

Oklahoma Statutes Citationized
Title 19. Counties and County Officers
Chapter 34
Transient Merchant Licensing Act
Section 1601 - Short Title

Cite as: O.S. §. ___

Sections 1 through 11 of this act shall be known and may be cited as the "Transient Merchant Licensing Act".

Historical Data

Added by Laws 1985, c. 150, § 1, eff. November 1, 1985.

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Transient Merchant Licensing Act
Section 1602 - Definition

Cite as: O.S. §, ____

As used in the Transient Merchant Licensing Act:

1. "Transient merchant" means any person, firm, corporation, partnership, or other entity which engages in, does or transacts any temporary or transient business in this state, either in one locality or in traveling from place to place in this state, offering for sale or selling goods, wares, merchandise, or services, and includes those merchants who, for the purpose of carrying on such business, hire, lease, use, or occupy any building, structure, motor vehicle, railroad car, or real estate.
2. "Temporary or transient business" means any business or home improvement service; siding, roofing or resurfacing services conducted for the sale or offer for sale of goods, wares, or merchandise which is carried on in any building, structure, motor vehicle, mobile home, travel trailer, railroad car, or real estate for a period of less than two (2) years.
3. "Person" means any individual, corporation, partnership, association, or other legal entity.

Historical Data

Added by Laws 1985, c. 150, § 2, eff. November 1, 1985; Amended by Laws 1999, c. 399, § 1, eff. July 1, 1999 (superseded document available).

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Section 1603 - Inapplicability of Act.

Cite as: O.S. §. ____

A. The provisions of the Transient Merchant Licensing Act shall not apply to:

1. Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;
2. Wholesale trade shows or conventions;
3. Sales of goods, wares, or merchandise by sample, catalog or brochure for future delivery;
4. Fairs and convention center activities conducted primarily for amusement or entertainment;
5. Any general sale, fair, auction, or bazaar sponsored by any church or religious organization;
6. Any sale sponsored by schools and universities or any charitable organization;
7. Trade fairs;
8. Flea markets;
9. Garage sales held on the premises devoted to residential use;
10. Sales of crafts or items made by hand and sold or offered for sale by the person making such crafts or handmade items;
11. Sales of agricultural products, including Christmas trees and firewood;
12. Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of such premises;
13. Any person who maintains a permanent place of business in this state and has a registered agent therein upon whom process, notice, or demand permitted by law may be made;
14. Any person whose participation with a "transient merchant" or in the "temporary or transient business" is limited to providing any building, structure, motor vehicle, railroad car or real estate;
15. Fireworks; or
16. Bibles.

B. A transient merchant not otherwise exempted from the provisions of the Transient Merchant Licensing Act shall not be relieved or exempted from the provisions of the Transient Merchant Licensing Act by reason of associating himself temporarily with any local dealer, auctioneer, trader, contractor, or merchant or by conducting such temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor, or merchant.

Historical Data

Added by Laws 1985, c. 150, § 3, eff. Nov. 1, 1985.

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Section 1604 - Requirement to Secure a License.

Cite as: O.S. §. _____

No transient merchant shall transact business in any county in this state unless such merchant and the owners of any goods, wares, or merchandise to be offered for sale or sold, if such goods, wares, or merchandise are not owned by the merchant, shall have secured a license and have otherwise complied with the requirements of the Transient Merchant Licensing Act.

Historical Data

Added by Laws 1985, c. 150, § 4, eff. Nov. 1, 1985.

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Section 1605 - License Application - Contents.

Cite as: O.S. §. ___

A. Any transient merchant desiring to transact business in any county in this state shall make application for and obtain a license in each county in which such merchant desires to transact business. The application for license shall be filed with the court clerk, and shall include the following information:

1. The name and permanent address of the transient merchant making the application, and if the applicant is a firm or corporation the name and address of the members of the firm or the officers of the corporation, as the case may be;
2. If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and if the applicant is a corporation formed in a state other than the State of Oklahoma, the date on which such corporation qualified to transact business as a foreign corporation in the State of Oklahoma;
3. A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location of such proposed place of business;
4. The name and permanent address of the transient merchant's registered agent or office; and
5. The applicant has acquired all other required city, county, and state permits and licenses.

B. There shall be attached to the application a receipt or statement showing that any personal property taxes due on goods, wares, or merchandise to be offered for sale have been paid.

Historical Data

Added by Laws 1985, c. 150, § 5, eff. Nov. 1, 1985.

