

## CHAPTER 76

## EDUCATIONAL INSTITUTIONS EMPLOYEES

S. F. 312

AN ACT to clarify section seventy-nine point one (79.1), Code of 1954, so as to include among those entitled to leave with pay when necessary by reason of sickness or injury, teachers and other employees of the institutions under the state board of education who are employed for nine (9) months or more during a year or a twelve (12) month period, and to provide for the accumulation of unused leave to a total of ninety (90) days for those employed thus when acquired over a period not exceeding four (4) consecutive years.

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

1 SECTION 1. Section seventy-nine point one (79.1), Code of 1954,  
2 is amended by inserting at the end of the section in line thirty-two  
3 (32) the following words: "It is further provided that employees of  
4 institutions under the state board of education\* who are employed for  
5 nine (9) months or more in any twelve (12) month period shall be  
6 entitled, in the discretion of the board, to a leave of absence with pay  
7 of two and one-half (2½) days for each month of employment when  
8 necessary by reason of sickness or injury, and such portion as is un-  
9 used may be accumulated to a total of ninety (90) days acquired over  
10 a period not exceeding four (4) consecutive years or consecutive  
11 twelve (12) month periods."

Approved April 28, 1955.

\*See chapter 131.

## CHAPTER 77

## TRANSIENT MERCHANTS

S. F. 146

AN ACT to require a license to engage in or conduct a business as a transient merchant at places outside of cities or towns, or within any city or town that has not by ordinance provided for the licensing of transient merchants.

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

1 SECTION 1. Definitions. The term "transient merchant" as used  
2 herein shall mean and include every merchant, whether an individual  
3 person, a firm, corporation, partnership or association, and whether  
4 owner, agent, bailee, consignee or employee, who shall bring or cause  
5 to be brought within the state of Iowa any goods, wares or merchandise  
6 of any kind, nature or description, with the intention of temporarily  
7 or intermittently selling or offering to sell at retail such goods, wares  
8 or merchandise within the state of Iowa. The term "transient mer-  
9 chant" shall also mean and include every merchant, whether an indi-  
10 vidual person, a firm, corporation, partnership or an association, who  
11 shall by himself or itself, or by agent, consignee or employee tempo-  
12 rarily or intermittently engage in or conduct at one or more locations a  
13 business within the state of Iowa for the sale at retail of any goods,  
14 wares or merchandise of any nature or description. A merchant en-  
15 gaging in business shall be presumed to be temporarily or intermit-  
16 tently in business unless it is the intention of such merchant to remain

17 continuously in business at each location where he is engaged in busi-  
18 ness within the state of Iowa as a merchant for a period of more than  
19 sixty (60) days. The provisions of this act shall not be construed to  
20 apply to persons selling at wholesale to merchants, nor to transient  
21 vendors of drugs, nor to persons running a huckster wagon, or selling  
22 or distributing live stock feeds, fresh meats, fish, fruit, or vegetables,  
23 nor to persons selling their own work or production either by them-  
24 selves or employees.

1     **SEC. 2.** It shall be unlawful for any transient merchant as herein  
2 defined, to sell, dispose of, or offer for sale any goods, wares or mer-  
3 chandise of any kind, nature or description, at any time or place within  
4 the state of Iowa, outside the limits of any city or town in the state of  
5 Iowa, or within the limits of any city or town in the state of Iowa that  
6 has not by ordinance enacted pursuant to the provisions of section  
7 three hundred sixty-eight point six (368.6), Code 1954, provided for  
8 the licensing of transient merchants, unless such transient merchant,  
9 as herein defined, shall have a valid license as herein provided and shall  
10 have complied with the regulations herein set forth.

1     **SEC. 3. Application for License.** Any transient merchant as de-  
2 fined herein, desiring a transient merchant's license shall at least ten  
3 days prior to the first day any sale is made, file with the secretary of  
4 state of the state of Iowa an application in writing duly verified by the  
5 person, firm, corporation, partnership or association proposing to  
6 sell or offer to sell at retail any goods, wares or merchandise, or to  
7 engage in or conduct a temporary or intermittent business for the sale  
8 at retail of any goods, wares or merchandise, which application shall  
9 state the following facts:

10     1. The name, residence and post-office address of the person, firm,  
11 corporation, partnership or association making the application, and if  
12 a corporation, the names and addresses of the officers thereof, and if a  
13 firm, partnership or association and not a corporation, the names and  
14 addresses of all members thereof.

15     2. If the application be made by an agent, bailee, consignee or em-  
16 ployee, the application shall so state and set out the name and address  
17 of such agent, bailee, consignee or employee and shall also set out the  
18 name and address of the owner of the goods, wares and merchandise  
19 to be sold or offered for sale.

