

HOUSE BILL NO. 6435

November 12, 2020, Introduced by Reps. Meerman and Steven Johnson and referred to the Committee on Government Operations.

A bill to amend 1925 PA 51, entitled

"An act to license and regulate the business of transient merchants, to provide penalties for the violation of this act, and to repeal certain inconsistent acts,"

by amending section 7 (MCL 445.377), as amended by 1988 PA 292.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) A person ~~who~~**that** violates this act is guilty of a
2 misdemeanor, punishable by a fine of \$1,000.00 or 10% of the value

1 of any property impounded ~~pursuant to~~**under** this section, whichever
2 amount is greater, and court costs. If the county sheriff or local
3 law enforcement officer has probable cause to believe that a person
4 is engaging in business as a transient merchant without ~~having~~
5 first ~~obtained~~**obtaining** a license in the manner provided for in
6 this act, the county sheriff or local law enforcement officer shall
7 immediately take into custody and impound all goods offered for
8 sale by the transient merchant until the matter ~~has been~~**is**
9 adjudicated by a court of proper jurisdiction.

10 (2) ~~The~~**A** transient merchant may obtain ~~his or her~~**the**
11 **transient merchant's** impounded goods ~~prior to~~**before** adjudication
12 by paying, either in cash or by security bond, \$1,000.00 or an
13 amount equal to the value of the impounded property, whichever
14 amount is greater.

15 (3) If ~~the~~**a** transient merchant is convicted of violating this
16 act and fails to pay the fine and court costs provided in
17 subsection (1) within 7 days after the date of conviction, the
18 sheriff or local law enforcement officer shall sell the impounded
19 goods ~~by publishing notice~~**at a public sale and shall provide**
20 **public notice of the sale. All of the following apply to the public**
21 **notice:**

22 (a) **Before January 1, 2022, the notice must be published** in a
23 newspaper of general circulation in the county at least 5 days
24 before the sale.

25 (b) **Beginning January 1, 2022, at least 14 days before the**
26 **sale, notice must be posted as provided in the local government**
27 **public notice act.**

28 (c) The notice ~~shall~~**must** describe the property and ~~shall~~**must**
29 state the time and place of public sale. ~~at which~~

1 **(4) At a public sale as described in subsection (3), the**
2 **highest bidder may purchase the** impounded property. ~~may be~~
3 ~~purchased by the highest bidder.~~

4 **(5) ~~(4)~~**The sheriff or local law enforcement officer shall
5 conduct the sale and shall deposit from the proceeds of the sale an
6 amount equal to the fine and court costs ~~provided in~~ **required under**
7 subsection (1) with the court in which the transient merchant was
8 convicted. Any proceeds of the sale ~~which~~ **that** exceed the fine
9 ~~shall~~ **must** be returned to the transient merchant. Any sheriff or
10 local law enforcement officer disposing of property in the manner
11 provided in this act ~~shall~~ **is** not ~~be~~ liable to the transient
12 merchant for the sale.

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Bill No. ____ or House Bill No. 6440 (request no.
15 02449'19) of the 100th Legislature is enacted into law.