

(U//FOUO//LES) Situational Awareness – Questionable Door to Door Sales Tactics and Requirements for North Dakota Transient Merchant Licenses Information

The Bismarck Police Department and Burleigh County SO have had several reports of suspicious persons attempting door to door sales of educational material, books and magazines. The complaints were predicated based on the salesperson's request to speak with the children alone as well as suspicious vehicle activity in residential neighborhoods.

During contact with Officers, it was determined the salespersons are employed by the Southwestern Company out of Nashville, TN. One salesperson produced a ND Retailers Sales and Use Tax Permit as evidence of having the required Transient Merchant License to sell products inside the state. This is the required documentation to collect the state sales tax, it is *not* a Transient Merchant License.

Bismarck PD made contact with Southwestern Company in Nashville, TN. Southwestern executives admitted there is a contingent of approximately 40 persons, employed by the Southwestern Company, in ND selling their products. Of those 40 people, some are from the United Kingdom who have been brought to ND to live with host families and work in direct sales.

Missy Tesky, Licensing Administrator of the ND Attorney General's Office also made contact with Southwestern Company. During that contact, executives were advised they do not currently have the proper Transient Merchant license to conduct business in the State and operations should cease until one is granted. Southwestern Company executives assured the ND Licensing Division the applications would be express mailed to her office in order to complete the process appropriately. Finally, Tesky stated that Southwestern Company has historically gone through the process of obtaining the required Transient Merchant Licenses for several consecutive years and is fully aware of the proper procedure.

According to the ND Licensing Division, a company temporarily conducting business within North Dakota must have a valid "Transient Merchant License" issued to *each individual sales person* (not exclusively in the company's name). These Transient Merchant Licenses are granted only after application is made and a bond is secured. Once approved and issued, they are valid for one year from the date of issuance.

In addition to the state's requirement of having a Transient Merchant License, some municipalities may require salespeople to have Door-to-Door Sales Permits, or the local equivalent. The City of Bismarck has such a requirement. Therefore, in order to conduct any door to door sales in the city of Bismarck, the salesperson must be in possession of both a valid Transient Merchant License issued in his name, as well as a City of Bismarck Door-to-Door Sales Permit. Officers in other jurisdictions may want to verify the local ordinances as these 40 subjects are likely to spread out across the State.

For your situational awareness, the following is a sample of a valid Transient Merchant License issued by the



State of North Dakota. This license is issued to each individual employee (as shown circled in red) and should be on the person while conducting sales within the state. The bearer's identification should be requested and match with the name as indicated on the TML.

www.ag.nd.gov

701-328-2210

Source: Bismarck PD 6/23/2010, Burleigh County Sheriff's Office, ND Div of Licensing 6/23/2010,

REQUIREMENTS FOR COMPLETING
A TRANSIENT MERCHANTS LICENSE APPLICATION

The State of North Dakota requires those who conduct temporary business within this state to obtain a Transient Merchant's License from the Attorney General's Office.

A business selling livestock or agricultural products is exempt from having to obtain the transient merchant's license.

The State of North Dakota requires that each employee or sales person transacting business in the state on behalf of the licensed transient merchant have in their immediate possession at all times a transient merchant's license. Each licensed transient merchant employee or sales person will be issued a transient merchant license card. The transient merchant license cards are nontransferable. A company **must** obtain a new transient merchant license card for each new or replacement employee or sales person acquired (no additional fee is required).

Until a license has actually been issued and is in the possession of all of your employees or sales persons, you may not conduct business in the state. If you intend to begin conducting business in the State of North Dakota within a two-week period of submitting the application, to ensure that your license(s) are issued in a timely manner, it is suggested that the license fee be submitted in the form of a money order or cashier's check. If a personal or business check is submitted for the payment of a license fee, a license will not be issued for a minimum of two weeks from the date of receipt in our office.

The transient merchant license is valid in all counties of the state for one year from the date of issuance. You must verify independently with any city or county within the state where you intend to conduct business for any additional licenses or permits they may require. All state laws and city/county ordinances must be complied with at all times while conducting business in this state.

The following procedure should be used in applying for a transient merchant's license:

1. Complete the enclosed application form fully. Be certain to sign the form before a notary public.
2. New applicants are required to complete the resident agent section of the application.
3. Enclose the \$200 license fee. Payment should be made payable to the Office of Attorney General.
4. Enclose a photocopy of your North Dakota sales tax permit if you are required to have one. If you are not sure whether you are required to have a sales tax permit, you should contact the Sales Tax Department of the Tax Commissioner's Office at (701) 328-3470.
5. Submit an inventory and price list of all merchandise you will be selling in the state.
6. A list of all employees/agents/representatives doing business in the state is required. It must include the following: name, home address, home telephone number, and a signed photograph. (Recognizable copy of driver's license will suffice in place of a photograph.)
7. Corporations, limited liability companies, etc., must be properly registered with the North Dakota Secretary of State. To register your business with the Secretary of State's office, please call 1-800-352-0867 ext. 8-4284.
8. For an initial application, the surety bond must be completed on the enclosed transient merchant bond form. Take the bond form to an insurance company for processing. (Notice of the bond amount required is attached to the bond form.) If you wish to provide cash in lieu of the surety bond, please contact the Licensing Section for the required form.
9. If you are renewing your transient merchant license, provide documentation to substantiate that your transient merchant surety bond is currently in effect.

If you have any questions, please feel free to contact the Licensing Section at (701) 328-2329.

Return all documents to:
OFFICE OF ATTORNEY GENERAL
LICENSING SECTION
600 E BOULEVARD AVE DEPT. 125
BISMARCK, ND 58505-0040