20     3. The application shall state whether or not the applicant has an  
21 Iowa retailers sales tax permit and if the applicant has such permit,  
22 shall state the number of such permit.

23     4. If the applicant be a corporation, the application shall state  
24 whether or not the applicant is an Iowa corporation or a foreign corpo-  
25 ration, and if a foreign corporation, shall state whether or not such  
26 corporation is authorized to do business in Iowa.

27     5. The value of the goods to be sold or offered for sale or the average  
28 inventory to be carried by any such transient merchant engaging in  
29 or conducting an intermittent or temporary business as the case  
30 may be.

31     6. The date or dates upon which said goods, wares or merchandise  
32 shall be sold or offered for sale, or the date or dates upon which it is  
33 the intention of the applicant to engage in or conduct a temporary or  
34 intermittent business.

35 7. The location and address where such goods, wares or merchandise  
36 shall be sold or offered for sale, or such business engaged in or con-  
37 ducted.

1 **SEC. 4. Bond required.** At the time of filing said application and  
2 as a part thereof, the applicant shall file with the secretary of state a  
3 bond, with sureties to be approved by the secretary of state, in a penal  
4 sum two (2) times the value of the goods, wares or merchandise to be  
5 sold or offered for sale or the average inventory to be carried by such  
6 transient merchant engaged in or conducting an intermittent or tempo-  
7 rary business as the case may be as shown by the application, running  
8 to the state of Iowa, for the use and benefit of any purchaser of any  
9 merchandise from such transient merchant who might have a cause of  
10 action of any nature arising from or out of such sale against the appli-  
11 cant or the owner of such merchandise if other than the applicant; the  
12 bond to be further conditioned on the payment by the applicant of all  
13 taxes that may be payable by, or due from, the applicant to the state of  
14 Iowa or any subdivision thereof, the bond to be further conditioned for  
15 the payment of any fines that may be assessed by any court against  
16 the applicant for violation of the provision of this Act, and further  
17 conditioned for the payment and satisfaction of any and all causes  
18 of action against the applicant commenced within one (1) year from  
19 the date of sale thereof, and arising from such sale, provided, how-  
20 ever, that the aggregate liability of the surety for all such taxes,  
21 fines and causes of action shall in no event exceed the principal sum  
22 of such bond. In such bond the applicant and surety shall appoint  
23 the secretary of state, the agent of the applicant and surety for the  
24 service of process. In the event of such service, the agent upon whom  
25 such service is made shall within five (5) days after the date of  
26 service, mail by ordinary mail a true copy of the process served upon  
27 him to each party for whom he is served, addressed to the last known  
28 address of such party. Failure to so mail said copy shall not, how-  
29 ever, affect the jurisdiction of the court. Such bond shall contain the  
30 consent of the applicant and surety that the district court of the county  
31 in which the plaintiff may reside or Polk county, Iowa shall have  
32 jurisdiction of all actions against the applicant or surety, or both,  
33 arising out of the sale. The state of Iowa, or any subdivision thereof,  
34 or any person having a cause of action against the applicant or surety  
35 arising out of said sale may join the applicant and surety on such  
36 bond in the same action, or may in such action sue either the applicant  
37 or the surety alone.

1 **SEC. 5. Issuance of License.** Upon receiving an application for  
2 a transient merchant's license, the secretary of state shall investigate  
3 or cause to be investigated, the reputation and character of the ap-  
4 plicant. If, upon making such investigation, the secretary of state is  
5 satisfied that the statements and representations contained in the ap-  
6 plication are true, and that the applicant is of good reputation and  
7 character, and the holder of an Iowa retailer's sales tax permit, and  
8 if a foreign corporation, has authority to do business in the state  
9 of Iowa, he shall issue to the applicant a license as a transient mer-  
10 chant upon payment of the fee as herein prescribed for the period of  
11 time requested in said application and for use at the location and  
12 place where it is stated in said application the sale will be held or the

13 business conducted, both of which shall be set out in said license.  
14 Such license shall be valid only for the period of time and at the  
15 location and place described therein.

1     **SEC. 6. License Fee.** Prior to issuing the said transient merchant's  
2 license, the secretary of state shall collect for the state of Iowa a  
3 license fee in the sum of twenty-five dollars (\$25.00) for each day  
4 the applicant, as shown by his application, shall propose to sell or  
5 offer for sale any goods, wares or merchandise, or for each day the  
6 applicant, as shown by his application, proposes to engage in and  
7 conduct a business as a transient merchant as the case may be.

