

§ 75-85-1 Definitions

§ 75-85-1. Definitions.

As used in this chapter, the following terms shall have the following meanings ascribed to them, unless the context clearly indicates otherwise:

(a) "Transient vendor" means any person who transacts transient business in this state either in one locality or by traveling from place to place in this state. The term includes a vendor who for the purposes of carrying on such business hires, leases, uses or occupies any building, structure, motor vehicle, railroad car or real property.

(b) "Transient business" means any business conducted for the sale of merchandise or services that is carried on at a particular location for a period of less than six (6) months in each year, even though the owner of such business may conduct the business at another location for more than six (6) months in each year.

(c) "Person" means an individual, corporation, association, partnership or other entity.

HISTORY:

Laws, 1988, ch. 581, § 1; Laws, 1994, ch. 522, § 3, eff from and after July 1, 1994.

§ 75-85-3 Application of chapter

§ 75-85-3. Application of chapter.

(1) The provisions of this chapter shall not apply to:

(a) Civic and nonprofit organizations or wholesale sales to retail merchants by commercial travelers;

(b) Wholesale trade shows or conventions;

(c) Sales of goods, wares, services or merchandise by sample, catalogue or brochure for future delivery;

(d) Fairs and convention center activities conducted primarily for amusement or entertainment;

(e) Any general sale, fair, circus, auction or bazaar sponsored by a church or religious organization;

(f) Garage sales held on premises devoted to residential use;

(g) Sales or repairs of crafts or sales or repairs of items made by hand by the person making the crafts or items;

(h) Duly licensed flea markets operating from a fixed location;

(i) Sales of agricultural, dairy, poultry, seafood or forest management products or services related to forest management or silvicultural activities, nursery products, foliage plants or ornamental trees, except such products or services sold at retail and not grown or produced within Mississippi; (all seafood vendors must comply with City Ordinance #400).

(j) Sales of agricultural services.

(2) A transient vendor not otherwise exempted from this chapter is not exempted from this chapter because of a temporary association with a local dealer, auctioneer, trader, contractor or merchant, or by conducting the transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

HISTORY:



§ 75-85-5 License required for transient vendor to transact business

§ 75-85-5. License required for transient vendor to transact business.

A transient vendor may not transact business in any county or municipality in this state unless the vendor, and the owner of the merchandise or provider of the services to be offered if the merchandise is not owned or the services are not provided by the vendor, has secured a license in accordance with this chapter and otherwise complied with this chapter.

HISTORY:

Laws, 1988, ch. 581, § 3, eff from and after October 1, 1988.

§ 75-85-7 Application for license

§ 75-85-7. Application for license.

(1) A transient vendor who desires to transact business in a county or municipality in this state shall apply for and obtain a license in each county and in each municipality in which the vendor desires to transact business. A license issued by a county authorizes a transient vendor to transact business outside of the municipalities in the county, and a license issued by a municipality authorizes a transient vendor to transact business within the municipality. The license application shall be filed with the county tax collector or municipal tax collector, as the case may be, and must include:

- (a)** The name and permanent address of the transient vendor making the application;
 - (b)** A statement describing the kind of business to be conducted, the length of time for which the applicant desires to transact the business, and the proposed location of the business;
 - (c)** The name and permanent address of the applicant's registered agent or office; and
 - (d)** Proof that the applicant has acquired all other required city, county and state permits and licenses. Such proof shall include a Mississippi sales tax number and, if the transient vendor desires to transact business in a municipality, such number shall include such municipality's sales tax diversion code.
- (2)** If the applicant is an association or a corporation, the applicant must also include the names and addresses of the members of the association or the officers of the corporation. If the applicant is a corporation, the application must state the date of incorporation and the state in which it was incorporated. If the applicant is a corporation organized under the laws of another state, the applicant must state the date on which the corporation qualified to transact business as a foreign corporation in this state.

HISTORY:

Laws, 1988, ch. 581, § 4; Laws, 1994, ch. 522, § 5, eff from and after July 1, 1994.

§ 75-85-9 State tax commission to prepare necessary forms

§ 75-85-9. State tax commission to prepare necessary forms.

The State Tax Commission shall prepare uniform forms for license applications, license certificates and license renewals issued under this chapter.

HISTORY:

Laws, 1988, ch. 581, § 5, eff from and after October 1, 1988.

§ 75-85-11 Registered agent for transient vendor; tax collector as agent for service of process

§ 75-85-11. Registered agent for transient vendor; tax collector as agent for service of process.

(1) Each applicant for a transient vendor license shall designate a registered agent on the license application. The registered agent must be a resident of the county or municipality for which the license is sought and shall be the agent on whom any process, notice or demand required or permitted by law to be served on the licensee may be served. The registered agent must agree in writing to act as the agent. The license applicant shall file a copy of the agreement with the license application.

