him within this state, by use of a motor  
28 vehicle, except as herein otherwise provided.

29 (b) The term "itinerant merchant" shall not mean or include the  
30 following:

31 (1) A person using a motor vehicle operated by him or his agent,  
32 for the transportation of milk, dairy products, grain, fruits, vegetables,  
33 livestock, poultry, or other agricultural products, produced or fed by  
34 him on a farm operated by him, including those instances in which an  
35 entire crop or field is purchased from a producer, or any person using  
36 a motor vehicle, for the transportation of newspapers, magazines, or  
37 books.

38 (2) A person transporting property when such transportation is  
39 incident to a business conducted by him at an established place of  
40 business operated by him, either within or without this state, and when  
41 said property is being transported to or from said established place of  
42 business, and when the entire course of such transportation extends  
43 not more than three hundred and fifty miles from said established  
44 place of business; provided, however, that when the entire course of  
45 said transportation is for the purpose of delivery of said property  
46 subsequent to sale thereof said three hundred and fifty miles restriction  
47 shall not apply.

48 (3) A person licensed under the provisions of sections 3148 or 3149,  
49 of the Code, 1935.

50 (4) A person operating in the manner of an itinerant merchant  
51 within a radius of fifty (50) miles from his residence, provided he has  
52 secured a permit to be issued him without charge on application to the  
53 county auditor or the department, said permit to set forth the city,  
54 town or township of his residence and the Iowa motor vehicle license  
55 number of the vehicle used by him. The permit shall be carried by  
56 such operator at all times.

57 (5) A salesman selling manufactured articles produced by his em-  
58 ployer who sells the same to retail dealers for the purpose of resale.

1 SEC. 2. No person shall engage in business or use any motor vehicle  
2 in this state as an itinerant merchant, as defined and fixed in section  
3 one (1) of this act, without complying with the act and without obtain-  
4 ing from the department the license required by this act.

1 SEC. 3. An applicant for a license to engage in business as an itiner-  
2 ant merchant shall be made to the department or county auditor upon  
3 forms to be prepared by the department. A separate application and  
4 license shall be required for each motor vehicle to be operated. In  
5 addition to any other essential information required by the depart-  
6 ment, said application shall state the following: Name and legal status  
7 of the applicant; his business address; if a natural person his resi-  
8 dence address; if not a natural person the names and business and  
9 residence addresses of the principal and managing officers, agents or

10 partners; a general description of the business to be conducted and  
11 the area in this state in which it will be conducted; an exact descrip-  
12 tion of the motor vehicle to be used including the make, type, manufac-  
13 turer's rated loading capacity, motor number, serial number, place  
14 where registered, and registration or license number; such application  
15 shall be sworn to.

16 Upon payment of the license fee as hereinafter determined, the de-  
17 partment shall issue a license which shall entitle the applicant to be  
18 an itinerant merchant. The fee shall be based upon the maximum  
19 weight of the load which said merchant may transport at any one time  
20 and shall be as follows: On not to exceed one thousand (1000) pounds  
21 at one time, ten dollars (\$10.00); on not to exceed three thousand  
22 (3000) pounds at one time, twenty-five dollars (\$25.00); on a load in  
23 excess of three thousand (3000) pounds at one time, forty dollars  
24 (\$40.00). Provided however that the license fee of an itinerant mer-  
25 chant for transportation of property in a motor vehicle which is  
26 licensed under Chapter 134, Acts of the Forty-seventh General Assem-  
27 bly shall be the sum of two dollars (\$2.00) regardless of the weight of  
28 the load. The fee shall be reduced twenty-five (25) per cent if the  
29 license is obtained after March 31st and before July 1st in any year;  
30 fifty (50) per cent if after June 30th and before October 1st; and  
31 seventy-five (75) per cent if after September 30th. Each license  
32 shall expire at the end of the calendar year.

