

SENATE No. 2282

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to flea market vendors.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 62C of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out the definition of “Promoter” and inserting in
3 place thereof the following definition:-

4 “Promoter”, a person who, either directly or indirectly, rents, leases or grants a license to
5 use space to a person for the display for sale or for the sale of tangible personal property subject
6 to tax under chapter 64H.

7 SECTION 2. The definition of “Show” in said section 1 of said chapter 62C, as so
8 appearing, is hereby amended by inserting after the word “market”, in line 24, the following
9 words:- , either indoor or outdoor.

10 SECTION 3. Section 1 of chapter 101 of the General Laws, as so appearing, is hereby
11 amended by striking out the definitions of “Transient vendor” and “Temporary or transient
12 business” and inserting in place thereof the following 6 definitions:-

13 “Promoter”, a business or person who operates for the purpose of either directly or
14 indirectly, renting, leasing or granting a license to use space to any vendor for the display for sale
15 or for the sale of tangible personal property or services subject to tax under chapter 64H;
16 provided, however, that this shall not include a state or county fair as defined in section 1 of
17 chapter 128A; and provided further, that a promoter licensed under this chapter shall comply
18 with sections 8A and 67A of chapter 62C or any regulations pursuant thereto as required by the
19 commissioner of revenue.

20 “Tangible personal property”, personal property of any nature consisting of any produce,
21 goods, wares, merchandise and commodities whatsoever, brought into, produced, manufactured
22 or being within the commonwealth.

23 “Temporary or transient business”, an exhibition and sale of goods, wares or merchandise
24 which is carried on in a tent, booth, building or other structure unless such place is open for
25 business during usual business hours for a period of at least 12 consecutive months; provided,
26 however, this shall not include a business operating under a written agreement with a licensed
27 promoter.

28 “Transient vendor”, a person, either principal or agent, who engages in a temporary or
29 transient business in the commonwealth selling goods, wares or merchandise, either in 1 locality
30 or in traveling from place to place; provided, however, this does not include a person operating
31 under a written agreement with a licensed promoter, except for purposes of section 5.

32 “Usual business hours”, the time period during which similar businesses in the
33 community conduct business.

34 “Written operating agreement”, a written agreement between a promoter, licensed under
35 section 3A and a vendor to conduct business at any location.

36 SECTION 4. Said chapter 101, is hereby amended by inserting after section 3 the
37 following 3 sections:-

38 Section 3A. Each business or person, before commencing business as a promoter, shall
39 make a written application, under oath, for a license to the deputy director stating the names and
40 residences of the owners or parties in whose interest the business is to be conducted. Upon the
41 payment of the fee under the fee schedule in section 3B the deputy director shall issue a license
42 granting the authority to do business as a promoter. A license shall expire 1 year from the date
43 thereof or on the day of its surrender or of the filing of an affidavit of its loss, if it is earlier
44 surrendered or if such affidavit is earlier filed. The license shall contain a copy of the application
45 therefore and shall not be transferable.

46 Section 3B. For the purpose of determining a single show for this chapter the conduct of
47 an activity or event described in the definition of “show” as found in section 1 of chapter 62C
48 held on any single day in the commonwealth shall constitute a single show. The fee schedule for
49 a license as a promoter shall be as follows: \$200.00 per show for 1 to 9 single shows to be held;
50 \$300.00 per show for 10 to 19 single shows to be held; \$400.00 per show for 20 to 29 single
51 shows to be held; \$500.00 per show for 30 to 39 single shows to be held; \$600.00 per show for
52 40 to 49 singles shows to be held; \$1,000.00 per show for over 50 single shows to be held.

53 Section 3C. Each promoter licensed to conduct business shall maintain a copy of the
54 written operating agreement with each vendor which shall include documentation regarding the
55 identity and location of each vendor, including social security number or tax identification

56 number and a general description of merchandise sold by each vendor. The promoter shall
57 maintain such records for a period of not less than 12 months. The deputy director or law
58 enforcement authorities may request a promoter to provide the records. A promoter licensed
59 under this section shall comply with sections 8A and 67A of chapter 62C or any regulations
60 pursuant thereto as required by the commissioner of revenue.

61 SECTION 5. Section 5 of said chapter 101, as appearing in the 2008 Official Edition, is
62 hereby amended by inserting after the words “sale”, in line 7, the following words:- ; provided,
63 however, this shall include a transient vendor who enters in a written operating agreement as
64 defined in section 1 with a promoter as defined by section 1 licensed under section 3A.