

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1364

H. P. 930

House of Representatives, February 13, 1963

Referred to Committee on Legal Affairs. Sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. MacGregor of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Relating to Operating Business on Sunday and Certain Holidays.

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

Sec. 1. R. S., c. 134, § 38, repealed and replaced. Section 38 of chapter 134, as repealed and replaced by section 1 of chapter 362 of the public laws of 1961 is repealed and the following enacted in place thereof:

‘Sec. 38. Operating business on the Lord’s Day and certain holidays. No person, firm or corporation shall, on the Lord’s Day, Memorial Day, July 4th, November 11th and Thanksgiving Day as proclaimed by the Governor, keep open a place of business to the public except for works of necessity, emergency or charity.

This section shall not apply to: the operation or maintenance of common, contract and private carriers; taxi cabs; airplanes; newspapers; radio and television stations; hotels, motels, rooming houses, tourist and trailer camps; restaurants; garages and motor vehicle service stations; retail monument dealers; automatic laundries; drug stores; greenhouses; seasonal stands engaged in sale of farm produce, dairy products, sea food or Christmas trees; public utilities; industries normally kept in continuous operation, including but not limited to pulp and paper plants and textile plants; processing plants handling agricultural produce or products of the sea; ship chandleries; marinas; motion picture theatres; sports and athletic events; musical concerts; religious, educational, scientific or philosophical lectures; scenic, historic, recreational and amusement facilities; provided that this section shall not exempt the businesses or facilities specified in sections 39, 40 and 41 from closing in any municipality until the requirements of those sections have been met; stores wherein no more than 3 persons, including the proprietor, are employed in the usual and regular conduct

of the business; stores which, in the usual and regular conduct of the business, have no more than 1,000 square feet of interior floor space.

For the purpose of determining qualification, a "store" shall be deemed to be any operation conducted within one building advertising as, and representing itself to the public to be, one business enterprise regardless of internal departmentalization. All sub-leased departments of any store shall for the purpose of this section be deemed to be operated by the store in which they are located. Contiguous stores owned by the same proprietor or operated by the same management shall be deemed to be a single store for the purpose of this statute.

Any person, firm or corporation found guilty of violating any of the provisions of this section shall be punished by a fine of not more than \$100 or by imprisonment for 30 days, or by both, for the first offense; and by a fine of \$500 or by imprisonment for 60 days, or by both, for the 2nd offense occurring within one year following the first conviction. Any offense subsequent to the 2nd offense and occurring within 2 years following the 2nd conviction shall be punished by a fine of not more than \$1,000 or by imprisonment for 90 days, or by both. No complaint charging violation of this section shall issue later than 5 days after its alleged commission.

In addition to the penalty imposed by this section, all property and commodities exposed for sale on the Lord's Day or any of the aforementioned holidays in violation of this section may be forfeited. Upon conviction of the offender, the court may issue a warrant for the seizure of the forfeited articles, which when seized, shall be sold on one day's notice and the proceeds paid to the municipality in which the offending store is physically located for the use of the poor of that municipality.

Each separate sale, trade or exchange of property or offer thereof, in violation of this section, and each Lord's Day or one of the aforementioned holidays a person, firm or corporation engages in or employs others to engage in the sale, trade or exchange of property in violation of the law constitutes a separate offense.

In addition to any criminal penalties provided in this section, the Attorney General, county attorney, a mayor or city manager, a city council or the board of selectmen of a town, or any resident of a municipality in which a violation is claimed to have occurred may file a complaint with the Superior Court to enjoin any violation of this section. The Superior Court shall have original jurisdiction of such complaints and authority to enjoin such violations.

This section shall not apply to isolated or occasional sales by persons not engaged in the sale, transfer or exchange of property as a business.

Sec. 2. R. S., c. 134, § 38-A, repealed. Section 38-A of chapter 134 of the Revised Statutes, as enacted by section 2 of chapter 362 of the public laws of 1961 is repealed.