1 SEC. 4. (a) **Insurance policies and bonds required.** No license  
2 shall be issued by the department until the applicant shall have filed  
3 with each application, and the same have been approved by the depart-  
4 ment, an insurance policy and a bond issued by a company as herein  
5 defined authorized to do business within the state of Iowa as follows:

6 (1) An indemnity bond in the penal sum of two hundred and fifty  
7 dollars (\$250.00) for an itinerant merchant operating with more than  
8 twenty-five hundred (2500) pounds actual load. Such bond shall be in  
9 such form as may be prescribed by the department for the purpose of  
10 protecting the public against fraud, conditioned upon the use of honest  
11 weights, measures, and grades, if the commodities to be handled by  
12 the itinerant merchant are those customarily sold by weight, measure  
13 and grade; accurate representation as to quality or class of such com-  
14 modities, and the actual payment of checks, drafts, debentures or other  
15 securities delivered by such itinerant merchant in exchange for the  
16 purchase of commodities to be handled by him. The surety on such  
17 bond shall be a surety company authorized to engage in the surety  
18 business in this state. In such bond the surety shall appoint the head  
19 of motor vehicle department the agent of the surety for the service  
20 of process in the event that personal service cannot be had upon it  
21 within the state and shall designate the post office address to which  
22 process against said surety in any suit on said bond may be sent or  
23 served. Whenever the bond provided for in this section shall be ex-  
24 hausted, the department shall forthwith cancel the license. Said license  
25 so cancelled shall be renewed for the balance of the period for which  
26 issued by filing an additional bond with corporate surety in like amount  
27 conditioned as required in the previous bond.

28 Nothing in this section shall be construed to impose upon the surety  
29 on any such bond a greater liability than the total amount thereof or

30 the amount remaining unextinguished by any prior recovery or re-  
31 coveries as the case may be.

32 No suit or action against the surety on any such bond shall be  
33 brought later than one year from the accrual of the cause of action  
34 thereon.

35 (2) A liability insurance policy which shall bind the obligors to pay  
36 damages for injuries to persons and damage to property resulting from  
37 the negligent operation of the motor vehicle operated under authority  
38 of the itinerant merchant's license, said policy or bond to be conditioned  
39 to pay any sum up to five thousand dollars (\$5000.00) for personal  
40 injury to or death of one individual, and up to ten thousand dollars  
41 (\$10,000.00) for personal injuries or deaths resulting from any single  
42 accident, and up to one thousand dollars (\$1000.00) for damage to  
43 property in any single accident.

44 (b) Every insurance policy and bond filed with the department  
45 under the provisions of this act shall contain an endorsement or provi-  
46 sion that the same shall not be cancelled by the obligor, shall not expire,  
47 and shall not become reduced in amount, until ten days after notice  
48 thereof by registered United States mail has been sent to the depart-  
49 ment. Upon receipt of such notice the department shall immediately  
50 send the itinerant merchant at his last known address by registered  
51 United States mail, return receipt requested, a notice advising him that  
52 unless a new insurance policy or bond is filed prior to the time such can-  
53 cellation, expiration or reduction becomes effective, the license of such  
54 itinerant merchant shall be revoked at the time such cancellation, ex-  
55 piration or reduction becomes effective. If a new policy or bond is not  
56 filed in accordance with such notice the department must revoke said  
57 license at said time.

58 (c) Any person having a cause of action against the itinerant mer-  
59 chant arising out of the matters described in paragraph one (1) of  
60 subsection (a) of this section may join said itinerant merchant and  
61 the surety on his bond in the same action, or may sue said surety with-  
62 out joining said itinerant merchant in the action if the itinerant mer-  
63 chant is deceased or if it is impossible to obtain jurisdiction of his  
64 person within the state.

1 SEC. 5. Before a license shall issue, the applicant shall sign and  
2 file with the department an irrevocable power of attorney appointing  
3 the department his agent to accept service of original notice, in the  
4 event that personal service cannot be had upon the applicant in this  
5 state, for all causes of action against him arising out of the conduct of  
6 his business as an itinerant merchant and the operation of the motor  
7 vehicle described in the application.

1 SEC. 6. Whenever service of original notice in any cause of action  
2 described in section five (5) of this act cannot be made upon the itiner-  
3 ant merchant and/or the bonding company within the state of Iowa,  
4 such service may be made upon either or both by sending sufficient  
5 copies of such original notice to the department by registered United  
6 States mail. The department shall immediately upon receipt thereof  
7 indorse upon each copy the date and hour received and shall file one  
8 copy, whereupon service of said original notice shall be deemed to be  
9 completed upon said itinerant merchant and/or said bonding company  
10 as of the date of said filing. The department shall immediately send

11 one copy of said original notice to said itinerant merchant and/or one  
12 copy to said bonding company at the last known address of each, return  
13 receipt requested. The venue of any such action may be laid in any  
14 county of this state in which said cause of action arose, or in any  
15 other place authorized by law.

