

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FIRST LEGISLATURE

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**Legislative Document**

**No. 1365**

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H. P. 931

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. Smith of Strong.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-THREE

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### **AN ACT Relating to Operating Businesses on the Lord's Day and Certain Holidays.**

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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 R. S., c. 134, § 38, repealed and replaced.** Section 38 of chapter 134 of the Revised Statutes, as repealed and replaced by section 1 of chapter 362 of the public laws of 1961, is repealed and the following enacted in place thereof: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 his place of business to the public except for works of necessity or charity. This section shall not apply at any time 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 in the serving of meals only; motor vehicle service stations employing 3 or less including proprietor; drug stores employing 3 or less including proprietor; 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; motion picture theatres; ship chandleries; 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 or proprietors, are employed in the usual and regular conduct of business.

This section shall not apply to any person, firm or corporation from the hour of 1 P.M. through 6 P.M. on the above mentioned days, except that it shall apply at all times to the sale of spirituous and vinous liquors and malt beverages.

Any person, firm or corporation keeping open his place of business on the above mentioned days and limited to the hours of 1 P.M. through 6 P.M. shall not advertise special sales or use any special means or device to attract the public, except that this shall not restrict any establishment from advertising the hours they shall remain open for business.

Any person, firm or corporation keeping open his place of business on the above mentioned days and limited to the hours of 1 P.M. through 6 P.M. shall pay all employees double time. No person working on such holidays or Lord's Day shall in any manner be discriminated against because of this section. Any employee not wishing to work on any of these days shall not in any way be penalized or discharged for such refusal.

For the purpose of determining qualification under this section, 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 subleased 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 section.

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; or 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 the municipality.

Each separate sale, trade or exchange of property or offer thereof, in violation of this law, 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 herein provided, the Attorney General, county attorney, a mayor or city manager, a city council or the board of select-

men 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 - 38-B, 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 and section 38-B of chapter 134 of the Revised Statutes, as enacted by section 2 of chapter 302 of the public laws of 1959 and as amended by section 3 of chapter 362 of the public laws of 1961, are repealed.