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 **Section 1606 - Design and Print of Appropriate Forms for License Applications.**

Cite as: O.S. §. ___

The court clerk in each county shall design and cause to be printed appropriate forms for applications for licenses and for the license certificates to be issued to applicants pursuant to the Transient Merchant Licensing Act.

Historical Data

Added by Laws 1985, c. 150, § 6, eff. Nov. 1, 1985.

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Section 1607 - Requirements to be Agents of Transient Merchants - List of Transient Merchants.

Cite as: O.S. §, ___

Each person designated by a transient merchant as his agent in the application for a license shall be a resident of the county and shall be an agent of the transient merchant upon whom any process, notice, or demand required or permitted by law to be served upon the transient merchant may be served. The agent shall agree in writing to act as such agent and a copy of the agreement to so act shall be filed by the applicant with the application for a license.

The court clerk of each county shall maintain an alphabetical list of all transient merchants in the county and the names and addresses of their agents.

If any transient merchant doing business or having done business in any county within the state shall fail to have or maintain an agent in the county or if such agent cannot be found at his permanent address, the court clerk shall be an agent of such transient merchant for service of all process, notices, or demands. Service on the court clerk shall be made by delivery to and leaving with him or any person designated by the clerk to receive such service, duplicate copies of the process, notice, or demand. When any such process, notice, or demand is served on the clerk, he shall immediately cause one copy thereof to be forwarded by registered or certified mail, return receipt requested, to the permanent address of the transient merchant. The provisions of this section shall not limit or otherwise affect the right of any person to serve any process, notice, or demand in any other manner now or hereafter authorized by law.

Historical Data

Added by Laws 1985, c. 150, § 7, eff. Nov. 1, 1985.

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Section 1608 - Fee for License Application - Bond.

Cite as: O.S. §. ___

Each application for a transient merchant license shall be accompanied by a license fee of Fifty Dollars (\$50.00) and by a cash bond or a surety bond issued by a corporate surety authorized to do business in this state in the amount of Two Thousand Dollars (\$2,000.00) or five percent (5%) of the wholesale value of any goods, wares, merchandise, or services to be offered for sale whichever sum is lesser. The surety bond shall be made payable to the State of Oklahoma and shall assure the payment by the applicant of all taxes that may be due from the applicant to the state or any political subdivision of the state, the payment of any fines that may be assessed against the applicant or its agents or employees for violation of the provisions of the Transient Merchant Licensing Act, and for the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares, merchandise, or services within one (1) year from the date of the sale by such transient merchant. The bonds shall be maintained so long as the transient merchant conducts business in the county and for a period of one (1) year after the termination of such business and shall be released only when the transient merchant furnishes satisfactory proof to the court clerk that it has satisfied all claims of purchasers of goods, wares, merchandise, or services from such merchant, and that all state and local sales taxes and other taxes have been paid.

Historical Data

Added by Laws 1985, c. 150, § 8, eff. Nov. 1, 1985.

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Section 1609 - Issuance of License Only upon Meeting all Requirements of Act - Transferability -

Validity.

Cite as: O.S. §. ____

A transient business license shall be issued only when all the requirements of the Transient Merchant Licensing Act have been met. Such license shall not be transferable, shall be valid only within the territorial limits of the issuing county, shall be valid only for a period of ninety (90) days, and shall be valid only for the business stated in the application. A license so issued shall be valid for only one person, unless such person shall be a member of a partnership or employee of a firm or corporation obtaining such license.

Historical Data

Added by Laws 1985, c. 150, § 9, eff. Nov. 1, 1985.

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Section 1610 - Requirement of License - Violations - Guilty of Misdemeanor.

Cite as: O.S. §, ___

Any person or entity that transacts a transient business as defined pursuant to the provisions of the Transient Merchant Licensing Act without having first obtained a license in accordance with the provisions of the Transient Merchant Licensing Act or who knowingly advertises, offers for sale, or sells any goods, wares, merchandise, or services in violation of the provisions of the Transient Merchant Licensing Act shall be guilty of a misdemeanor, punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00).

Historical Data

Added by Laws 1985, c. 150, § 10, eff. Nov. 1, 1985; Amended by Laws 1999, c. 399. § 2, eff. July 1, 1999 (superseded document available).

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Section 1611 - Duty of Sheriff and Other Law Enforcement Officers to Enforce Act.

Cite as: O.S. §. ___

It is the duty of the county sheriff and other law enforcement officers in each county and the district attorney for each county to enforce the provisions of the Transient Merchant Licensing Act.

Historical Data

Added by Laws 1985, c. 150, § 11, eff. Nov. 1, 1985.