

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1908
6

7 S.P. 744

In Senate, January 20, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

10 Reference to the Committee on Business and Commerce suggested and
ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator Berube of Androscoggin.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT Concerning the Regulation of Itinerant
18 Vendors.
19

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

22 Sec 1. 30 MRSA §2151, sub-§5, ¶F is amended to
23 read:

24 F. Regulating the business of itinerant vending
25 of merchandise at retail, pursuant to chapter
26 215, subchapter XI.

27 Sec 2. 30 MRSA c. 215, sub-c. XI is enacted to
28 read:

29 SUBCHAPTER XI

30 ITINERANT VENDORS

31 §3231. Definitions

1 As used in this subchapter, unless the context
2 otherwise indicates, the following terms have the
3 following meanings.

4 1. Merchandise. "Merchandise" includes any ob-
5 jects, wares, goods, promises, commodities, intangi-
6 bles, services or others things of value, but does
7 not include food or technical and vocational schools
8 located outside of the State which are registered
9 pursuant to Title 20-A, section 9501.

10 2. Permanent place of business. "Permanent
11 place of business" means any building or other perma-
12 rently affixed structure, including a home residence,
13 which is owned or held under a 12-month lease or
14 rental agreement at the time business is commenced
15 and is used in whole or in part for the purpose of
16 engaging in sales of consumer merchandise.

17 3. Sale. "Sale" includes any sale, transfer,
18 exchange or barter, offer for sale, promise to sell,
19 attempt to sell or advertisement for sale of any mer-
20 chandise for cash or for credit.

21 4. Transient seller of consumer merchandise.
22 "Transient seller of consumer merchandise" means any
23 person who engages in the business of selling mer-
24 chandise to consumers by means of personal contact or
25 telephone contact, whether or not the seller is
26 present in the State at the time of the contact or
27 the time of sale and who does not have, for the pur-
28 poses of carrying on this business, any permanent
29 place of business within the municipality in which
30 the sale is made. "Transient seller of consumer mer-
31 chandise" does not include any person who sells at
32 public fairs, expositions or bazaars or any member
33 selling on behalf of a public service organization.
34 "Transient seller of consumer merchandise" does not
35 include any person who sells exclusively by mail con-
36 tact, except for any person who offers merchandise or
37 money prizes as free of charge, such as contest
38 prizes or gifts for answering a survey, but who re-
39 quires the recipient to pay something of value in or-
40 der to participate in this offer, including, but not
41 limited to, entrance fees, processing fees or han-
42 dling charges.

1 §3232. Municipal license required

2 Every transient seller of consumer merchandise
3 shall obtain from the municipal officers of the city
4 or town in which merchandise is to be sold a license
5 to sell the merchandise. The fee for such a license
6 shall be \$500 for each day the transient seller will
7 engage in the sale of merchandise.

8 §3233. Cash bond

9 Every transient seller of consumer merchandise
10 shall, at the time of application for a license pur-
11 suant to section 3232, deposit with the municipal of-
12 ficers a cash bond in the amount of \$5,000.

13 Each bond deposited under this section shall be
14 subject, as long as it remains in the hands of the
15 municipal officers, to the attachment and execution
16 in behalf of consumers whose claims arise in connec-
17 tion with the transient sale of consumer merchandise
18 in that municipality. The municipal officers shall
19 be impleaded as a trustee in any civil action brought
20 against any licensee and shall pay over, under order
21 of court, such sum of money as the municipal officers
22 shall be found chargeable. The cash bond shall be
23 subject to the payment of any and all fines and pen-
24 alties incurred by the licensee through any of the
25 provisions of this subchapter and the clerk of the
26 court in which the fine or penalty is imposed shall
27 notify the municipal officers of the name of the li-
28 cencee against whom the fine or penalty is adjudged
29 and of the amount of the fine or penalty. The munic-
30 ipal officers, if they have in their hands a suffi-
31 cient sum deposited by the licensee, shall pay the
32 sum so specified to the clerk. If the municipal of-
33 ficers do not have a sufficient sum so deposited,
34 they shall make payment of so much as they have in
35 their hands. All claims upon the cash bond shall be
36 satisfied after judgment, fine and penalty, in the
37 order in which the order of court is entered in the
38 respective suits, until all claims are satisfied or
39 the cash bond is exhausted. No cash bond may be paid
40 over by the municipal officers to a licensee as long
41 as there are any outstanding claims or notices of
42 claims which are subject of suit against the licens-
43 ee, in which case the municipal officers shall retain

1 only such sum of the cash bond as is the subject of
2 the claim.

3 The cash bond shall be returned to the person so
4 designated in the licensee's application for license
5 90 days following the expiration of the license.

6 §3234. Possession and presentation of license

7 Every transient seller of consumer merchandise
8 shall have a valid license, as required by this sub-
9 chapter, in his immediate possession at all times
10 when engaging in sales under this subchapter and
11 shall present the license for inspection upon request
12 of any person.

13 §3235. Violations

14 A violation of this subchapter or any ordinance
15 or rule promulgated by the municipality pursuant to
16 section 2151, subsection 5, paragraph F is a civil
17 violation for which a forfeiture not to exceed \$250
18 may be adjudged. Each day of a violation constitutes
19 a separate violation.

20 §3236. Rule

21 A municipality may adopt and enforce ordinances
22 which are more restrictive than this subchapter, may
23 specify the form and content of any applications re-
24 quired by the municipality for licenses issued under
25 this subchapter and may provide for waivers of cash
26 bonds required by this subchapter.

27 STATEMENT OF FACT

28 This bill establishes a mechanism which allows
29 municipalities to better regulate licensed itinerant
30 vendors.

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