

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1162

S. P. 419

In Senate, February 7, 1963

Referred to Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Hinds of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Revising the Laws Relating to Apothecaries and the Sale of Poisons.

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

Sec. 1. R. S., c. 68, § 1, sub-§ III, amended. Subsection III of section 1 of chapter 68 of the Revised Statutes, as amended by section 1 of chapter 304 of the public laws of 1957, is further amended to read as follows:

III. Inspection; analysis; sales. To inspect during business hours all apothecaries, dispensaries, stores or places in which drugs or medicines are manufactured, **stored, distributed,** compounded, dispensed or retailed, and to regulate and control the sale, character and standard of all drugs, poisons and medicines compounded ~~or~~, dispensed ~~or distributed~~ in this State; to secure samples and cause them to be analyzed; and to prevent the sale of such drugs, poisons or medicines as do not conform to ~~the provisions of~~ this chapter;'

Sec. 2. R. S., c. 68, § 9, amended. The last paragraph of section 9 of chapter 68 of the Revised Statutes, as amended by section 26 of chapter 394 of the public laws of 1961, is further amended to read as follows:

'The said board shall make such rules and regulations not inconsistent with the law as may be necessary to carry out the purposes and enforce this section, and is authorized, after notice and opportunity for hearing in the county in which the apothecary store is located, to **suspend or** revoke any permit when examination or inspection of the apothecary store shall disclose that such apothecary store is not being conducted according to law or is being conducted so as to endanger the public health or safety.'

Sec. 3. R. S., c. 68, § 11, amended. Section 11 of chapter 68 of the Revised Statutes is amended to read as follows:

Sec. 11. Employment of registered apothecary. Any person may enter upon the business of an apothecary without the certificate required by this chapter, provided he does not personally do the duties of an apothecary, but employs a duly registered apothecary **in whose name the store license shall be issued and** who has sole charge of compounding, putting up and dispensing medicines, drugs, poisons and chemicals ~~under the provisions hereof.~~

Sec. 4. R. S., c. 68, § 12, amended. Section 12 of chapter 68 of the Revised Statutes is amended to read as follows :

Sec. 12. Using drugs not named in physician's prescription. Whoever, engaged in the business of an apothecary, knowingly uses any drugs or ingredients in preparing or compounding a written prescription of any physician different from those named in the prescription, shall upon conviction thereof be punished by a fine of not less than ~~\$5~~ \$50 nor more than ~~\$100~~ \$1,000.'

Sec. 5. R. S., c. 68, § 13, amended. Section 13 of chapter 68 of the Revised Statutes is amended to read as follows :

Sec. 13. Adulterating drugs and selling same. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by a fine of not more than ~~\$400~~ \$1,000 or by imprisonment for not more than 11 months; ~~and such.~~ Such adulterated drugs and medicines shall be forfeited and destroyed under the direction of the court.'

Sec. 6. R. S., c. 68, § 14, amended. The first sentence of the last paragraph of section 14 of chapter 68 of the Revised Statutes, as amended by section 11 of chapter 304 of the public laws of 1957, is further amended to read as follows :

~~The provisions of this~~ **This** section shall not apply to physicians, hospitals and sanatoriums who supply medicines to their bona fide patients, nor to nonpoisonous patent or proprietary medicines when sold in original and unbroken packages nor to the following remedies ; alum, chloride of lime, ~~vaseline~~ petroleum jelly, cream of tartar, borax, baking soda, castor oil, flax seed, ~~carbonate~~ bicarbonate of soda, ammonia, sulphur, olive oil, saltpetre, epsom salts, cotton seed oil, cod liver oil, linseed oil, flavoring extracts, boric acid, aromatic spirits ammonia, ~~isopropyl~~ isopropyl alcohol, acetic acid, citric acid, ~~camphorated oil~~ camphor, chalk, flexible collodion, essence of peppermint, witch hazel, glauber salts, glycerine, gum arabic, peroxide hydrogen, milk of magnesia, aspirin, oil sweet almond, mineral oil U. S. P., zinc oxide ointment, seidlitz powders, rochelle salts, senna leaves, antiseptic solution N. F., solution citrate magnesia **U. S. P. N. F.**, sugar of milk, soda mint tablets and compound tincture benzoin ; nor to ~~Paris green, London purple or other poisonous preparations or~~ **Paris green,** compounds used for the destruction of bugs, beetles, insects, slugs, grubs and fungi provided that the package is properly labeled.

