

A BILL

FOR AN ACT TO PREVENT AND PUNISH FRAUD IN SALES OF GOODS, WARES AND MERCHANDISE AT PUBLIC OR PRIVATE SALE BY ITINERANT VENDORS, AND TO REGULATE SUCH SALES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SECTION 1. The words "itinerant vendors" for the purposes of this act shall be construed
2 to mean and include all persons, both principals and agents, who engage in temporary or
3 transient business in this state, either in one locality or in traveling from place to place sell-
4 ing goods, wares and merchandise, and who for the purpose of carrying on such business,
5 hire, lease or occupy any building or structure for the exhibition and sale of such goods,
6 wares and merchandise.

SEC. 2. The provisions of this act shall not apply to sales made to dealers by commercial
2 travelers or selling agents in the usual course of business, nor to *bona fide* sales of goods,
3 wares and merchandise by sample for future delivery, or to hawkers on the streets or ped-
4 dlers from vehicles.

SEC. 3. Every itinerant vendor who shall sell or expose for sale, at public or private sale,
2 any goods, wares or merchandise without state or local license therefor, issued as hereinafter
3 provided, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding
4 fifty dollars or by imprisonment not exceeding sixty days or by both such fine and imprison-
6 ment.

SEC. 4. All persons, both principals and agents, who shall by circular, handbill, news
2 paper, or in any other manner advertise any such sales as those referred to in the section
3 last preceding, before licenses shall be issued to the vendor, shall be guilty of a misdemeanor
4 and shall be punished by fine not exceeding fifty dollars or imprisonment not exceeding
5 sixty days, or by both such fine and imprisonment.

SEC. 5. It shall be the duty of every itinerent vendor, whether principal or agent, before
2 commencing business to take out a state license and local licenses in the manner hereinafter
3 set forth, but nothing herein contained shall affect the right of any municipal corporation to
4 pass such ordinances relative to itinerent vendors, as may be permissable under the general
5 law, or under their respective charters.

SEC. 6. Every itinerent vendor desiring to do business in this state shall deposit with the
2 secretary of state the sum of five hundred dollars as a special deposit, and after such deposit,
3 upon application in proper form and the payment of a further sum of twenty-five dollars as a
4 state license fee, the secretary of state shall issue to him an itinerent vendor's license, author-
5 izing him to do business in this state, in conformity with the provisions of this act, for the
6 term of one year from date thereof. Every license shall set forth a copy of the application
7 upon which it is granted. Such license shall not be transferrable nor give authority to more
8 than one person to sell goods as an itinerent vendor, either by agent or clerk, or in any
9 other way than his own proper person, but any licensee may have the assistance of one or
10 more persons in conducting his business who shall have authority to aid that principal, but
11 not to act for or without him.

SEC. 7. All applications for licenses shall be sworn to, shall disclose the names and resi-
2 dences of the owners or parties in whose interest said business is conducted, and shall be
3 kept on file by the secretary of state; and a record shall be kept by him of all licenses issued
4 upon such applications. All files and records, both of the secretary of state and of the
5 respective town or city clerks, shall be in convenient form and open for public inspection.

SEC. 8. Before selling under said state license every itinerant vendor shall exhibit the
2 same to the recorder or clerk of the town or city where he proposes to make sales. And
3 upon payment to said recorder or clerk of a further local license fee, to be ascertained in the
4 manner provided in the following section, and the proof of payment of all such other license
5 fees, if any, as are legally chargeable upon local sales, the clerk shall record the said state
6 license in full and shall endorse upon it the words "local license fees paid," and shall affix
7 his official signature, together with the date of such endorsement. Any failure to obtain a
8 local license, and for proper endorsements made on the said license, shall subject the person
9 to the same penalty as though no state license had been issued.

SEC. 9. Any itinerant vendor, before making any sales of such goods, wares and
2 merchandise, shall furnish to the recorder or clerk of the city or town where any goods,
3 wares and merchandise are kept, or to be kept or exposed for sale, or sold by him or them, a
4 true statement of the average quantity and value of the stock of goods, wares and mer-
5 chandise so kept or exposed for sale. The person furnishing such statement shall make oath
6 that the same is true, and said oath may be administered by said clerk or any officer quali-
7 fied to administer oaths. Such clerk shall thereupon ascertain the amount to be paid for
8 the local license by a computation based upon the average valuation of such stock of goods,
9 wares and merchandise so kept or exposed for sale, in the ratio and of the rate per thousand
10 dollars of valuation of the last preceding tax levy made in such city or town; and upon the
11 receipt of the amount so fixed and ascertained shall issue to the person filing or furnishing
12 such statement a local license authorizing the sale of such goods, wares and merchandise

13 within the limits of such town or city, which license shall be and continue in force so long
14 as the licensee thereunder shall continuously keep and expose for sale in such city or town
15 such stock of goods, wares and merchandise, except that such license shall in any event
16 terminate and expire on the first day of May next following its date. If the statement
17 required by this section is not filed as aforesaid, the city council or board of trustees of the
18 city or town in which such goods are so kept or exposed for sale, or where such itinerant
19 vendor desires to sell such goods, wares and merchandise, shall thereupon fix the sum to be
20 paid for such license, which sum shall be binding upon the parties.

