

FIRE AND GOING-OUT-OF-BUSINESS
SALES AND AUCTIONS

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559.20 Definitions.--In construing this part, and each and every word, phrase or part thereof, where the context will permit, the definitions contained in s. 1.01, shall be applicable, and:

- (1) "Fire and other altered goods sale" is a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water, or other means.
- (2) "Going-out-of-business sale" is a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following sales: Adjusters, adjustment, alteration, assignees, bankrupt, benefit of administrators, benefit of creditors, benefit of trustees, building coming down, closing, creditor's committee, creditors, end, executors, final days, forced out of business, insolvents, last days, lease expires, liquidation, loss of lease, mortgage sale, receiver's, trustees, quitting business, removal. Any sale using any of the foregoing words or words of similar import, at the conclusion of which sale the business will not cease and be discontinued, and not publishing that fact or the qualified nature of said sale with equal prominence with each advertisement of such sale, shall be deemed to be a going-out-of-business sale.
- (3) "Goods" is meant to include any goods, wares, merchandise, or other property capable of being the object of a sale regulated hereunder.
- (4) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (5) The words "publish," "publishing," "advertising" and "advertisement" shall include any and all means of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertisement, by magazine advertisement, by handbill, by written notice, by printed display, by billboard display, by poster, by radio announcement, and any and all means including oral, written, or printed.
- (6) The word "shall" is always mandatory and not merely directory.

History.--s. 1, ch. 59-292.

559.21 Regulation of sales.--

(1) A person may not publish or conduct any sale of the type herein defined without a permit therefor. Such permit shall be issued by the tax collector, upon written application and verified by the person who, or by an officer of the corporation which intends to conduct such sale. Such application shall contain a description of the place where such sale is to be held, the nature of the occupancy, and whether by lease or sublease and the effective date of termination of such occupancy, the means to be employed in publishing such sale. Such application shall further contain, as part thereof, an itemized list of the goods, wares, and merchandise to be offered for sale.

(2) Upon receipt of such application and payment of the fee prescribed in s. 559.23, the tax collector shall examine the same, and may make such investigation as she or he may deem proper. The tax collector shall determine if the person or corporation that intends to conduct the sale owes any taxes with respect to the goods to be offered for sale. The tax collector may not issue a permit to such person or corporation until all delinquent taxes on such goods have been paid. If after such investigation she or he is satisfied as to the truth of the statements contained in such application, the tax collector may issue a license permitting the publication and conduct of such sale on the following terms:

- (a) The permit shall authorize the sale described in the application for a period of not more than 60 consecutive days, counting Sundays and legal holidays following the issuance thereof.
- (b) The permit shall authorize only the one type of sale described in the application at the location named therein.
- (c) The permit shall authorize only the sale of goods described in the inventory attached to the application.
- (d) Upon being issued a permit hereunder for a going-out-of-business sale, the permittee shall surrender to the tax collector all other business licenses she or he may hold at that time applicable to the location and goods covered by the application for a permit under this part, which license or licenses shall be transmitted by the tax collector to the licensing authority for cancellation.
- (e) Any permit herein provided for shall not be assignable or transferable.

History.--s. 2, ch. 59-292; ss. 12, 35, ch. 69-106; s. 198, ch. 77-104; s. 1, ch. 93-82; s. 37, ch. 95-312; s. 811, ch. 97-103.

559.22 Duties of permittee.--A permittee under this part shall:

- (1) Make no additions whatsoever, during the period of authorized sale, to the stock of goods set forth in the inventory attached to the application for permit.
- (2) Specify the registration or permit number of the permit issued by the tax collector within any advertising of the sale.
- (3) Refrain from employing any untrue, deceptive or misleading advertising.
- (4) Conduct the authorized sale in strict conformity with any advertising or holding out incident thereto.

History.--s. 2, ch. 59-292; s. 2, ch. 93-82.

559.23 Fees.--Upon filing an application for a permit to advertise and conduct a sale, or special sale, the applicant shall pay to the tax collector a fee in the sum of \$50 which shall be deemed income of his or her office. If an application is disapproved, such payment shall be retained as and for the cost of investigating the statements contained in such application, and the applicant.

History.--s. 3, ch. 59-292; s. 11, ch. 83-255; s. 3, ch. 93-82; s. 812, ch. 97-103.

559.24 Enforcement.--

- (1) Upon commencement of a sale, the permit issued shall be prominently displayed near the entrance to the premises. Duplicate originals of the application, the stock list pursuant to which the permit was issued, and the permit shall be forwarded to the tax collector, who may examine all merchandise in the premises for comparison with the stock list.
- (2) All advertisements or advertising and the language contained therein must be in accordance with the purpose of the sale as stated in the application pursuant to which a permit was issued, and the wording of such advertisements may not vary from the wording as indicated in the application. Such advertising must contain a statement in these words and no others:

Sale held pursuant to _____ County, _____ sale No. _____ granted the _____ day of _____, (in such blank spaces shall be indicated the type of sale, the permit number and the requisite dates.)

- (3) Suitable books and records as prescribed by the tax collector shall be kept by the permittee and shall during business hours be available to the sheriff. At the close of business each day the stock list attached to the application shall be revised and those items disposed of during such day shall be so marked thereon.

History.--s. 4, ch. 59-292; ss. 12, 35, ch. 69-106; s. 4, ch. 93-82; s. 38, ch. 95-312.

559.25 Exemptions.--The provisions of this part shall not apply to or affect the following persons:

- (1) Persons acting pursuant to an order or process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officers such as sheriffs and marshals, and similar public officers.
- (3) Duly licensed auctioneers, selling at auction.
- (4) Persons holding licenses or permits duly issued to conduct such sales by municipalities having municipal ordinances similar to this part.

History.--s. 5, ch. 59-292.

559.26 Violations.--

(1) Any person who violates this part is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who publishes an advertisement for a fire and other altered goods sale or going-out-of-business sale, which advertisement does not conform to the requirements specified in s. 559.24, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 6, ch. 59-292; s. 554, ch. 71-136; s. 5, ch. 93-82.

559.27 Tag required reflecting value of item offered for sale at auction.--

(1) At all auctions of goods at public outcry, the auctioneer or her or his agent shall place or cause to be placed upon each item to be offered at auction a tag showing the value attributed to the item at the time it is offered. Such tag shall remain affixed to the item and shall be delivered to the buyer along with the item at the time of sale.

(2) The provisions of this section shall not apply:

(a) To agricultural commodities, livestock, agricultural equipment, automobiles, or other items of goods which are most commonly marketed at auction;

(b) When a value is not expressed by the auctioneer as a guide to the bidder; or

(c) To auctions held as a result of court action.

(3) Violation of this section shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--ss. 1, 2, 3, ch. 70-151; s. 555, ch. 71-136; s. 813, ch. 97-103.