

MAINE STATE LEGISLATURE

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CHAPTER 41.

Auctions and Auctioneers. Itinerant Vendors.

Sections 1-10 Auctions and Auctioneers.

Sections 11-27 Itinerant Vendors.

Auctions and Auctioneers.

Sec. 1. License; fee. R. S. c. 36, § 1. The municipal officers of any town may license any legal voter thereof, by a writing under their hands, to be auctioneer for one year, in every town in their county; and shall record every such license in a book kept by them for that purpose. Upon receipt of such license, such auctioneer shall pay two dollars to the treasurer of said licensing town for said town, and may be exempted from the deduction of two and one-half per cent from the gross amount of sales provided in section three.

4 Me. 263, 335; 25 Me. 142; 38 Me. 311; 43 Me. 160; 53 Me. 394.

Sec. 2. Appeal to county commissioners in case of refusal. R. S. c. 36, § 2. If such officers, after written application to them for a license, unreasonably refuse or neglect to grant it, the applicant, by giving them ten days' notice and a bond to pay all costs arising thereafter, may appeal to the county commissioners, who, after a hearing of the parties, may grant the license if they judge it reasonable.

Sec. 3. Auctioneers to keep account of goods sold; tax on goods of non-residents; penalty. R. S. c. 36, § 3. Every person licensed shall keep a fair and particular account of all goods and chattels by him sold, stating of whom received, and the price for which the same were sold; and unless otherwise authorized, if said goods are sold voluntarily for the benefit of parties residing out of the state, he shall deduct two and a half per cent from the gross amount of the sales for the use of the town where the sale is made, and pay the same to the treasurer thereof within ten days after the sale; and in default thereof, he shall be fined not less than fifty, nor more than three hundred dollars, and shall forfeit his license.

53 Me. 394.

Sec. 4. Penalty for allowing any person not a voter in town, to act under him. R. S. c. 36, § 4. No auctioneer shall allow any person, not a legal voter in the town from which he received his license, to act for or under him in any sales at public auction, under a penalty of fifty dollars for each offense; and any person so acting is subject to the same penalty.

Sec. 5. Penalty for receiving goods of minors or servants or selling before sunrise or after sunset; town officers may license to sell after sunset. R. S. c. 36, § 5. If an auctioneer receives goods for sale at public auction, of any servant or minor, knowing him to be such, or sells goods, before sunrise or after sunset, at public auction, he forfeits not less than fifty, nor more than one hundred and seventy dollars for each offense; but the municipi-

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pal officers of any town may license any duly licensed auctioneer specially, to sell after sunset upon payment of a sum not exceeding twenty dollars.

Sec. 6. Real estate lying in two towns, how sold; blooded animals may be sold without license. R. S. c. 36, § 6. A parcel of real estate lying partly in one town and partly in another, may be sold by an auctioneer of either; but if an auctioneer sells or offers to sell real or personal property at public auction in any other towns than those authorized by his license, or if any person sells without a license, he forfeits not exceeding six hundred dollars; provided, however, that any person, employed by the owner of blooded animals may sell the same, as auctioneer, at public auction, whether licensed by municipal officers or not.

43 Me. 160.

Sec. 7. Penalty if occupant of building permits any person to sell therein contrary to law. R. S. c. 36, § 7. If the tenant or occupant of any building, having actual possession and control thereof, knowingly permits any person to sell any goods or chattels at public auction contrary to the first ten sections of this chapter, in such building, or in any apartment, or yard appurtenant thereto, he forfeits not more than six hundred, nor less than one hundred dollars.

Sec. 8. Exceptions as to sales by officers. R. S. c. 36, § 8. Nothing in the preceding sections extends to sales made by sheriffs, deputy sheriffs, coroners, constables, tax collectors, executors or administrators, or any other person authorized to sell goods, chattels or lands, by order of any court or judge of probate.

Sec. 9. Fines, how recovered and appropriated. R. S. c. 36, § 9. All fines imposed by the preceding sections of this chapter may be recovered by indictment; and it is the special duty of city marshals and their deputies, sheriffs, constables and police officers, to make immediate complaint for every offense against the provisions hereof.

Sec. 10. Town officers may grant special license to auctioneers to sell on invoice. R. S. c. 36, § 10. The municipal officers of any city or town, may, upon presentation of an invoice or inventory of the property to be sold, which shall be produced unless said municipal officers decide that the same is unnecessary, grant a special license to any auctioneer, a voter in the state, to sell at public auction, between the hours of seven in the forenoon and six in the afternoon, upon payment to such city or town of five dollars for each invoice or inventory.

