

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1674

H. P. 1176

House of Representatives, May 23, 1967

Reported by Mr. Benson, from the Committee on Health and Institutional Services. Printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

Presented by John E. Gill of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Revising the Drug, Narcotic and Pharmacy Laws.

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

Sec. 1. R. S., T. 22, § 2206, amended. The first sentence of section 2206 of Title 22 of the Revised Statutes is amended to read as follows:

No person, except a registered apothecary, wholesaler, registered hospital pharmacy or a physician of regular standing in his profession, shall furnish, sell or keep for sale any opium, morphine, laudanum, marijuana or preparations containing opium, morphine, marijuana or derivative of opium.

Sec. 2. R. S., T. 22, § 2210, amended. The first and 2nd sentences of section 2210 of Title 22 of the Revised Statutes, as amended by section 2 of chapter 359 of the public laws of 1965, are further amended to read as follows:

It shall be unlawful for any person, firm or corporation to sell, furnish or give away or offer to sell, furnish or give away, or have in possession, any drug bearing on its container the legend "Caution — Federal law prohibits dispensing without prescription", any veronal or barbital, or any other salts, derivatives or compounds of barbituric acid, or amphetamines or derivatives or compounds, thereof, or any registered, trademarked or copyrighted preparation registered in the United States Patent Office containing the above substance, or any drug designated by the board as a "potent medicinal substance" pursuant to section 2201, except upon the written order or prescription of a physician, surgeon, dentist or veterinary surgeon. These provisions shall not apply to the possession, sale, furnishing or giving away, or the offering to sell, furnish or give

away such drugs, by drug jobbers, drug wholesalers and drug manufacturers and their agents and employees to registered pharmacists and the pharmacies registered under Title 32, section 2901, nor to physicians, dentists, veterinary surgeons or hospitals, nor to each other, nor to the sale at retail in pharmacies by pharmacists to each other **acting in good faith nor to physicians, surgeons, dentists, veterinary surgeons or hospitals.**

Sec. 3. R. S., T. 22, § 2212, amended. Section 2212 of Title 22 of the Revised Statutes is amended to read as follows:

§ 2212. Using drugs not in prescription

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

Sec. 4. R. S., T. 22, § 2212-A, additional. Title 22 of the Revised Statutes is amended by adding a new section 2212-A, to read as follows:

§ 2212-A. Refill prescriptions

No prescription for depressant or stimulant drugs shall be refilled from a copy of the original prescription. Whoever violates any provision of this section shall upon conviction thereof be punished by a fine of not less than \$50 nor more than \$1,000 for each offense.

Sec. 5. R. S., T. 22, § 2212-B, additional. Title 22 of the Revised Statutes is amended by adding a new section 2212-B, to read as follows:

§ 2212-B. Possession of certain drugs

Whoever, except the laboratory of the Department of Health and Welfare, and research centers and laboratories licensed under section 2368-A is found in possession of d-lysergic acid diethylamide (LSD-25), peyote, mescaline and its salts, dimethyltryptamine (DMT), psilocin or psilocybin, shall upon conviction thereof be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

Sec. 6. R. S., T. 22, § 2215, amended. Section 2215 of Title 22 of the Revised Statutes, as amended by section 3 of chapter 359 of the public laws of 1965, is further amended to read as follows:

§ 2215. Violations generally

Whoever violates any provision of sections 2201 ~~and~~, 2210, 2212-A or 2212-B, or is found to be under the influence of any of the substances enumerated in section 2210 in any street, highway or other public place shall upon conviction be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2 years, or by both, **for each offense. State law enforcement officers, members of the Board of Commissioners of the Profession of Pharmacy and pharmacy inspectors shall have the right to inspect the records of any apothecary store which relate to any of the substances enumerated in section 2210 or designated as "potent medicinal substances" under section 2201.**

Sec. 7. R. S., T. 22, § 2364, sub-§ 1, ¶ F, additional. Subsection 1 of section 2364 of Title 22 of the Revised Statutes is amended by adding a new paragraph F, to read as follows:

F. A record shall be kept of the sale of exempt narcotic preparations, such record to contain the date of sale, the signature and address of the purchaser, the name of the preparation, the purpose for which purchased and the signature of the person making the sale.

Sec. 8. R. S., T. 22, § 2368-A, additional. Title 22 of the Revised Statutes is amended by adding a new section, 2368-A, to read as follows:

§ 2368-A. Hallucinatory drugs

No person shall manufacture, compound, mix, cultivate, grow or by any other process produce or prepare hallucinatory agents having the potential for abuse because of their hallucinatory effect, such as d-lysergic acid diethylamide (LSD-25), peyote, mescaline and its salts, dimethyltryptamine (DMT), psilocin or psilocybin, unless for laboratory work or research. Laboratories and research centers using these drugs shall be licensed and regulated by the Bureau of Health.

Sec. 9. R. S., T. 22, § 2369, amended. The first sentence of section 2369 of Title 22 of the Revised Statutes is amended to read as follows:

No license shall be issued under section 2368 or section 2368-A, unless and until the applicant therefor has furnished proof satisfactory to the Bureau of Health:

Sec. 10. R. S., T. 22, § 2372, sub-§ 1, ¶ A, amended. Paragraph A of subsection 1 of section 2372 of Title 22 of the Revised Statutes is amended to read as follows:

A. 4 grains of opium, or of any of its salts, or

Sec. 11. R. S., T. 22, § 2372, sub-§ 5, amended. The 4th sentence of subsection 5 of section 2372 of Title 22 of the Revised Statutes is amended to read as follows:

The record of all narcotic drugs sold, administered, dispensed or otherwise disposed of shall show the date of selling, administering or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs; and such record shall contain the signature of the person purchasing such drugs, who shall be subject to the penalties of section 2380 for not affixing his signature thereto.

