

QUESTION AND ANSWERS REGARDING THE TRANSIENT MERCHANTS LICENSING ACT

WHO IS COVERED BY THE TRANSIENT MERCHANTS LICENSING ACT?

Any person who engages in, does or transacts any temporary business (less than six months each year) in the State, either in one locality or in traveling from place to place in the State, and includes 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.

IS ANYONE EXEMPT FROM LICENSING UNDER THIS ACT?

Yes. Certain wholesalers; the sales of merchandise via sample catalogue for future delivery; certain fairs and convention center activities; sales, fairs, and bazaars sponsored by church, religious, or non-profit or charitable organizations; garage sales held on residential property; sales of crafts and handmade items by the persons making the items; sales of agricultural products raised or produced by the sellers (except for nursery products and foliage plants); sales at residential premises at the invitation of the owner or legal occupant of the premises ; concession sales at school activities; sales of paraphernalia used in celebration of any nationally recognized holiday or used in connection with any school, university or college related activities; flea markets; retail fireworks establishments; gun shows; sales of coins, state or county fairs, expositions sponsored by government entities or by non-profit trade associations. *(For more information see KS Statute 19-2233)*

DOES A PERSON WHO HAS A PERMANENT BUSINESS LOCATION IN THE STATE FOR MORE THAN SIX MONTHS, BUT WHO MAY CARRY ON TRANSIENT BUSINESS AT OTHER LOCATIONS NEED A LICENSE?

No. If you have a permanent business location within the State of Kansas, you do not need a transient merchant's license.

WHAT DO I HAVE TO DO TO OBTAIN A LICENSE?

First, obtain an application form from the County Clerk's Office. Complete the application and return it to the County Clerk's Office, along with the following:

1. Sales Tax ID#, or a copy of your application from Kansas Department of Revenue showing you have applied for one.
2. A cash bond, which is 5% of the value of the merchandise to be sold (purchased from the County Clerk's) or a surety bond in the amount of \$2,000, whichever is less. Cash bonds are refundable after one year if all provisions of the laws are met, and all taxes are paid in full.
3. Copy of Registered Agent's Agreement (only if cash bond is purchased through the County Clerk's). Registered Agent must be a resident of Kansas. There will be a non-refundable fee of \$50.00 for the County Clerk to provide this service.
4. A license fee to be paid in cash, certified check, or money order for the amount of \$250.00.

HOW RAPIDLY CAN THE LICENSE BE ISSUED?

As soon as all items required in the application as discussed above have been met and checked, the procedure should not take more than 2 hours.

HOW LONG IS THE LICENSE IN EFFECT?

Licenses are valid for ninety (90) days from the date issued.

IS THE LICENSE TRANSFERABLE?

No.

CAN THE LICENSE BE EXTENDED?

There are no provisions for an extension in the law. At the end of the ninety-day period, the merchant must apply for a new license if he wishes to conduct business for more than the original term specified in the license.

IS THE LICENSE VALID STATEWIDE?

No. The license is valid only within the territorial limits of Sedgwick County.

DOES THIS MEAN THAT IF THE MERCHANT CONDUCTS BUSINESS IN SEVERAL COUNTIES ACROSS THE STATE, HE WOULD NEED TO OBTAIN A LICENSE IN EACH OF THE HOST COUNTIES?

Yes.

IF THE TRANSIENT MERCHANT OPERATES MORE THAN ONE TYPE OF BUSINESS, WILL HE NEED MORE THAN ONE LICENSE?

Yes. A license is valid only for the business purpose stated in the application.

WHO ENFORCES THE TRANSIENT MERCHANT LICENSING ACT?

The County Sheriff, other law enforcement officers of the County and the District Attorney.

WHAT IS THE PENALTY FOR CONDUCTING BUSINESS COVERED UNDER THIS ACT WITHOUT A LICENSE?

Violation of the provisions of this act is a Class A Misdemeanor, and is punishable by a fine of up to \$2,500.00 and up to 1-year imprisonment. (*Per KS Statute 21-4503a*)

WHO CAN I CALL UPON FOR FURTHER INFORMATION?

In Sedgwick County, you may contact the County Clerk's Office, (316-660-9223), the Consumer Fraud Division of the District Attorney's Office (316-660-3653), or you may call the Public Information Office of the Kansas Department of Revenue of Topeka (785-296-3041).