

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND TENTH LEGISLATURE  
4

5 **Legislative Document**

**No. 1894**

7 H. P. 1917 House of Representatives, January 28, 1982  
Filed by the Joint Standing Committee on Legal Affairs under Joint  
Rule 18. Approved by the Legislative Council, June 4, 1981.

8 Reported by Representative Cox from the Committee on Legal Af-  
fairs and 1,500 ordered printed under Joint Rules No. 8.

EDWIN H. PERT, Clerk

9  
10 STATE OF MAINE  
11

12 IN THE YEAR OF OUR LORD  
13 NINETEEN HUNDRED AND EIGHTY-TWO  
14

15 AN ACT to Regulate Dealers in Used  
16 Goods for Resale, Trade or Scrap.  
17

18 Be it enacted by the People of the State of Maine as follows:

19 32 MRSA c. 12 is enacted to read:

20 CHAPTER 12

21 DEALERS IN USED GOODS FOR RESALE,  
22 TRADE OR SCRAP

23 §711. Purpose

24 1. Legislative findings. The Legislature finds that  
25 the values of used goods have increased dramatically in the  
26 past 5 years. Consequently, dealers in these articles have  
27 proliferated and there is greater incentive for the theft  
28 and resale of these items.

1           2. Intent. It is the intent of the Legislature to  
2 assist law enforcement officers in their efforts to retrieve  
3 stolen goods and through the courts to return the goods to  
4 their rightful owners. It is further the intent of the  
5 Legislature to require the registration of all dealers in  
6 these goods, and to enable the Bureau of Taxation to have a  
7 listing of dealers to ensure that all due sales' taxes are  
8 collected and remitted to the State.

9   §712. Definitions

10           As used in this chapter, unless the context otherwise  
11 indicates, the following terms have the following meanings.

12           1. Commissioner. "Commissioner" means the Commis-  
13 sioner of Business Regulation or his designee.

14           2. Dealer. "Dealer" means any person who holds him-  
15 self out to the public as conducting transactions in goods  
16 covered by this chapter, or who in the course of operation  
17 of any business conducts transactions in goods covered by  
18 this chapter. "Dealer" does not include:

19           A. Government agencies;

20           B. Financial institutions authorized to do business in  
21 this State;

22           C. Federally regulated commodity markets; or

23           D. Charitable organizations, as defined in Title 9,  
24 section 5003, subsection 1.

25           3. Department. "Department" means the Department of  
26 Business Regulation.

27           4. Itinerant dealer. "Itinerant dealer" means a  
28 dealer who does not have any permanent place of business  
29 within this State.

30           5. Permanent place of business. "Permanent place of  
31 business" means any building or other permanently affixed  
32 structure, including a home residence, which is owned or  
33 held under a 12-month lease or rental agreement at the time  
34 business is commenced, and is used in whole or in part for  
35 the purpose of conducting transactions in used goods.

1           6. Person. "Person" includes or means any natural  
2 person, corporations, trusts, partnerships, incorporated or  
3 unincorporated associations and any other legal entity.

4           7. Transaction. "Transaction" means any purchase,  
5 sale, transfer, exchange or barter, offer for sale or pur-  
6 chase, promise to sell or buy, attempt to sell or buy any of  
7 the items covered by this chapter, for purposes of resale,  
8 trade or scrap. "Transaction" does not mean:

9           A. The return or exchange of an item to the dealer  
10 where the item was purchased, if accompanied by a valid  
11 sales receipt; or

12           B. Acceptance of a trade-in by a retail merchant for  
13 other goods having a greater value, and which differ-  
14 ence in value is paid by the customer.

15           8. Used goods. "Used goods" means all kinds of used  
16 tangible personal property.

17 §713. Registration; penalty; procedure

18           1. Registration required. No dealer may conduct  
19 transactions in used goods unless that dealer is registered  
20 under this chapter.

21           2. Procedure. Every dealer shall obtain a registra-  
22 tion certificate from the department. Application shall be  
23 made on forms provided by the department.

24           3. Forms. Registration forms shall require the appli-  
25 cant to provide his name, the name under which he will be  
26 doing business, the name of a natural person for service of  
27 any process, notice or demand permitted by law to be served,  
28 the applicant's legal address, and mailing address if dif-  
29 ferent, and such other information as the commissioner  
30 determines to be necessary. No person may make a false  
31 statement in an application for registration.

32           4. Penalty. Violation of this section is a Class E  
33 crime. Any 2nd or subsequent violation of this section is a  
34 Class D crime.

35 §714. Itinerant dealers

36           1. Special duties. In addition to all other require-  
37 ments of this chapter, any itinerant dealer shall:

1 A. No later than 5 days prior to conducting trans-  
2 actions in used goods in any location, provide written  
3 notification of the dealer's intent to conduct trans-  
4 actions in used goods to a full-time local law enforce-  
5 ment officer, if any; or, if this is impossible, to the  
6 county sheriff of that county; or if this is impos-  
7 sible, to the municipal clerk;

8 B. At the end of conducting transactions in the local-  
9 ity for any day, provide the same official who was  
10 notified under paragraph A with a copy of the records  
11 of transactions conductd in the locality, in the form  
12 required by this chapter; and

13 C. As a prerequisite to registration by the State,  
14 obtain and furnish evidence of a surety bond payable to  
15 the Treasurer of State in the amount of \$5,000 issued  
16 by a surety company approved by the Bureau of Insurance  
17 and licensed to do business in the State. The bond  
18 shall run to the State for the benefit of any person  
19 claiming injury in connection with a transaction  
20 involving the dealer. No bond may comply with the re-  
21 quirements of this paragraph unless it contains a  
22 provision that it will not be canceled for any cause  
23 unless notice of intention to cancel is filed with the  
24 department at least 90 days before the day upon which  
25 cancellation takes effect.