Sec. 12. R. S., T. 22, § 2374, amended. The first sentence of section 2374 of Title 22 of the Revised Statutes is amended to read as follows:

Prescriptions, orders and records required by this chapter and stocks of narcotic drugs shall be open for inspection only to the Board of Commissioners of the Profession of Pharmacy and to federal, state, county and municipal officers whose duty it is to enforce the laws of this State or of the United States relating to narcotic drugs.

Sec. 13. R. S., T. 22, § 2375, sub-§ 1, amended. The first paragraph of subsection 1 of section 2375 of Title 22 of the Revised Statutes is amended to read as follows:

No person shall obtain or attempt to obtain a narcotic, depressant or stimulant drug, or hallucinogenic agent listed in section 2212-B, or any potent medicinal substance designated pursuant to section 2201, or procure or attempt to procure the administration of a narcotic such drug, agent or substance:

Sec. 14. R. S., T. 22, § 2375, sub-§ 1, amended. Subsection 1 of section 2375 of Title 22 of the Revised Statutes is amended by adding at the end the following new paragraph:

This subsection shall not apply to drug manufacturers, their agents or employees, when such manufacturers, their agents or employees are authorized to engage in and are actually engaged in investigative activities directed toward the safeguard of said manufacturers' trademarks.

Sec. 15. R. S., T. 32, § 2851, sub-§ 3, amended. Subsection 3 of section 2851 of Title 32 of the Revised Statutes is amended to read as follows:

3. **Inspection; analysis; sales.** To inspect during business hours all apothecaries, dispensaries, stores, hospital pharmacies, extended care facilities, boarding homes, nursing homes or places in which drugs or medicines are manufactured, stored, distributed, compounded, dispensed or retailed, and to regulate and to control the distribution and the sale, character and standard of all drugs, poisons and medicines compounded, dispensed or distributed in this State; to secure sample and cause them to be analyzed; and to prevent the sale of such drugs, poisons or medicines as do not conform to the laws of the State;

Sec. 16. R. S., T. 32, § 2851, amended. The first sentence of the last paragraph of section 2851 of Title 32 of the Revised Statutes is amended to read as follows:

The members of the board shall each receive as compensation for their services ~~\$20~~ \$25 per day for the time actually spent and their necessary expenses incurred in the discharge of their duties.

Sec. 17. R. S., T. 32, § 2855, amended. Section 2855 of Title 32 of the Revised Statutes is amended to read as follows:

§ 2855. Complaints

The board shall prosecute all complaints against any person registered as an apothecary for the violation of any of the requirements of this chapter to be performed by a registered apothecary. Such complaints shall be made in writing within ~~60 days~~ 6 months after the act complained of has been committed.

Sec. 18. R. S., T. 32, § 2901, amended. The first sentence of the 2nd paragraph of section 2901 of Title 32 of the Revised Statutes is amended to read as follows:

The application for such a permit shall be made on a form to be prescribed and furnished by said board and shall be accompanied by the required fee of ~~\$15~~ \$25, which amount shall also be paid for each renewal of such permit.

Sec. 19. R. S., T. 32, § 2902, amended. The first sentence of section 2902 of Title 32 of the Revised Statutes is amended to read as follows:

Every person not already registered, entering upon the practice of pharmacy, upon the payment of a fee of ~~\$25~~ \$35 to the secretary of said board, except as otherwise provided, shall be examined by said commissioners and shall present to them satisfactory evidence that he had been graduated from some regularly incorporated college of pharmacy and has been employed in an apothecary store for at least one year, and is competent for the practice of pharmacy.

Sec. 20. R. S., T. 32, 2903, amended. The first sentence of section 2903 of Title 32 of the Revised Statutes is amended to read as follows:

Every registered pharmacist and every ~~qualified~~ registered assistant pharmacist who desires to continue to practice pharmacy in this State shall annually, after the expiration of the first year of his registration, on or before the last day of June, pay a renewal fee of ~~\$3~~ \$5 to the secretary of the board, in return for which a renewal registration shall be issued.

Sec. 21. R. S., T. 32, § 2904, additional. Title 32 of the Revised Statutes is amended by adding a new section 2904, to read as follows:

§ 2904. Registration of wholesale dealers

It shall be unlawful for any person, copartnership, association or corporation, whether within or without this State, to sell at wholesale any drug bearing on its container the legend "Caution — Federal U. S. A. law prohibits dispensing without prescription," or any drug which may not be dispensed without prescription in this State, within this State without first having obtained a permit to do so from the board. Such permit shall be renewed annually.

The application for such permit shall be made on a form to be prescribed and furnished by said board and shall be accompanied by a fee of \$100 which amount shall be paid for each renewal of such permit.

For the purpose of this section, the word "wholesaler" means a person who manufactures, bottles, packs or purchases drugs, medical devices or cosmetics for the purpose of selling to retailers.

Any person, firm or corporation who has in his or its possession for sale or who sells narcotics or drugs to be sold only on prescription, acquired from a wholesaler or dealer not registered as required under this section, shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$1,000 for each offense.