

# MAINE STATE LEGISLATURE

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*Maine*  
REVISED STATUTES  
1964

*Prepared Under the Supervision  
of the  
Committee on Revision of Statutes*

Being the Tenth Revision of the  
Revised Statutes of the State  
of Maine, 1964

Volume 5  
Titles 26 to 32



**Boston, Mass.**  
Boston Law Book Co.

**Orford, N. H.**  
Equity Publishing Corporation

**St. Paul, Minn.**  
West Publishing Co.

**Text of Revised Statutes**  
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## CHAPTER 69

## VENDORS

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## SUBCHAPTER I

## GENERAL PROVISIONS

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4502. Exemptions.
4503. State and local license required.
4504. False statements.

**§ 4501. Definitions**

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, wagon or other conveyance, steamer or vessel. No itinerant vendor shall be relieved or exempted from the provisions and requirements of this chapter 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.

R.S.1954, c. 100, § 117.

**§ 4502. Exemptions**

This chapter shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business,

## **32 § 4502**    PROFESSIONS AND OCCUPATIONS    Title 32

nor to bona fide sales of goods, wares and merchandise by sample for future delivery made by those who sell goods, wares and merchandise at retail from a car, wagon or other conveyance, steamer or vessel, nor to hawkers or peddlers on the streets or peddlers from vehicles.

R.S.1954, c. 100, § 118.

### **§ 4503.    State and local license required**

Every itinerant vendor, whether principal or agent, before commencing business shall take out a state license and a local license in the manner 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.

R.S.1954, c. 100, § 105.

### **§ 4504.    False statements**

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 section 4553 shall subject said itinerant vendor to the same penalty as if he had no license.

R.S.1954, c. 100, § 113.

## SUBCHAPTER II

### STATE LICENSE

Sec.

4551. Deposit; license nontransferable; assistants.

4552. Proceedings.

4553. Vendor to notify Secretary of State of distress sales.

4554. Expiration.

4555. Return of deposit on expiration.

4556. Deposits subject to claims; order of preference.

### **§ 4551.    Deposit; license nontransferable; assistants**

Every itinerant vendor, desiring to do business in this State, shall deposit with the Secretary of State the sum of \$500 as a special deposit, and after such deposit, upon application in proper form and the payment of a further sum of \$100 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 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 this section is void.

R.S.1954, c. 100, § 106.

### § 4552. Proceedings

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.

R.S.1954, c. 100, § 107.

### § 4553. Vendor to notify Secretary of State of distress sales

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 doing so 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.

R.S.1954, c. 100, § 112.

**32 § 4554**    PROFESSIONS AND OCCUPATIONS    Title 32

**§ 4554.    Expiration**

All state licenses issued under section 4551 shall expire by limitation one year from the date thereof, and may be, if so desired, surrendered at any time prior thereto for cancellation.

R.S.1954, c. 100, § 114.

**§ 4555.    Return of deposit on expiration**

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 cancellation thereon and place the same on file. He shall then hold the special deposit of each licensee mentioned in section 4551 for the period of 60 days, and after satisfying any and all claims made upon the same under section 4556, shall return said deposit or such portion of the same, if any, as may remain in his hands, to the licensee depositing it.

R.S.1954, c. 100, § 115.

**§ 4556.    Deposits subject to claims; order of preference**

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 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 be subject to the payment of any and all fines and penalties incurred by the licensee through violation of any of the provisions of this chapter, and the clerk of the court in which 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. 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. If the Secretary of State shall not have a sufficient sum so deposited, he shall make payment 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 60 days' limit 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.

R.S.1954, c. 100, § 116; 1961, c. 317, § 311; 1963, c. 402, § 134.

### SUBCHAPTER III

#### LOCAL LICENSE

Sec.

4601. Proceedings.

4602. Fee related to amount of stock; increase; scope of license.

4603. Failure to obtain license; penalty.

4604. Lien for license fee.

#### § 4601. Proceedings

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 section 4602. 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 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.

R.S.1954, c. 100, § 108.

#### § 4602. Fee related to amount of stock; increase; scope of license

The collector of taxes for any town upon receiving an application in due form as provided in section 4601, accompanied by the 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 or 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, increases 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 seasonable written application to the collector of such town for a supplemental license for such excess of stock, shall be punished by a fine of not less than \$20 nor more than \$50, and for each day such excess of stock is kept, offered or exposed for sale without payment of local license fee therefor shall be punished by a fine of not less than \$20 nor more than \$50, and shall forfeit 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.

R.S.1954, c. 100, § 109.

**§ 4603.    Failure to obtain license; penalty**

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 the local license required by law, or whoever makes a false or fraudulent representation or statement in any application for a local license, shall be punished by a fine of not less than \$20 nor more than \$50 for each day such goods are kept, offered or exposed for sale. The penalties provided are not to be construed as substitutes for payment of local license fees.

R.S.1954, c. 100, § 110.

**§ 4604. Lien for license fee**

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 civil action and attachment within 10 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 4602, the tax collector of the town to which such license fee is due may maintain a civil action by writ of attachment or trustee process therefor in the name of such town or in his own name for the benefit of such town. Tax collectors, police officers and constables shall prosecute for violations of the provisions 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.

R.S.1954, c. 100, § 111; 1961, c. 317, § 310.

## SUBCHAPTER IV

## VIOLATIONS AND PENALTIES

Sec.

4651. Lack of license.

4652. Advertising before license issued.

**§ 4651. Lack of license**

Any itinerant vendor who sells or exposes for sale, at public or private sale, any goods, wares and merchandise without state and local licenses therefor, issued as provided, shall be punished for each offense by a fine of not more than \$200 or by imprisonment for not more than 90 days, or by both.

R.S.1954, c. 100, § 103.

**§ 4652. Advertising before license issued**

All persons, both principals and agents, who by circular, handbill, newspaper or in any other manner advertise any such sales as those referred to in section 4651, before proper licenses shall have been issued to the vendor, shall be punished by a fine of not more than \$50 or by imprisonment for not more than 60 days, or by both.

R.S.1954, c. 100, § 104.