Itinerant Vendors.

Sec. 11. Itinerant vendors not to sell without licenses. R. S. c. 45, § 1. Every itinerant vendor who shall sell or expose for sale, at public or private sale, any goods, wares and merchandise without state and local licenses therefor, issued as hereinafter provided, shall be punished for each offense by fine not exceeding fifty dollars or by imprisonment not exceeding sixty days, or by both such fine and imprisonment.

112 Me. 215.

Sec. 12. Penalty for advertising sale, before licenses shall be issued. R. S. c. 45, § 2. All persons, both principals and agents, who shall by circu-

lar, handbill, newspaper or in any other manner, advertise any such sales as those referred to in the preceding section, before proper licenses shall be issued to the vendor, shall be punished by fine not exceeding fifty dollars or imprisonment not exceeding sixty days, or by both such fine and imprisonment.

Sec. 13. Vendors shall take out state and local licenses; rights of municipal officers unaffected. R. S. c. 45, § 3. Every itinerant vendor, whether principal or agent, before commencing business, shall take out a state license and local licenses in the manner hereinafter set forth, but nothing herein contained shall affect the right of any municipal officers to make such regulations relative to itinerant vendors as may be permissible under the general law or under any municipal charter.

Sec. 14. Vendors shall make deposit before procuring license; license not transferable; licensee may have assistants. R. S. c. 45, § 4. Every itinerant vendor desiring to do business in this state shall deposit with the secretary of state the sum of five hundred dollars as a special deposit, and after such deposit, upon application in proper form and the payment of a further sum of twenty-five dollars as a state license fee, the secretary of state shall issue to him an itinerant vendor's license, authorizing him to do business in the state in conformity with the provisions of this chapter for the term of one year from the date thereof. Every license shall set forth a copy of the application upon which it is granted. Such license shall not be transferable nor give authority to more than one person to sell goods as an itinerant vendor, either by agent or clerk or in any other way than in his own proper person, but any licensee may have the assistance of one or more persons in conducting his business, who may aid that principal but shall not act for or without him. No person shall be entitled to hold, or directly or indirectly receive the benefit of more than one state license at any one time, and any license obtained, held or used in violation of law is void.

112 Me. 217.

Sec. 15. Applications for state licenses shall disclose name and residence of owner. R. S. c. 45, § 5. All applications for state licenses shall be sworn to, shall disclose the names and residences of the owners or parties in whose interests said business is conducted, and shall be kept on file by the secretary of state, and a record shall be kept by him of all licenses issued upon such applications. All files and records both of the secretary of state and of the several towns relative to such licenses, shall be in convenient form, and open for public inspection.

Sec. 16. Local license must be obtained; proceedings. R. S. c. 45, § 6. Every itinerant vendor intending to sell goods in any town shall file his state license and an application for a local license with the collector of taxes for such town, and before selling, offering or exposing for sale any goods in such town shall pay to the collector for the use of such town, as a further local license fee for such sale in such town, a sum to be computed as provided in the following section. A receipt for said local license fee when paid shall be indorsed by said collector on the back of such state license, which shall remain on file with such collector so long as such sale shall continue or such goods be kept, exposed or offered for sale in such

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town. Every application for a local license shall be signed by the holder of the accompanying state license and shall specify the kind and line of goods then in stock in such town, the name of the town from which said goods were last shipped, and the name of the town in which said goods were last exposed or offered for sale. Such local license fee shall be computed and collected in each town respectively, in which said goods shall be successively offered or exposed for sale.