(2) The county tax collector and the municipal tax collector shall maintain an alphabetical list of all transient vendors in the county or municipality, as the case may be, and the names and addresses of their registered agents.

(3) If a transient vendor who does business in a county or municipality fails to have or to maintain a registered agent in that county or municipality or if the designated registered agent cannot be found at the stated permanent address, the county tax collector or municipal tax collector, as the case may be, is the agent of the transient vendor for service of process, notices or demands. Service on the tax collector is made by delivering to his office duplicate copies of the process, notice or demand. If such a process, notice or demand is served on the tax collector, he shall immediately forward one (1) copy by registered or certified mail to the permanent address of the transient vendor.

(4) This section does not limit or otherwise affect the right of any person to serve a process, notice or demand in any other manner authorized by law.

HISTORY:

Laws, 1988, ch. 581, § 6, eff from and after October 1, 1988.

§ 75-85-13 License fee; bond requirements

§ 75-85-13. License fee; bond requirements.

(1) Each applicant for a transient vendor license shall include a license fee set by the governing authority of the county or municipality not to exceed Two Hundred Fifty Dollars (\$250.00) with the application, which fee shall be deposited in the general fund of the county or municipality that issues the license. The applicant shall also execute a cash bond or a surety bond issued by a corporate surety authorized to do business in this state in an amount that is the lesser of either Two Thousand Dollars (\$2,000.00) or five percent (5%) of the wholesale value of any merchandise or service to be offered for sale by the applicant. The surety bond shall be issued in favor of the state and shall be conditioned upon payment of: (a) all taxes due from the applicant to the state or to a political subdivision of the state; (b) any fines assessed against the applicant or the applicant's agents or employees for a violation of this chapter; and (c) any judgment rendered against the applicant or the applicant's agents or employees in a cause of action commenced by a purchaser of merchandise or services not later than one (1) year after the date the merchandise or services were sold by the applicant.

(2) The transient vendor shall maintain the bond during the period that the vendor conducts business in the county or municipality and for a period of one (1) year after the termination of the business. After the transient vendor furnishes satisfactory proof to the county tax collector or municipal tax collector, as the case may be, that the vendor has satisfied all claims of purchasers of merchandise from or services offered by the vendor and that all sales taxes and other applicable taxes have been paid, the bond shall be released.

HISTORY:

Laws, 1988, ch. 581, § 7; Laws, 1994, ch. 522, § 6, eff from and after July 1, 1994.

§ 75-85-15 Issuance of license; validity of license; renewal of license

§ 75-85-15. Issuance of license; validity of license; renewal of license.

(1) The county tax collector and the municipal tax collector shall issue a transient vendor license under this chapter only if all requirements of this chapter have been met. The license is not transferable and is valid only within the territorial limits of the issuing county or municipality. A license expires ninety (90) days after the day of issuance.

(2) A license may be renewed on payment of a Twenty-five Dollar (\$25.00) renewal fee and filing for renewal with the county tax collector or municipal tax collector, as the case may be, before the expiration of the current license. A license may be renewed only one (1) time after which a licensee must once again purchase a new license pursuant to the provisions of Section 75-85-13, Mississippi Code of 1972.

HISTORY:

Laws, 1988, ch. 581, § 8; Laws, 1989, ch. 561, § 2, eff from and after passage (approved April 19, 1989).

§ 75-85-17 Posting of sales tax number, license number and statement concerning sales receipt; vendor to keep running total of sales

§ 75-85-17. Posting of sales tax number, license number and statement concerning sales receipt; vendor to keep running total of sales.

While transacting his business, a transient vendor shall post in a prominent place, so that they may clearly be seen by purchasers of the merchandise or services which he is offering, his state sales tax number, his transient vendor license number, and a statement that he is required to give purchasers, at the time of payment, receipts for purchases that include sales tax. The postings required in this section shall be written in bold, legible letters and numbers not less than one (1) inch in height. The transient vendor shall keep a running total of his sales.

HISTORY:

Laws, 1988, ch. 581, § 9, eff from and after October 1, 1988.

§ 75-85-19 Penalties for violation of chapter

§ 75-85-19. Penalties for violation of chapter.

Any person who knowingly or intentionally operates a transient business without a valid license as provided by this chapter or who knowingly or intentionally advertises, offers for sale, or sells any merchandise or services in violation of this chapter shall, upon conviction, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than Five Hundred Dollars (\$500.00) or be imprisoned in the county jail not more than six (6) months, or be both fined and imprisoned. Such person may also be proceeded against by suit, and the tax collector may seize and sell any property of the person liable for the tax and penalty in the same manner as property of taxpayers delinquent for the payment of ad valorem taxes due on personal property may be distrained and sold.

HISTORY:

Laws, 1988, ch. 581, § 10, eff from and after October 1, 1988.