26 2. Local ordinances. An itinerant dealer shall also  
27 be subject to the provisions of all applicable local ordi-  
28 nances.

29 3. Penalty. Violation of subsection 1 is a Class E  
30 crime. Any 2nd or subsequent violation of subsection 1 is a  
31 Class D crime.

32 §715. Fee; validity

33 1. Fee. The fee for registration or renewal of regis-  
34 tration with the State required by this chapter is \$15.

35 2. Validity. All registrations issued shall expire on  
36 the March 31st following issuance. Renewals are valid for a  
37 period of one year and shall expire on March 31st.

38 3. Disposal of fees. All fees paid under this chapter  
39 shall be applied to the expenses of the Central Licensing  
40 and Administrative Services Divisions of the department.

1 Any balance of these funds shall not lapse but shall be car-  
2 ried forward to be expended for the same purposes in suc-  
3 ceeding fiscal years.

4 §716. Display of certificate

5 1. Display required. Every dealer must display the  
6 registration certificate at all times in full view to all  
7 customers or clients, and all advertising must contain the  
8 dealer's registration number.

9 2. Penalty. Any dealer who violates this section com-  
10 mits a civil violation for which a forfeiture of not less  
11 than \$500 nor more than \$1,000 shall be adjudged.

12 §717. Revocation; refusal to renew registration

13 1. Summary revocation, suspension or refusal. The  
14 commissioner may, in accordance with Title 5, section 10004,  
15 summarily revoke, suspend or refuse to renew any registra-  
16 tion upon a finding that the registrant has been convicted  
17 of any of the following offenses:

18 A. Any criminal offense set forth in this chapter; or

19 B. Any criminal offense involving deception, if the  
20 offense was committed after the effective date of this  
21 paragraph.

22 2. Revocation, suspension or renewal after opportunity  
23 for hearing. The commissioner may proceed in the Adminis-  
24 trative Court seeking to revoke or suspend the registration  
25 of any registrant for noncompliance with a provision of this  
26 chapter. The commissioner may refuse to renew a registra-  
27 tion of any registrant for noncompliance with a provision of  
28 this chapter if it has afforded the registrant the oppor-  
29 tunity for an agency hearing in conformity with Title 5,  
30 chapter 375, subchapter IV.

31 §718. Record keeping; procedure; penalty

32 1. Record keeping required. No dealer may conduct  
33 transactions in used goods unless that dealer maintains  
34 business records as specified in this chapter.

35 2. Procedure. A dealer shall keep a record of each  
36 item in a transaction. Upon request by a law enforcement  
37 officer or prosecuting attorney, a dealer shall promptly

1 make available for inspection at his principal place of  
2 business the records required by this section.

3 3. Information required. Records required by this  
4 chapter shall be made before completing any transaction in  
5 used goods and shall contain the following information:

6 A. The date of the transaction;

7 B. The name and address of the other party to the  
8 transaction;

9 C. A brief description of the property, including any  
10 identification numbers; and

11 D. The amount paid for the item, or an estimate of the  
12 fair market value of property given in exchange for the  
13 item.

14 4. Identification. Before recording the information  
15 required by this section, a dealer shall require reasonable  
16 written proof of the other party's identification in the  
17 form of a motor vehicle operator's license, military iden-  
18 tification card, adult liquor identification card or similar  
19 item.

20 5. Form of records. The records required by this  
21 chapter shall be maintained in order by date of transaction  
22 and contained either in a bound volume or ledger or in a  
23 binder in which pages can be affixed.

24 6. Penalty. Violation of this section is a Class E  
25 crime. Any 2nd or subsequent violation of this section is a  
26 Class D crime.

27 §719. Holding period; waiver

28 1. Holding period. A dealer shall hold all used goods  
29 received in each transaction for 5 days from the date of the  
30 transaction, during which time no further transaction or  
31 alteration in the physical characteristics of any item may  
32 be made. The date of the transaction constitutes the first  
33 day of the holding period. If the goods are not held at the  
34 place of the transaction during this period, then the loca-  
35 tion of the goods and the identification of the person in  
36 possession of the goods shall be filed with the law enforce-  
37 ment agency of the municipality or county where the trans-  
38 action was made within 24 hours after the transaction.





1 Further provision is made to regulate itinerant deal-  
2 ers, including bonding and reporting requirements. These  
3 precautions are based upon the increased difficulties faced  
4 by law enforcement authorities in tracing transactions  
5 through a dealer with no permanent place of business in the  
6 State.

7 The basic scheme of the bill follows that of legis-  
8 lation on dealers in precious metals and other items that  
9 has been enacted in a number of states. The same sort of  
10 treatment is accorded here to all types of used personal  
11 property. Not only are such items as jewelry, coins and  
12 antiques covered under this bill, but all forms of used  
13 personalty.

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