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CHAPTER 41.

PEDDLERS AND HAWKERS, HORSE TRADERS, AND FORTUNETELLERS

ARTICLE 1.

PEDDLERS AND HAWKERS

**SECTION 40‑41‑10.** License required of peddlers and hawkers.

No person shall as a hawker or peddler expose for sale or sell any goods, wares and merchandise in any county in this State unless he has received and is ready to produce and exhibit a license from the clerk of the court of common pleas of such county so to sell or expose for sale goods, wares and merchandise in such county.

**SECTION 40‑41‑20.** Issuance and term of license.

Such clerk shall issue licenses to hawkers and peddlers, to be good in his county until the last day of December next after the date of their issue, upon receiving from the applicant such fee therefor as the governing body of the county shall establish as the license fee for hawkers and peddlers in such county. Each license shall specify the sum paid therefor and the privileges granted thereby.

**SECTION 40‑41‑30.** Amount of fee fixed by governing body of county.

The governing body of each county shall fix and establish such license fees in its county at their first meeting in January of every year except as otherwise provided herein. Should the governing body of any county fail to fix such license fee at the designated meeting herein provided for, such fee may be fixed at any subsequent, regular or specifically called meeting of such governing body.

**SECTION 40‑41‑40.** Sale of medicines and the like from place to place without license unlawful.

It shall be unlawful for any person to travel as a hawker or peddler from place to place in this State and to sell or offer for sale any medicine, drug or compound to be used as a curative without first paying to the clerk of court in each county in which such person seeks to sell such medicine, drug or compound a fee of one hundred dollars for the use of such county and procuring from him a license permitting such person to sell such medicine, drug or compound within such county. Such license shall be good for twelve months from the date thereof. The license fee herein provided for shall be payable fifty dollars at the time of issuance of such license and fifty dollars six months from the date of such license. Upon the payment of the initial fifty dollars such licensee shall be permitted to sell the articles mentioned for a period of six months.

**SECTION 40‑41‑50.** Formulas of medicines and the like to be placed on packages or bottles.

Every package or bottle of any such medicine, drug or compound shall have plainly written or printed on it, in the English language, the formula of the contents thereof. Such formula shall be approved in writing by a regularly licensed practicing physician of this State and a copy of such approval shall be lithographed or printed on each package or bottle of such medicine, drug or compound.

**SECTION 40‑41‑60.** License required for erection of lightning rods.

It shall be unlawful for any person to erect or place upon any building within the State any lightning rod without first procuring from the clerk of the court of each county wherein business is proposed to be done a license so to do, for which shall be paid the sum of fifty dollars per annum for each such county. But in cities and towns collecting licenses for this class of work, persons who are residents of such cities or towns and pay such city or town license shall be exempt from payment of such county license when such work is done in the city or town in which such person resides. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than one year, in the discretion of the presiding judge.

**SECTION 40‑41‑70.** Sales prohibited within one‑half mile of religious meeting.

It shall be unlawful for any itinerant trader or tradesman, other than an established dealer of the community, to offer for sale any goods, wares or merchandise within one half of a mile of any camp ground or other place of religious meeting, while meetings are in progress, outside any incorporated town or city, except with the permission of the trustees or other board of management of such meeting. But this section shall not apply to vendors of fresh fruit or vegetables or any farm product. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined in a sum not exceeding fifty dollars or be imprisoned not exceeding twenty days.

**SECTION 40‑41‑80.** Inspection of licenses; arrest and trial.

Every magistrate and constable and the sheriff and all of his regular deputies shall, and every citizen may, demand and inspect the license of any hawker or peddler in his county who shall come under the notice of any of such persons, and any such officer shall, or such citizen may, arrest or cause to be arrested any hawker or peddler found without a good and valid license and bring such hawker or peddler before the nearest magistrate to be dealt with according to law.

**SECTION 40‑41‑90.** Exempt vendors and sales.

The provisions of this article, other than Sections 40‑41‑70 and 40‑41‑100 thereof, shall not extend to vendors of newspapers, magazines, vegetables, tobacco, provisions of any kind or agricultural products or to sales by sample by persons traveling for established commercial houses, but shall extend and apply to vendors of every other class and kind of goods, wares and merchandise and to sales by sample or otherwise by such hawkers and peddlers of stoves, ranges, clocks, lightning rods, sewing machines, pianos or organs.

