Article 32.

Peddlers, Itinerant Merchants, and Specialty Markets.

§ 66-250. Definitions.

The following definitions apply in this Article:

(1) Itinerant merchant. – A person, other than a merchant with an established retail store in the county, who transports an inventory of goods to a building, vacant lot, or other location in a county and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

(2) Peddler. – A person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods.

(3) Person. – An individual, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit.

(4) Specialty market. – A location, other than a permanent retail store, where space is rented to others for the purpose of selling goods at retail or offering goods for sale at retail.

(5) Specialty market operator. – A person, other than the State or a unit of local government, who rents space, at a location other than a permanent retail store, to others for the purpose of selling goods at retail or offering goods for sale at retail.

(6) Specialty market vendor. – A person, other than a merchant with an established retail store in the county, who transports an inventory of goods to a specialty market and, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail. (1996, 2nd Ex. Sess., c. 14, s. 24.)

§ 66-251. Itinerant merchant and peddler must have permission of property owner.

An itinerant merchant or a peddler who travels from place to place by vehicle must obtain a written statement signed by the owner or lessee of any property upon which the itinerant merchant or peddler offers goods for sale giving the owner's or lessee's permission to offer goods for sale upon the property of the owner or lessee. This statement must clearly state the name of the owner or lessee, the location of the premises for which the permission is granted, and the dates during which the permission is valid. The statement must be conspicuously and prominently displayed, so as to be visible for inspection by patrons of the itinerant merchant or peddler, at the places or locations at which the goods are to be sold or offered for sale. (1996, 2nd Ex. Sess., c. 14, s. 24.)

§ 66-252. Display and possession of certificate of registration.

(a) When Required. – A person who sells tangible personal property at a specialty market, other than the person's own household personal property, is considered a retailer under G.S. 105-164.4 and must obtain a certificate of registration from the Department of Revenue before the person may engage in business. An itinerant merchant must keep the merchant's certificate of registration conspicuously and prominently displayed, so as to be visible for inspection by patrons of the itinerant merchant at the places or locations at which the goods are to be sold or offered for sale. A peddler must carry the peddler's certificate of registration when the peddler offers goods for sale and must produce the certificate upon the request of any customer, State or local revenue agent, or law enforcement agent. A specialty market vendor must keep the certificate of registration conspicuously and prominently displayed, so as to be visible for

inspection by patrons of the specialty market vendor at the places or locations at which the goods are to be sold or offered for sale. A specialty market operator must have its certificate of registration, if any, available for inspection during all times that the specialty market is open and must produce it upon the request of any customer, State or local revenue agent, or law enforcement agent.

(b) Compliance. – The requirement that a certificate of registration be displayed is satisfied if the vendor displays either of the following:

(1) A copy of the certificate.

(2) Evidence that the certificate has been applied for within 30 days before the date the certificate was required to be displayed. (1996, 2nd Ex. Sess., c. 14, s. 24; 1998-121, s. 6; 2019-169, s. 7.)

§ 66-253. Display of identification upon request.

Upon the request of any customer, State or local revenue agent, or law enforcement agent, a peddler, an itinerant merchant, a specialty market operator, or a specialty market vendor must provide its name and permanent address. A peddler, itinerant merchant, specialty market operator, or specialty market vendor who is an individual must, upon the request of any customer, State or local revenue agent, or law enforcement agent, provide a valid drivers license, a special identification card issued under G.S. 20-37.7, a military identification, or a passport bearing a physical description of the person named reasonably describing the peddler, itinerant merchant, specialty market operator, or specialty market vendor. A peddler, itinerant merchant, specialty market operator, or specialty market vendor that is a corporation must, upon the request of any customer, State or local revenue agent, or law enforcement agent, give the name and registered agent of the corporation and the address of the registered office of the corporation, as filed with the Secretary of State. (1996, 2nd Ex. Sess., c. 14, s. 24.)

§ 66-254. Records of source of new merchandise.

(a) Record Required. – Each peddler, itinerant merchant, and specialty market vendor must keep a written record of the source of new merchandise the merchant offers for sale. The record must be a receipt or an invoice from the person who sold the merchandise to the merchant. The receipt or invoice must specifically identify the product being sold by product name and quantity purchased and must contain the complete business name of the seller and a description of the type of business. If the seller was an individual, the receipt or invoice must contain the seller's drivers license number, its state of issuance and expiration date, and the seller's date of birth. The merchant must verify this information by comparing the seller's drivers license to the receipt or invoice and signing the receipt or invoice. A special identification card issued by the Division of Motor Vehicles may be used in place of the seller's drivers license for the purposes of providing and verifying information required under this section. If the seller was a corporation, the receipt or invoice must contain the corporation's federal tax identification number, the state of incorporation, the name and address of the corporation's registered agent in this State, if any, and the corporation's principal office address.

(b) Keeping the Record. – Each peddler, itinerant merchant, and specialty market vendor must keep the record required by subsection (a) of this section with the new merchandise being offered for sale. Once the new merchandise is sold, the merchant must keep the record for a period of three years after the date of the sale.

(c) Displaying Record or Affidavit. – A peddler, an itinerant merchant, or a specialty market vendor must produce either of the following upon the request of a law enforcement agent:

(1) The record required by subsection (a) of this section of the source of new merchandise the merchant offers for sale.

(2) An affidavit under oath or affirmation identifying the source of new merchandise the merchant offers for sale, including the name and address of the seller, the license number of any auctioneer seller, and the date and place of purchase of the merchandise.