112 Me. 217.

Sec. 17. Assessors shall examine stock and certify to collector, amount of local license fee; license restricted to goods described in application; vendor shall pay additional license fee, when stock is increased. R. S. c. 45, § 7. The collector of taxes for any town upon receiving an application in due form as provided in the preceding section, accompanied by such applicant's state license shall forthwith give notice thereof to the assessors of said town. Said assessors, or a majority of them, shall as soon as practicable examine the stock of goods described in such application, and shall compute and certify to said collector the amount of said applicant's local license fee for such intended sale in said town which shall be a percentage on the full value of said stock of goods equal to the rate per cent of the last preceding taxation in said town. The payment of said local license fee to said collector shall authorize such applicant who has complied with all other requirements of law to sell within the limits of said town, such goods, wares and merchandise as are described in his application, and for that purpose to carry in stock in said town, goods only of the kind or line specified in his application, not exceeding in amount at any one time the valuation on which his local license fee for such town was computed; such license shall continue in force so long as such licensee shall in good faith continuously keep, offer and expose for sale the same kind or line of goods specified in his application, except that such license and authority shall in any event terminate and expire on the first day of April next following the date of application. Any itinerant vendor, who after applying or paying for a local license shall increase his stock kept, offered or exposed for sale in the town for which such local license fee was paid above the valuation on which such local license fee was computed, without first making reasonable written application to the collector of such town for a supplemental license for such excess of stock shall be fined not less than twenty, nor more than fifty dollars, and for each day such excess of stock is kept, offered or exposed for sale without payment of local license fee therefor shall be fined not less than twenty, nor more than fifty dollars, and forfeits his state license. Supplemental licenses shall be applied for, and the fees therefor shall be computed, certified and collected in the manner provided for local license fees.

90 Me. 253.

Sec. 18. Penalty for neglect to file application for local license. R. S. c. 45, § 8. Whoever as proprietor or clerk, having in his care, custody or keeping, any goods for the sale of which a local license is required, neglects or refuses to file the application for local license required by law, or whoever makes a false or fraudulent representation or statement in any appli-

cation for a local license, shall be fined not less than twenty, nor more than fifty dollars for each day such goods are kept, offered or exposed for sale. The penalties provided herein are not to be construed as substitutes for payment of local license fees.

Sec. 19. Town has lien on goods, for license fees; collector may maintain an action of debt for fee; officers charged with enforcement of law. R. S. c. 45, § 9. Every town in which is kept, exposed or offered for sale an itinerant vendor's stock of goods has a lien on such goods for the amount due such town for local license fee on such stock to be enforced by suit and attachment within ten days from the time such goods were first publicly offered or exposed for sale in such town. When any person liable therefor neglects or refuses to pay the local license fee provided in section seventeen the tax collector of the town to which such license fee is due may maintain an action of debt by writ of attachment or trustee process therefor in the name of such town or in his own name, but for the benefit of such town. Tax collectors, police officers and constables shall prosecute for violations of the provisions hereof relating to itinerant vendors, in their respective towns, and shall report such violations promptly to the assessors for the purpose of computing and certifying such local license.

Sec. 20. Vendor shall state to secretary of state all facts relating to sale. R. S. c. 45, § 10. No itinerant vendor shall advertise, represent or hold forth any sale as an insurance, bankrupt, insolvent, assignee's, trustee's, testator's, executor's, administrator's, receiver's, wholesale or manufacturer's, or closing out sale or as a sale of any goods damaged by smoke, fire, water or otherwise, or in any similar form, unless he shall before so doing, state under oath to the secretary of state, either in the original application for a state license or in a supplementary application subsequently filed, and copy on the license all the facts relating to the reasons and character of such special sale so advertised or represented, including a statement of the names of the persons from whom the goods, wares and merchandise were obtained, the date of delivery to the person applying for the license, and the place from which said goods, wares and merchandise were last taken, and all details necessary to exactly locate and fully identify all goods, wares and merchandise to be so sold.

Sec. 21. Penalty for making false statement. R. S. c. 45, § 11. Any false statement in an application, either original or supplementary, for a license, and any failure on the part of any licensee to comply with all the requirements of the last preceding section shall subject said itinerant vendor to the same penalty as if he had no license.

Sec. 22. State licenses shall expire in one year. R. S. c. 45, § 12. All state licenses issued under section fourteen shall expire by limitation one year from the date thereof, and may be, if so desired, surrendered at any time prior thereto for cancelation.

Sec. 23. Upon expiration or surrender of license, duty of secretary of state. R. S. c. 45, § 13. Upon the expiration and return or surrender of each state license, the secretary of state shall cancel the same, indorse the date of delivery and cancelation thereon, and place the same on file. He shall then hold the special deposit of each licensee hereinbefore mentioned for the period of sixty days, and after satisfying any and all claims made

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upon the same under the following section, shall return said deposit or such portion of the same, if any, as may remain in his hands, to the licensee depositing it.