1 SEC. 7. Upon the approval of the application and upon compliance  
2 with the terms of this act, the department shall issue to the applicant  
3 a license as an itinerant merchant. Such license shall be numbered,  
4 shall specifically describe the itinerant merchant and the motor vehicle  
5 as they are described in the application, and shall at all times be carried  
6 in the cab of the motor vehicle described and be subject to inspection  
7 by any proper person. The department shall also issue to the itinerant  
8 merchant a license plate containing the same number as the license,  
9 of distinctive color and size, which shall at all times be displayed on  
10 the rear of the motor vehicle described in the license.

1 SEC. 8. No license or license plate issued pursuant to this act may  
2 be sold or transferred, and no license or license plate may be trans-  
3 ferred from one vehicle to another.

1 SEC. 9. The department may revoke any license or permit issued  
2 under the provisions of this act after proper hearing before it, by the  
3 sending of due notice thereof by registered letter, to the itinerant mer-  
4 chant at his last known address, return receipt requested, not less than  
5 twenty days before the date of said hearing, for any of the following  
6 causes:

7 (a) Failure to comply with the provisions of this act or to pay the  
8 sales tax as provided by law or misrepresentation of the source, condi-  
9 tion, quality, weight or measure of the products sold by the itinerant  
10 merchant.

11 (b) If any judgment recovered against any itinerant merchant with  
12 reference to the operation of his business remains unpaid for a period  
13 of six months, provided such judgment be not stayed under a super-  
14 sedeas bond upon appeal from such judgment.

15 The department shall give immediate notice of the revocation of any  
16 license issued under the provisions of this act, to the surety or insur-  
17 ance company issuing the bond or policy to the licensee as provided in  
18 section four (4) hereof.

1 SEC. 10. The department shall make and enforce such rules for the  
2 administration of this act as may be necessary and proper.

1 SEC. 11. All fees received by the department from the issuance of  
2 licenses shall be deposited monthly with the treasurer of state.

1 SEC. 12. Nothing in this act shall be construed to repeal or amend  
2 any statute delegating authority to any county or municipal corpora-  
3 tion to license, tax, or regulate peddlers or itinerant merchants; pro-  
4 vided that any person licensed under the provisions of this act shall not  
5 be required to obtain the license required by section 7174 of the Code,  
6 1935.

1 SEC. 13. Any person violating any provision of this act shall be  
2 guilty of a misdemeanor, except as herein otherwise provided, and shall  
3 upon conviction thereof be punished by a fine of not more than one

4 hundred dollars (\$100.00) or by imprisonment in the county jail not  
5 exceeding thirty days.

1 SEC. 14. Any county attorney, may commence an action in any  
2 court of competent jurisdiction, in the name of the state as plaintiff  
3 on the relation of such county attorney, to enjoin any person from vio-  
4 lating any of the provisions of this act. Such action may be main-  
5 tained upon due showing that the defendant has violated any of the  
6 provisions of this act.

1 SEC. 15. It is hereby declared the intention of the legislature that  
2 no section, paragraph, sentence, clause, phrase, or word of this act is  
3 an inducement to the enactment of any other part or portion of the  
4 same; and if any part or portion of this act should be held by any court  
5 of competent jurisdiction to be unconstitutional, such decision shall  
6 not affect the validity of the remainder of this act.

1 SEC. 16. This act, being deemed of immediate importance, shall  
2 become effective from and after May 15, 1939, after its previous pub-  
3 lication in the Waterloo Daily Courier, a newspaper published at Wa-  
4 terloo, Iowa, and in the Cedar Falls Record, a newspaper published at  
5 Cedar Falls, Iowa.

Approved May 16, 1939.

I hereby certify that the foregoing act was published in the Waterloo Daily Courier,  
May 18, 1939, and the Cedar Falls Record, May 20, 1939.

EARL G. MILLER, *Secretary of State.*

## CHAPTER 210

### TAX SALE CERTIFICATES

#### H. F. 317

AN ACT to amend section seventy-two hundred sixty-five (7265), code, 1935, relating to  
assignments and compromise of certificates of purchase by the board of supervisors.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section seventy-two hundred sixty-five (7265), Code,  
2 1935, is hereby amended by inserting after the period in line ten (10)  
3 the following:

4 When the county acquires a certificate of purchase and has the same  
5 in its possession for one year, or more, the board of supervisors may  
6 compromise and assign the said certificate of purchase, with the writ-  
7 ten approval of all tax-levying and tax certifying bodies having any  
8 interest in said general taxes. All money received from assignment of  
9 said certificates shall be apportioned to the tax-levying and certifying  
10 bodies in proportion to their interests in the taxes for which said  
11 real estate was sold.

Approved April 15, 1939.