Sec. 7. R. S., c. 68, § 15, additional. Chapter 68 of the Revised Statutes is amended by adding a new section 15, as follows :

Sec. 15. Sale of poisonous drugs. Each licensed pharmacist who sells arsenic, carbolic acid, chloroform, corrosive sublimate, cyanide of potassium

or sodium, strychnine or its salts shall affix to the package sold by him a label plainly marked with the name and address of the store and the word "POISON" and the name of the poison sold, and shall enter at the time of sale in a book to be kept for that purpose the name and residence of the purchaser, the date of sale, the name of the poison and the quantity sold, and the person making the sale shall sign the entry. This section shall not apply to sales on prescription of regular physicians or veterinarians, or sales at wholesale to pharmacists or sale to hospitals, colleges or public institutions.'

Sec. 8. R. S., c. 68, § 17, amended. The last sentence of section 17 of chapter 68 of the Revised Statutes is amended to read as follows :

'Whoever violates ~~the provisions of~~ this section shall be punished by a fine of not less than ~~\$5~~ \$50 nor more than ~~\$50~~ \$1,000, for each offense, to be recovered by complaint or indictment.'

Sec. 9. R. S., c. 68, § 25, amended. Section 25 of chapter 68 of the Revised Statutes is amended to read as follows :

'**Sec. 25. Regulations.** The board may from time to time, by regulations, designate as potent medicinal substances any compounds of barbituric acid, ~~amphetamines or any other central nervous system stimulants or depressants,~~ **psychic energizers or any other drugs having a tendency to depress or stimulate** which are likely to be injurious to health if improperly used, and it shall be unlawful for any person, firm or corporation to sell, furnish or give away or to offer to sell, furnish or give away any of such potent medicinal substances so designated, except as prescribed in section 24 for the substances therein named.'

Sec. 10. R. S., c. 68, § 26, amended. Section 26 of chapter 68 of the Revised Statutes is amended to read as follows :

'**Sec. 26. Violations.** Whoever violates any provision of ~~the 2 preceding~~ sections 24 and 25 or is found to be under the influence of any of the substances enumerated in section 24 in any street, highway or other public place shall be punished by a fine of not more than ~~\$100~~ \$1,000 or by imprisonment for not more than 6 months, or by both ~~such fine and imprisonment.~~

Sec. 11. R. S., c. 68, § 28, amended. Section 28 of chapter 68 of the Revised Statutes is amended to read as follows :

'**Sec. 28. Sale of drugs.** It shall be unlawful for any person to sell, distribute, vend or otherwise dispose of any drug, medicine or pharmaceutical or medical preparation by means of any public exhibition, entertainment, performance ~~or,~~ carnival ~~commonly known as a medicine show or a patent medicine show or by vending machines.'~~

Sec. 12. R. S., c. 68, § 33, sub-§ XIV, amended. Subsection XIV of section 33 of chapter 68 of the Revised Statutes, as last repealed and replaced by section 68 of chapter 429 of the public laws of 1961, is amended to read as follows :

'**XIV. Narcotic drugs.** "Narcotic drugs" means coca leaves, opium, isonipecaine, cannabis and every other substance neither chemically nor physically distinguishable from them and any other drugs to which the federal laws re-

lating to narcotic drugs may now apply; and any drug found by the ~~Director of Health Board of Commissioners of the Profession of Pharmacy~~, after reasonable notice and opportunity for hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine from the date of publication of such finding by said ~~Director of Health Board of Commissioners of the Profession of Pharmacy.~~'

Sec. 13. R. S., c. 68, § 38, sub-§ I, amended. The first sentence of subsection I of section 38 of chapter 68 of the Revised Statutes, as amended, is further amended to read as follows:

'An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription, or an oral prescription in pursuance to regulations promulgated by the United States Commissioner of Narcotics under federal narcotic laws in effect on August 20, 1955, **provided said oral prescription is promptly reduced to writing by the pharmacist**, of a physician, dentist, podiatrist or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which the drug is dispensed, and the full name, address and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered.'

