

Chapter 698

Peddlers and Jewelry Auctioneers

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CROSS REFERENCES

Licensing of:
Fish peddlers, 508.010, 508.185
Itinerant vendors of drugs and other products, 689.350
Retail produce peddlers, Ch. 585

698.040
Military or naval service, persons relieved from payment of fees, 408.450

PEDDLERS

698.010 Definitions. As used in ORS 698.010 to 698.090, unless the context requires otherwise:

(1) "Peddle" means and includes any sale or offering for sale or exposing for sale of any goods, wares or merchandise by a peddler in the pursuit of his occupation as a peddler.

(2) "Peddler" means and includes:

(a) Every person who, for himself or as agent of another, goes from place to place or from house to house, carrying for sale and offering or exposing for sale any goods, wares or merchandise.

(b) Every person who, for himself or as agent of another, goes from place to place or from house to house, selling or offering to sell for future delivery, by sample or catalog, at retail, to individual purchasers who are not dealers in the articles sold, any goods, wares or merchandise.

698.020 Peddling without license prohibited. No peddler shall peddle any goods, wares or merchandise in any county of this state without first obtaining a license to do so as provided in ORS 698.010 to 698.090.

698.030 Limitations on application of ORS 698.010 to 698.090. (1) ORS 698.010 to 698.090 do not apply to nor include any peddling or selling of any agricultural or farm products or nursery products by the producer thereof or his employe.

(2) ORS 698.010 to 698.090 do not apply to any incorporated city or town which, by its charter, is vested with power or authority to license peddlers or hawkers or itinerant vendors, except that no city or town shall require any license or impose any fee or charge for the peddling or selling of any agricultural or farm products produced from the soil of the State of Oregon by the producer thereof, or his employe, nor for the selling of nursery products.

698.040 Application for peddler's license; filing statement of goods to be sold; making deposit with county treasurer. (1) Every peddler, except itinerant vendors licensed under ORS 689.350, whether principal or agent, shall, before commencing business in any county of the state, make application in writing and under oath to the county treasurer for the county in which he proposes to make sales, for a county license. The application must state the names and

residences of the owners or parties in whose interest the business is conducted, and shall state the number of horses and vehicles to be used by him. At the same time he shall file a true statement under oath of the quantity and value of such stock of goods, wares and merchandise as are in the county for sale or are to be kept or exposed for sale in that county.

(2) He shall also at the time make a special deposit of money with the county treasurer equal to the amount of license fee which he shall pay to the county treasurer, which license fee for a peddler on foot is \$25 and for a peddler with a conveyance is \$100.

698.050 Issuance of license. Upon compliance with the requirements of ORS 698.040 by the applicant, the county treasurer shall issue to the applicant a peddler's license, authorizing him to do business in that county for the term of one year from the date thereof. Every license shall contain a copy of the application therefor. No license is transferable, and no license authorizes more than one person to peddle thereunder or authorizes any person to peddle thereunder as agent or servant of the licensee or authorizes any other person than the licensee himself to peddle thereunder.

698.060 Charges to which deposit is subject. Each deposit made with the county treasurer under ORS 698.040 is subject to all taxes legally chargeable to it and to attachment and execution on behalf of the creditors of the licensee whose claims arise in connection with the business done under his county license. The treasurer may be held to answer as garnishee in any civil action brought against any licensee, and shall pay over, under order of the court or upon execution, such amount of money as the licensee may be chargeable with upon the final determination of the case. The deposit is also subject to the payment of any and all fines and penalties incurred by the licensee through violations of any provisions of ORS 698.010 to 698.090, which shall be a lien upon the deposit, and shall be collected in the manner provided by law.

698.070 Treasurer to keep applications on file. The county treasurer of each county shall keep on file all applications for licenses issued thereon. All files and records of the county treasurer shall be in convenient form and open to public inspection.

