

CHAPTER 29
LICENSES AND LICENSE FEES

Sec.

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Enactment. Chapter 29 was added April 18, 2014, P.L.432, No.37, effective in 60 days.

Cross References. Chapter 29 is referred to in section 1202 of this title.

§ 2901. Licensing transient retail business.

(a) Authority.--A borough may, by ordinance, regulate and license transient merchants engaged in any transient retail business within the borough.

(b) Licensure.--The following shall apply:

(1) An ordinance under this section may prohibit the transient retail business without a license and provide for enforcement by penalties or other appropriate means.

(2) Except as set forth in paragraph (3), an ordinance under this section may set a license fee which bears a reasonable relationship to the cost of administering the ordinance and regulating and inspecting the transient retail business.

(3) Paragraph (2) does not apply as follows:

(i) Except as set forth in paragraph (ii), the ordinance may not impose a license fee on the following transient merchants:

(A) A farmer selling the farmer's own produce.

(B) A person selling personal property if the proceeds of the sale are to be applied to a charitable or philanthropic purpose.

(C) A manufacturer or producer in the sale of any of the following:

(I) Bread. This subclause includes a bakery product.

(II) Meat. This subclause includes a meat product.

(III) Milk. This subclause includes a milk product. This subclause does not include ice cream or another frozen dessert.

(ii) The exception under this paragraph does not apply to a transient merchant that is also selling other personal property not excepted under subparagraph (i).

(c) Registration.--An ordinance under this section may require that a transient merchant exempt under subsection (b)(2) register with the borough and otherwise be subject to all other provisions of the ordinance.

(d) Definition.--As used in this section, the term "transient merchant" means a person engaged in transient retail business for the sale of personal property, whether the business is conducted from a fixed location within the borough or by an individual engaged in peddling, soliciting or the taking of orders from house to house.

§ 2902. Licensure saved.

(a) Commonwealth.--Nothing contained in this chapter shall be construed to relieve a person from a statutorily imposed:

- (1) licensure requirement;
- (2) license tax; or
- (3) license fee.

(b) Boroughs.--A Commonwealth license tax or fee shall not preempt the registration, licensing or regulatory powers of a borough in accordance with this chapter unless the preemption is expressly authorized.

§ 2903. Licensing parking lots and parking garages operated for profit.

(a) Authority.--

(1) A borough may, by ordinance, regulate the business of operating parking lots or parking garages for profit within the borough and may require the lots or garages to reserve areas exclusively for parking by handicapped individuals. Under the ordinance:

(i) License or permit fees may be charged and collected from the operators of the parking lots or parking garages.

(ii) Security is subject to the following:

(A) Except as set forth in clause (B), the borough shall require from each operator of a parking lot or parking garage a bond to be approved by the council for the protection of the public from loss of or damage to vehicles parked, stored or placed under the jurisdiction of a parking lot or parking garage operator.

(B) Clause (A) shall not apply to parking lots or parking garages operated by a municipal authority or a parking authority.

(2) An ordinance under paragraph (1) must be consistent with 75 Pa.C.S. (relating to vehicles).

(b) Individuals with disabilities.--Nothing in this section may be construed to limit statutory and regulatory protections and prohibitions contained relating to the rights of disabled individuals.

§ 2904. Persons taking orders by samples.

(a) Prohibition.--A borough may not impose, levy or collect a license fee or mercantile tax upon a person that takes, by sample, from a dealer or merchant an order for merchandise on behalf of an individual or company that pays a license fee or mercantile tax at the individual's or company's chief place of business.

(b) Limitation.--Nothing in this section shall authorize a person to sell by retail to a person other than a dealer or merchant without payment of a license or permit fee.

§ 2905. Equality of residents and nonresidents.

A borough may not enact an ordinance imposing a license fee upon a manufacturer, including an agent and employee, that is a resident of this Commonwealth and solicits orders for or sells personal property manufactured in this Commonwealth if the borough could not legally impose the same license fee upon a manufacturer, including an agent and employee, that is a nonresident of this Commonwealth and solicits orders for or sells personal property manufactured outside this Commonwealth.

§ 2906. Insurance business.

A borough may not impose a license fee upon an insurance company, including an agent, or an insurance broker authorized to transact business under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.