Sec. 24. Deposits shall be subject to attachment and execution; and to payment of fines and penalties incurred by licensee; claims satisfied in the order in which notice of claim is received; deposits shall not be paid to licensees, so long as there are claims against them. R. S. c. 45, § 14. Each deposit made with the secretary of state shall be subject, so long as it remains in his hands, to attachment and execution in behalf of creditors whose claims arise in connection with business done in the state, and the secretary of state may be held to answer as trustee, under the trustee process, in any civil action in debt or case brought against any licensee, and the secretary of state shall pay over, under order of court, or upon execution, such sum of money as he may be chargeable with upon his answer or otherwise. Said deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violation of the thirteen preceding sections of this chapter, and the clerk or recorder of the court in which, or the trial justice by whom, such fine or penalty is imposed shall thereupon notify the secretary of state of the name of the licensee, against whom such fine or penalty is adjudged and of the amount of such fine or penalty, and the secretary of state if he has in his hands a sufficient sum deposited by such licensee shall pay the sum so specified to said clerk, recorder or trial justice, and if the secretary of state shall not have a sufficient sum so deposited he shall make payment as aforesaid, of so much as he has in his hands. All claims upon the deposit shall be satisfied after judgment, fine or penalty in the order in which notice of the claim is received by the secretary of state, until all such claims are satisfied or the deposit exhausted, but no notice filed after the expiration of the sixty days' limit aforesaid shall be valid. No deposits shall be paid over by the secretary of state to the licensees so long as there are any outstanding claims or notices of claims against them, respectively, unless he is satisfied that such claims will not be prosecuted to final judgment or that no fine or penalty will be imposed.

Sec. 25. Construction of words, "itinerant vendors;" vendor shall not be exempt by associating himself with local trader. R. S. c. 45, § 15. The words "itinerant vendors" for the purposes of this chapter shall be construed to mean and include all persons, both principals and agents, who engage in a temporary or transient business in this state, either in one locality or in traveling from place to place selling goods, wares and merchandise, and who, for the purposes of carrying on such business, hire, lease or occupy any building or structure for the exhibition and sale of such goods, wares and merchandise, or who sell goods, wares and merchandise, at retail from a car, steamer or vessel. No itinerant vendor shall be relieved or exempted from the provisions and requirements hereof by reason of associating himself temporarily with any local dealer, trader or merchant, or by conducting such temporary or transient business in connection with or as a part of the business of, or in the name of any local dealer, trader or merchant.

Sec. 26. Persons exempt. R. S. c. 45, § 16. The provisions of the fifteen preceding sections shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery, nor to hawkers on the streets or pedlers from vehicles.

Sec. 27. Jurisdiction of prosecutions. R. S. c. 45, § 17. Municipal and police courts and trial justices shall have jurisdiction of all complaints and prosecutions under this chapter.

CHAPTER 42.

Pawnbrokers and Intelligence Offices.

Pawnbrokers.

Sec. 1. Licenses of pawnbrokers; term. R. S. c. 37, § 1. The municipal officers of any town may grant licenses to persons of good moral character to be pawnbrokers therein for one year, unless sooner removed by said officers for violation of law; whoever carries on said business without a license, forfeits not exceeding one hundred dollars.

Sec. 2. An account of all business done must be kept. R. S. c. 37, § 2. Every pawnbroker shall keep a book, in which he shall enter the date, duration, amount and rate of interest of every loan made by him; an accurate account and description of the property pawned, and the name and residence of the pawner, and, at the same time, shall deliver to said pawner a written memorandum signed by him, containing the substance of the above entry, and, at all reasonable times, shall submit said book to the inspection of any of the officers aforesaid; and for every violation of this section he forfeits twenty dollars.

Sec. 3. Rates of interest fixed. R. S. c. 37, § 3. No pawnbroker shall directly or indirectly receive a rate of interest greater than twenty-five per cent a year on a loan not exceeding twenty-five dollars, nor more than six per cent on a larger loan made upon property pawned, under a penalty of one hundred dollars for each offense.

See c. 40, § 46.

Sec. 4. Time and mode of selling pawned property, and notice thereof, fixed under a penalty. R. S. c. 37, § 4. No pawnbroker shall sell any property pawned, until it has remained in his possession for three months after the expiration of the time for which it was pawned; all such sales shall be at public auction by a licensed auctioneer, after notice of the time and place of sale, the name of the auctioneer, and a description of the property to be sold has been published in a newspaper in the town, where the property is pawned, if any, and if not, after such notice has been posted in two public places therein at least two weeks before the sale; all sales of such property otherwise made, are void, and the pawnbroker, undertaking to make them, forfeits twenty dollars for every such offense.