1     **SEC. 7. Misrepresentation.** It shall be unlawful for any transient  
2 merchant making sales or engaging in or conducting a business under  
3 a transient merchant's license to make any false or misleading state-  
4 ments or representation regarding any article sold or offered for sale  
5 by such transient merchant as to condition, quality, original cost, or  
6 cost to such transient merchant of any article sold or offered for  
7 sale or to sell or offer for sale goods, wares or merchandise of a value  
8 in excess of the value thereof as shown by said application, or to sell  
9 or offer for sale at retail any goods, wares or merchandise, or to  
10 engage in or conduct an intermittent or temporary business on any  
11 days or at any place other than those shown by such license.

1     **SEC. 8. Revocation.** The secretary of state may revoke any license  
2 issued under the provisions of this Act after proper hearing before  
3 him, by the sending of due notice of said hearing by registered letter  
4 to the "transient merchant" at his last known address, return receipt  
5 requested, not less than twenty (20) days before the date of said  
6 hearing, for any of the following causes:

7         1. For any violations of the provisions of this Act.  
8         2. For failure to pay the sales tax as provided by law or misrep-  
9         resentation of the source, condition, quality, weight or measure of the  
10         product sold by the "transient merchant".

11         3. If any judgment recovered against any "transient merchant"  
12         with reference to the operation of his business remains unpaid for a  
13         period of six (6) months provided such judgment be not stayed under  
14         supersedeas bond upon appeal from such judgment.

15         The secretary of state shall give immediate notice of the revocation  
16         of any license issued under the provisions of this chapter to the surety  
17         or sureties furnishing the bond provided for herein.

18         In the event of such revocation, no other "transient merchant"  
19         license shall be issued to such applicant for a period of two (2) years  
20         thereafter.

1     **SEC. 9. Penalty.** Any merchant, whether an individual person, a  
2 firm, corporation, partnership or association violating any of the pro-  
3 visions of this Act shall, upon conviction, be fined in a sum not to  
4 exceed one hundred dollars, (\$100.00) or be imprisoned not to exceed  
5 thirty (30) days in jail. Each sale made in violation of the provisions  
6 hereof shall be and constitute a separate offense.

1     **SEC. 10. Validity.** Should any provision of this Act be declared  
2 by a court of competent jurisdiction to be invalid, such decision shall  
3 not affect the validity of the Act as a whole or any part thereof, other  
4 than the part so declared to be invalid.

1 SEC. 11. This Act, being deemed of immediate importance, shall  
 2 take effect and be in full force from and after its passage and publi-  
 3 cation in the Daily Times Herald, a newspaper published at Carroll,  
 4 Iowa, and the Daily Freeman-Journal, a newspaper published at Web-  
 5 ster City, Iowa.

Approved April 19, 1955.

I hereby certify that the foregoing Act, Senate File 146, was published in the Daily Times Herald, Carroll, Iowa, April 23, 1955, and in the Daily Freeman-Journal, Webster City, Iowa, April 28, 1955.

MELVIN D. SYNHORST, *Secretary of State.*

## CHAPTER 78

### WORKMEN'S COMPENSATION

H. F. 111

AN ACT to amend section eighty-five point thirty-seven (85.37), Code 1954, relating to the compensation for employees who have received personal injuries.

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

1 SECTION 1. Section eighty-five point thirty-seven (85.37), Code  
 2 1954, is hereby amended by striking the word "twenty-eight" from  
 3 line eight (8) and by inserting in lieu thereof the word "thirty-two".

1 SEC. 2. Section eighty-five point thirty-seven (85.37), Code 1954,  
 2 is further amended by striking the word "twelve" in lines nine (9)  
 3 and eleven (11) and inserting in lieu thereof the word "fifteen".

Approved March 7, 1955.

## CHAPTER 79

### EMPLOYMENT SECURITY

S. F. 82

AN ACT relating to employment security so as to increase the maximum benefit amount and the maximum benefit period and to amend section ninety-six point three (96.3), Code 1954, relating thereto.

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

1 SECTION 1. Section ninety-six point three (96.3), Code 1954, is  
 2 hereby amended by striking from line seven (7) of subsection four (4)  
 3 the word "twenty-six" and by inserting in lieu thereof the word  
 4 "thirty".

1 SEC. 2. Section ninety-six point three (96.3), Code 1954, is hereby  
 2 amended by striking from line six (6) of subsection five (5) the word  
 3 "twenty" and by inserting in lieu thereof the word "twenty-four".

1 SEC. 3. Section ninety-six point three (96.3), Code 1954, is hereby  
 2 amended by striking from line fifteen (15) of subsection five (5) the  
 3 words "one hundred fifty" and by inserting in lieu thereof the words  
 4 "two hundred".

Approved March 8, 1955.