698.080 Cancellation of expired licenses; disposition of deposits. Upon the expiration and return of each county license, the county treasurer shall cancel it, indorse thereon the cancellation and place it on file. He shall then hold the special deposit of the licensee for a period of 90 days from the date of the cancellation, and after satisfying any and all claims made upon the deposit under ORS 698.060, he shall return the deposit or such portion of it, if any, as may remain in his hands, to the licensee.

698.090 Jurisdiction of courts. Justice courts have concurrent jurisdiction with the circuit courts of prosecutions for violations of ORS 698.010 to 698.090.

698.100 to 698.200 [Reserved for expansion]

JEWELRY AUCTIONS; JEWELRY AUCTIONEERS

698.210 Definitions. As used in ORS 698.210 to 698.330:

(1) "Jewelry" includes gold, silver, plated ware, precious or semiprecious stones, mounted or unmounted, watches, clocks and goods, wares and merchandise commonly classified as jewelry and commonly offered for sale in jewelry stores.

(2) "Sale" means offer and sale of jewelry at auction.

698.220 Jewelry sales without license prohibited. (1) All sales are prohibited unless a license is obtained to allow such sale as provided for in ORS 698.210 to 698.330.

(2) No sale shall be licensed or held for a period of more than 30 consecutive days, legal holidays excepted, and no sale shall be licensed or held from December 1 to December 25, inclusive, of any year. Nor shall any sale be held or be open for business between 6 p.m. and 8 a.m.

(3) No sale shall be licensed or permitted unless it is held at the applicant's regularly established place of business, or at the place wherein his regular business has been operated for a period of at least one year prior to the application.

(4) Wherever any licensed sale is conducted the person to whom the license has been granted shall be in attendance at all times while the sale is being conducted. He shall be responsible for any violation of ORS 698.210 to 698.330.

698.230 Limitations on application of ORS 698.210 to 698.330. ORS 698.210 to 698.330 do not apply to any sale of second-hand jewelry or sale under or by virtue of any rule, order or judgment of any court, in relation to judicial sales conducted by court direction or court order only in a pending action before that court, or of any law respecting the collection of any tax or duty, either of this state, its political subdivisions, or the United States. Nor do ORS 698.210 to 698.330 apply to any sale of property belonging to this state or the United States, or to any sale by any trustee in bankruptcy, or any sale made by any executor, administrator or guardian authorized by an Oregon court to conduct such sale, personally, or by a court or county officer personally or by an officer of this state or of the United States in person.

698.240 Certain persons may not obtain license. No license for any sale shall be granted to any person, firm or corporation or to any agent, affiliate or assignee thereof, or to any person acting for any such person, firm or corporation, within the period of two years after the termination of a sale by that person, firm or corporation, licensed under ORS 698.210 to 698.330. No person who has been convicted of violating ORS 698.210 to 698.330 shall be granted a license or act as an auctioneer, or be employed in any manner at or in connection with any sale licensed under ORS 698.210 to 698.330 for a period of six years after such conviction.

698.250 Sales within two-year period. No license shall be granted for a sale if it appears that the applicant or any agent or affiliate or assignee or other person acting for him has, within the period of two years prior to the application, conducted a similar sale under ORS 698.210 to 698.330 either in the same place of business or at any other place.

698.260 Certain facts to be disclosed to bidders. At all sales the applicant and all persons participating in conducting it must truly represent at all times to the public the actual facts relating to the quality and manufacture and, if requested by a bidder or prospective bidder, the cost to the applicant of each article put up for sale.

698.270 False bidding prohibited. No person shall act at any sale as bidder, or what is commonly known as a "capper,"

"booster," or "shill," or offer to make any false bid to buy or pretend to buy any article sold or offered for sale.

698.280 Additions to listed stock prohibited. During the sale no additions shall be made to the stock of merchandise set forth in the inventory attached to the application for license. Nothing shall be offered for sale or sold at the sale which is in addition to the stock of merchandise described in the inventory, or which has been added to the applicant's stock within a period of 60 days prior to the date of the application for license.

698.290 Applications for licenses. All license applications for sales shall be made to and filed in the office of the Secretary of State and shall set forth the following:

(1) The name, residence, address and business address of the applicant.