Sec. 14. R. S., c. 68, § 40, sub-§ I, amended. Subsection I of section 40 of chapter 68 of the Revised Statutes, as amended, is further amended to read as follows:

I. Medical preparations containing certain drugs. Prescribing, administering, dispensing or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semisolid preparation, in one avoirdupois ounce:

- A. Not more than 2 grains of opium,
- B. Not more than 1/4 of a grain of morphine or of any of its salts,
- C. Not more than one grain of codeine or of any of its salts,
- ~~D. Not more than 1/6 of a grain of dihydrocodeinone or any of its salts~~
- ~~E. Not more than 2 grains of noscopine, formerly narcotine or any of its salts~~
- ~~F. Not more than 2 grains of papaverine or any of its salts~~
- ~~G. D.~~ Not more than 1/2 grain of dihydrocodeine or any of its salts, and
- ~~H. E.~~ Not more than one of the drugs named above in paragraphs A, B, C, D and ~~E F and G.~~'

Sec. 15. R. S., c. 68, § 40, sub-II, ¶ A, amended. Paragraph A of subsection II of section 40 of chapter 68 of the Revised Statutes, as amended, is further amended to read as follows:

A. No person shall prescribe, administer, dispense or sell under the exemptions of this section to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when

he knows or can by reasonable diligence ascertain that such prescribing, administering, dispensing or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation is prescribed, administered, dispensed or sold, within any 48 consecutive hours, with more than 4 grains of opium, or more than $\frac{1}{2}$ grain of morphine or of any of its salts, or more than ~~2~~ 4 grains of codeine or of any of its salts, or will provide such person or the owner of such animal, within 48 consecutive hours, with more than one preparation exempted from ~~the provisions of~~ this chapter.'

Sec. 16. R. S., c. 68, § 40, sub-§ III, additional. Section 40 of chapter 68 of the Revised Statutes, as amended, is further amended by adding a new subsection III, as follows:

III. Exempt preparations. The Maine Board of Commissioners of the Profession of Pharmacy may by regulation exempt from the application of this chapter, to such extent as it determines to be consistent with the public welfare, pharmaceutical preparations found by the board after due notice and opportunity for hearing:

A. Either to possess no addiction-forming or addiction-sustaining liability sufficient to warrant imposition of all of the requirements of this chapter; and

B. Does not permit recovery of a narcotic drug having such an addiction-forming or addiction-sustaining liability, with such relative technical simplicity and degree of yield as to create a risk of improper use.

In exercising the authority granted in paragraph A, the board by regulation and without special findings may grant exempt status to such pharmaceutical preparations as determined to be exempt under the federal narcotic law and regulations.

If the board shall subsequently determine that any exempt pharmaceutical preparation does possess a degree of addiction liability that, in its opinion, results in abusive use, it shall be regulation publish the determination in the state paper. The determination shall be final and the exempt status shall cease to apply to the particular pharmaceutical preparation.'

Sec. 17. R. S., c. 68, § 52, amended. Section 52 of chapter 68 of the Revised Statutes is amended to read as follows:

Sec. 52. Violation of chapter; disposal of fines and forfeitures. Unless otherwise provided for, the violation of any provision of this chapter shall constitute a misdemeanor and any person convicted of such violation shall be ~~subject to~~ punished by a fine of not more than ~~\$100~~ \$1,000. ~~The~~ Each violation of each section of this chapter shall constitute a separate offense. All fees, fines and forfeitures collected under ~~the provisions of~~ this chapter shall be paid to the Treasurer of State and shall be considered funds of the board, to be by them expended for the enforcement of laws relating to apothecaries and the sale of poisons and for expenses incurred in their official work.'