**SECTION 40‑41‑100.** Penalties.

If any hawker or peddler sell or expose for sale any goods, wares or merchandise in any county in this State without having obtained a license for that purpose from the clerk of the court of common pleas of the county within which he is exposing for sale or selling such goods, wares and merchandise, as required by law, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than fifty dollars or imprisoned in the county jail not more than thirty days.

ARTICLE 3.

HORSE TRADING

**SECTION 40‑41‑210.** Itinerant horse trading without license unlawful.

It shall be unlawful for any person to follow the business of horse trading in any of the counties of this State by traveling from place to place without first obtaining from the clerk of the court of the county in which they wish to follow their trade a license permitting them to do so. Such a license shall be issued by the clerks of the court of the counties of this State to any person applying for one upon payment by the applicant of the sum of one hundred dollars. The license shall specify the name of the applicant, his former residence and shall be for a period of one year from the issuance thereof. But this section shall not be effective in any county until the governing body of such county authorize, by resolution, the collection of such tax, nor shall it apply to livery or sales stable owners who have a permanent residence within the State.

Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days for each and every offense.

**SECTION 40‑41‑220.** Encamping and trading in animals or commodities by nomadic individuals without license unlawful.

It is unlawful for any nomadic individual, or bands of nomads, to encamp or to trade horses, mules, or other animals or commodities within any county of this State, without first obtaining a license from the clerk of the court. The license fee is three hundred dollars.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than one year, or both.

ARTICLE 5.

FORTUNETELLERS

**SECTION 40‑41‑310.** Licenses required for itinerant fortunetellers.

It shall be unlawful for any person to follow the business of fortunetelling in any of the counties of this State, by traveling from place to place, without first obtaining from the clerk of the court of the county in which he wishes to follow his trade, a license permitting him to so do. Such license shall be issued by the clerks of court of the counties of this State to any person applying for it upon payment by the applicant of the sum of one hundred dollars. The license shall specify the name of the applicant and his former residence and shall be for a period of one year from the issuance thereof. But this section shall not be effective in any county until the county board of commissioners of such county authorize, by resolution, the collection of such tax. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days for each and every offense.

ARTICLE 9.

RECORDS OF RETAILERS

**SECTION 40‑41‑710.** Definitions; content of records; use of records to ascertain source of suspected stolen property.

(A) For purposes of this section, “retailer” means a retailer of a “transient business” or a “temporary business” as defined in Section 12‑36‑510.

(B) A retailer shall keep a record of the source of new merchandise the retailer offers for sale. The record may be a receipt or an invoice from the person who sold the merchandise to the retailer or any other documentation that establishes the source of the merchandise.

(1) The record or documentation must include:

(a) the physical address of the source;

(b) the date the merchandise was purchased by the retailer;

(c) the price paid for the merchandise;

(d) the quantity; and

(e) the name of source.

(2) The retailer shall keep the record at the same location as the new merchandise being offered for sale and shall maintain the record for one year after the merchandise is sold.

(C) Upon the request of a law enforcement officer, after forming a reasonable suspicion that the merchandise possessed by the retailer may have been stolen, the retailer shall produce the record of the source of new merchandise the retailer offers for sale.

(D) If the retailer fails to produce the requested record the officer may seize the merchandise and hold it in custody as evidence and the retailer may be punished as follows:

(1) Upon conviction for a first offense, the retailer is guilty of a misdemeanor and must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(2) Upon conviction of a second offense, the retailer must be fined not less than one thousand nor more than five thousand dollars or imprisoned for not less than thirty days nor more than sixty days, or both.

(3) Upon conviction of a third offense, the retailer’s Sales and Use Tax License must be revoked, and the retailer must be fined not less than one thousand nor more than five thousand dollars or imprisoned for not less than thirty days nor more than sixty days, or both.

(E) Merchandise confiscated pursuant to the provisions of this section may be disposed of in accordance with the provisions of Chapter 21, Title 27.

(F) The provisions of this section do not apply to a charitable organization offering merchandise for sale.