SEC. 10. Whoever neglects or refuses to file the statement required by section 9 of this
2 act, or whoever makes a false or fraudulent representation therein, shall be punished by a
3 fine of not less than five dollars nor more than twenty dollars for each and every day that
4 such goods, wares and merchandise are kept exposed for sale.

SEC. 11. Whenever a person liable therefor, and after demand made by the recorder or
2 clerk of the city or town in which he is located, refuses or neglects to pay the license fee
3 provided for in this act, the said recorder or clerk may in his own name, but for the use and
4 benefit of such city or town, maintain an action therefor in like manner as for his own debt.
5 Police and district courts and justices of the peace shall have concurrent jurisdiction of
6 complaints under section 4 of this act.

SEC. 12. No itinerant vendor shall advertise, represent or hold forth any sale as an insur-
2 ance, bankrupt, insolvent, assignee, trustee, testator, executor, administrator, receiver, whole-
3 sale or manufacturers' or closing out sale, or as a sale of any goods damaged by smoke, fire,
4 water or otherwise, or in any similar form, unless he shall, before so doing, state under oath
5 to the secretary of state, either in the original application for a state license or in a supple-
6 mentary application subsequently filed, and copy on the license all the facts relating to the
7 reasons and character of such special sale so advertised or represented, including a state-
8 ment of the names of the persons from whom the goods, wares and merchandise were
9 obtained, the date of delivery to the person applying for the license, and the place from
10 which said goods, wares and merchandise were last taken, and all details necessary to exactly
11 locate and fully identify all goods, wares and merchandise to be so sold.

SEC. 13. Any false statement in an application, either original or supplementary, for a
2 license, and any failure on the part of any licensee to comply with all the requirements of
3 the last preceding section shall subject said itinerant vendor to the same penalty as if he
4 had no license.

SEC. 14. All the licenses issued under this act shall expire by limitation one year from
2 the date thereof, and may be, if so desired, surrendered at any time prior thereto for can-
3 cellation.

SEC. 15. Upon the expiration and return or surrender of each state license the secretary of
2 state shall cancel the same, endorse the date of delivery and cancellation thereon, and place
3 the same on file. He shall then hold the special deposit of each licensee hereinbefore men-
4 tioned for the period of sixty days, and after satisfying any and all claims made upon the
5 same under the section next following, shall return said deposit or such portion of the same,
6 if any, as may remain in his hands, to the licensee depositing it.

SEC. 16. Each deposit made with the secretary of state shall be subject, so long as it
2 remains in his hands, to attachment and execution in behalf of creditors whose claims arise
3 in connection with business done in the state, and the secretary of state may be held to
4 answer as garnishee in any civil action in contract or tort brought against any licensee, and
5 the secretary of state shall pay over under order of court, or upon execution, such sum of
6 money as he may be chargeable with upon his answer or otherwise. Said deposit shall also
7 be subject to the payment of any and all fines and penalties incurred by the licensee through
8 violations of this act and the clerk of the court in which, or the trial justice by whom, such
9 fine or penalty is imposed shall thereupon notify the secretary of state of the name of the
10 licensee against whom such fine or penalty is imposed, and the secretary of state, if he has in his
11 hands a sufficient sum deposited by such licensee, shall pay the sum so specified to said clerk
12 or trial justice, and if the secretary shall not have a sufficient sum so deposited he shall make
13 payment as aforesaid of so much as he has in his hands. All claims upon deposit shall be
14 satisfied after judgment, fine or penalty, in the order in which notice of the claim is received
15 by the secretary of state until all such claims are satisfied or the deposit exhausted, but no
16 notices filed after the expiration of the sixty days' limit aforesaid, shall be valid. No deposits
17 shall be paid over by the secretary of state to licensees so long as there are any outstanding
18 claims or notices of claims against them respectively, unless he is satisfied that such claims
19 will not be prosecuted to final judgment^a or that no fine or penalty will be imposed.

SEC. 17. All acts and parts of acts inconsistent herewith are hereby repealed.