(2) The type of business the applicant has been engaged in during the two years prior to the application.

(3) Whether the proposed sale is to be held at the applicant's existing regularly established place of business and wherein his regular business has been operated for at least one year prior to the application.

(4) The name, address and occupational history for the preceding two years of each person who will participate in conducting the sale.

(5) Whether the applicant will be present at the proposed sale.

(6) Whether any additions to the stock of merchandise proposed to be sold have been made within 60 days prior to the date of the application, and if so, the applicant shall furnish a separate inventory thereof containing all details as required in the regular inventory.

(7) Whether, after filing the application and until the end of the sale, the applicant will make or permit additions to be made to the stock of merchandise described in the required inventory.

(8) Whether he has conducted or held any sales within a period of five years prior to the application, and if so, a brief description as to the character of those sales and a statement of the time and place held.

(9) Whether the applicant has owned or conducted within one year prior to the application any other store or place of business than the one mentioned as his regular place

of business in the application, and, if so, where it was located and its character.

(10) The purpose for which the sale is to be held.

(11) He shall state whether he, and those participating in the conducting of the proposed sale will truly represent at all times to all persons attending, the actual facts regarding the quality and manufacture and, if required by the bidder or prospective bidder, the cost to him of each article put up for sale.

(12) Whether he has attached to the application a correct detailed inventory of the stock of jewelry proposed to be sold at the sale. Whether he has given each separate article in the inventory a number, and whether he has set forth opposite that item the actual cost price of it to him, and whether he agrees, in case a license is granted, to attach to each article a card or ticket with the number of the article indorsed thereon corresponding to the inventory number.

(13) Whether the applicant or any person he proposes to use as auctioneer or other employe at the proposed sale has been convicted of any violation of ORS 698.210 to 698.330 within six years prior to the application.

698.300 Inventory to accompany application; merchandise to be tagged. The applicant shall attach to his application a detailed inventory listing each article proposed to be sold, together with an inventory number. He shall also set forth opposite the description of each article the actual cost price to him. The applicant shall thereupon verify the application by his personal oath or affirmation. If the license is granted, he must, before the beginning of the sale attach to each article a card or ticket with the number of the article indorsed thereon, so that the number of each article described, and set opposite the description of the representative article, corresponds to the card or ticket number. No person shall, at any licensed sale, sell or offer for sale any jewelry which has been falsely described or concerning which any untruthful statement has been made as to its character, quality, kind or description or cost.

698.310 License fee; surety bond; issuance of license. Upon compliance with the requirements of ORS 698.210 to 698.330, the payment of a license fee of \$1,000, the furnishing of an undertaking issued by a surety

company authorized to do business in this state and satisfactory to the Secretary of State, and if the Secretary of State has no reasonable ground to deny the application, a license shall be granted to the applicant. The undertaking shall assure that the sale will be conducted in compliance with the requirements of ORS 698.210 to 698.330 and shall be equal to one-half of the cost value to the applicant of the jewelry inventoried for sale.

698.320 Suspension and restoration of licenses; appeals. The Secretary of State may suspend and restore licenses in the manner that he deems reasonable or necessary to assure compliance with the provisions of ORS 698.210 to 698.330. An appeal from any decision of the Secretary of State may be made to the circuit court of the county wherein the sale is held or proposed to be held by the applicant or any person alleging and showing himself to have been aggrieved by such decision.

698.330 Application of municipal ordinances. The license to hold a sale as required by ORS 698.210 to 698.330 shall not be in place of, but shall be in addition to, any such license required by the ordinances of any municipality in which such sale is to be held.

698.340 to 698.980 [Reserved for expansion]

PENALTIES

698.990 Penalties. (1) Violation of ORS 698.020 is punishable, upon conviction, by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail for not less than one month nor more than six months, or by both.

(2) Any violation of ORS 698.210 to 698.330 is punishable, upon conviction, by a fine not exceeding \$500 or by imprisonment in the county jail for not exceeding six months, or by both.