A merchant's failure to produce the requested record or an affidavit within a reasonable time of request by a law enforcement agent is prima facie evidence of possession of stolen property. Pending the production of the requested record or affidavit, the agent may take the merchandise into custody as evidence at the time the request is made. Merchandise impounded under this subsection must be disposed of in accordance with G.S. 15-11.1.

(d) Posted Notice. – A specialty market operator must conspicuously post in plain view of all specialty market vendors a sign informing all vendors that failure to produce, upon the request of a law enforcement agent, either the records or affidavit required under this section is prima facie evidence of possession of stolen property. (1996, 2nd Ex. Sess., c. 14, s. 24.)

§ 66-254.1. Certain sales prohibited.

No person who is described by G.S. 66-250(1), (2), (5), or (6) shall sell or offer to sell any product that meets any of the following criteria:

(1) The product contains pseudoephedrine as the sole active ingredient or in combination with other active ingredients.

(2) The product is a drug as defined by G.S. 106-121(6).

Any person who violates this section shall be guilty of a Class 1 misdemeanor for the first offense, a Class A1 misdemeanor for a second offense, and a Class I felony for a third or subsequent offense. (2005-434, s. 5.)

§ 66-255. Specialty market or operator of an event registration list.

A specialty market operator or operator of an event where space is provided to a vendor must maintain a daily registration list of all specialty market or other vendors selling or offering goods for sale at the specialty market or other event. The registration list must clearly and legibly show each vendor's name, permanent address, and certificate of registration number. The specialty market operator or other event operator must require each vendor to exhibit a valid certificate of registration for visual inspection by the specialty market operator or other event operator at the time of registration, and must require each vendor to keep the certificate of registration conspicuously and prominently displayed, so as to be visible for inspection by patrons of the vendor at the places or locations at which the goods are offered for sale. Each daily registration list maintained pursuant to this section must be retained by the specialty market operator or other event operator for no less than two years and must at any time be made available upon request to any law enforcement officer or the Secretary of Revenue or the Secretary's duly authorized agent. For purposes of the registration list, the exemptions in G.S. 66-256 do not apply. (1996, 2nd Ex. Sess., c. 14, s. 24; 1998-121, s. 7; 2013-414, s. 31.)

§ 66-256. Exemptions from Article.

This Article does not apply to the following:

(1) A peddler or an itinerant merchant who sells only one or more of the following types of merchandise:
   a. Farm or nursery products produced by the merchant.
   b. Crafts or goods made by the merchant.
   c. The merchant's own household personal property.
   d. Printed material.
   e. Wood for fuel.
   f. Ice, seafood, meat, poultry, livestock, eggs, dairy products, bread, cakes, or pies.
(2) A peddler or an itinerant merchant who is an authorized automobile dealer licensed pursuant to Chapter 20 of the General Statutes.
(3) A peddler or an itinerant merchant who is a nonprofit charitable, educational, religious, scientific, or civic organization.
(4) A peddler who maintains a fixed permanent location from which at least ninety percent (90%) of the peddler's sales are made but who sells some goods in the county of the fixed location by peddling.
(5) An itinerant merchant who meets any of the following descriptions:
   a. Locates at a farmer's market.
   b. Is part of the State Fair or an agriculture fair that is licensed by the Commissioner of Agriculture pursuant to G.S. 106-520.3.
   c. Sells goods at an auction conducted by an auctioneer licensed pursuant to Chapter 85B of the General Statutes.
(6) A peddler who complies with the requirements of G.S. 25A-38 through G.S. 25A-42, or who complies with the requirements of G.S. 14-401.13. (1996, 2nd Ex. Sess., c. 14, s. 24.)

§ 66-257. Misdemeanor violations.

(a) Class 1 Misdemeanors. – A person who does any of the following commits a Class 1 misdemeanor:
(1) Fails to keep a record of new merchandise and fails to produce a record or an affidavit pursuant to G.S. 66-254.
(2) Falsifies a record of new merchandise required by G.S. 66-254.

(b) Class 2 Misdemeanors. – A person who does any of the following commits a Class 2 misdemeanor:
(1) If the person is an itinerant merchant or a specialty market vendor, fails to display the certificate of registration as required by G.S. 66-252.
(2) If the person is a specialty market operator, fails to maintain the daily registration list as required by G.S. 66-255.

(c) Class 3 Misdemeanors. – A person who does any of the following commits a Class 3 misdemeanor:
(1) If the person is a peddler or an itinerant merchant, fails to obtain the permission of the property owner as required by G.S. 66-251.
(2) If the person is a peddler or a specialty market operator, fails to produce the certificate of registration as required by G.S. 66-252.
(3) Fails to provide name, address, or identification upon request as required by G.S. 66-253 or provides false information in response to the request.

(4) Knowingly gives false information when registering pursuant to G.S. 66-255.

(d) Defense. – Whenever satisfactory evidence is presented in any court of the fact that permission to use property was not displayed as required by G.S. 66-251 or that a certificate of registration was not displayed or produced as required by G.S. 66-252, the person charged may not be found guilty of that violation if the person produces in court a valid permission or a valid certificate of registration, respectively, that had been issued prior to the time the person was charged. (1996, 2nd Ex. Sess., c. 14, s. 24; 1998-121, s. 8.)

§ 66-258. Local regulation not affected.

This Article does not affect the authority of a county or city to impose additional requirements on peddlers, itinerant merchants, specialty market vendors, or specialty market operators by an ordinance adopted under G.S. 153A-125 or G.S. 160A-178. (1996, 2nd Ex. Sess., c. 14, s. 24.)

§ 66-259. Reserved for future codification purposes.