

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 587

H.P. 422

House of Representatives, March 6, 1989

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative DUFFY of Bangor.
Cosponsored by Representative KETOVER of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Allow Sunday Retail Sales from Memorial Day to Labor Day.



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

3 17 MRSA §3204, as amended by PL 1985, c. 509, is repealed
5 and the following enacted in its place:

7 §3204. Restrictions on operation of businesses

9 1. Days on which operation is prohibited. Except in the
11 case of works of necessity, emergency or charity, no person, firm
13 or corporation subject to this section may keep open a place of
15 business to the public on the following days: Sundays, except
17 between the hours of noon and 5 p.m. on those Sundays which fall
19 between Thanksgiving Day and Christmas Day; Memorial Day, the
last day in May, but if the Federal Government designates May
30th as the date for observance of Memorial Day, the 30th of May;
July 4th; Labor Day, the first Monday in September; Veterans'
Day, November 11th; Christmas Day and Thanksgiving Day as
proclaimed by the Governor.

21 2. Local option election. Notwithstanding the prohibition
23 of subsection 1 regarding operation of certain businesses on
25 Sunday, residents of a municipality or an unincorporated place
27 may, following the procedures provided for by Title 28-A,
sections 121 to 124, elect to allow retail stores to keep open a
place of business to the public between noon and 5 p.m. on those
Sundays which fall between Memorial Day and Labor Day.

29 Any contract term which requires a retail store to keep open a
31 place of business to the public on any Sunday on which operation
is allowed under this section is void and unenforceable as of the
effective date of this section.

33 For the purposes of this subsection, a "retail store" means a
35 "store" as defined in subsection 3 and, regardless of its size or
number of employees, engaged in the sale of goods to consumers.

37 3. Applicability. This section does not apply to: the
39 operation or maintenance of common, contract and private
41 carriers; taxicabs; airplanes; newspapers; radio and television
43 stations; hotels, motels, rooming houses and tourist and trailer
45 camps; restaurants; garages and motor vehicle service stations;
47 retail monument dealers; automatic laundries; machines that vend
49 anything of value, including, but not limited to, a product,
money or service; a satellite facility approved by the
Superintendent of the Bureau of Banking under Title 9-B or
comparable facility approved by the appropriate federal
authority; pharmacies; greenhouses; seasonal stands engaged in
the sale of farm produce, dairy products, seafood or Christmas
trees; public utilities; industries normally kept in continuous
operation, including, but not limited to, pulp and paper plants
51 and textile plants; processing plants handling agricultural
produce or products of the sea; ship chandleries; marinas;

1 establishments primarily selling boats, boating equipment,
3 sporting equipment, souvenirs and novelties; motion picture
5 theaters; public dancing; sports and athletic events; bowling
7 alleys; displaying or exploding fireworks, under Title 8, chapter
9 9-A; musical concerts; religious, educational, scientific or
11 philosophical lectures; scenic, historic, recreational and
13 amusement facilities; real estate brokers and real estate
15 salesmen; mobile home brokers and mobile home salesmen; stores
17 wherein no more than 5 persons, including the proprietor, are
19 employed in the usual and regular conduct of business; and stores
21 which have no more than 5,000 square feet of interior customer
23 selling space, excluding back room storage, office and processing
25 space; provided that this section shall not exempt the businesses
27 or facilities specified in sections 3205 and 3207 from closing in
29 any municipality until the requirements of those sections have
31 been met.

17 For the purposes of this section, a "store" is deemed to be any
19 operation conducted within one building advertising, and
21 representing itself to the public, as one business enterprise
23 regardless of internal departmentalization. All subleased
25 departments of any store, for the purpose of this section, are
27 deemed to be operated by the store in which they are located.
29 Contiguous stores owned by the same proprietor or operated by the
31 same management are deemed to be a single store for the purpose
33 of this section.

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

31 4. Violations. Any person, firm or corporation found guilty
33 of violating this section shall be punished by a fine of not more
35 than \$100 or by imprisonment for 30 days, or by both, for the
37 first offense; and by a fine of \$500 or by imprisonment for 60
39 days, or by both, for the 2nd offense occurring within one year
41 following the first conviction. Any offense subsequent to the
43 2nd offense and occurring within 2 years following the 2nd
45 conviction shall be punished by a fine of not more than \$1,000 or
47 by imprisonment for 90 days, or by both. No complaint charging
49 violation of this section shall issue later than 5 days after its
51 alleged commission.

43 Each separate sale, trade or exchange of property or similar
45 offer, in violation of this section, and each Sunday a person,
47 firm or corporation engages in or employs others to engage in the
49 sale, trade or exchange of property in violation of the law
51 constitutes a separate offense.

49 5. Injunctive relief. In addition to any criminal penalties
51 provided in this section, the Attorney General, district attorney
or any resident of a municipality in which a violation is claimed

1 to have occurred may file a complaint with the Superior Court to
2 enjoin any violation of this section. The Superior Court shall
3 have original jurisdiction over any such complaints and authority
4 to enjoin the violations.

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9 **STATEMENT OF FACT**

11 The purpose of this bill is to expand the number of Sundays
12 on which retail stores, regardless of size or number of
13 employees, may do business. The bill allows retail stores to
14 remain open on Sundays from Memorial Day to Labor Day, in
15 addition to those winter Sundays on which they may currently
16 remain open, in municipalities or unorganized places which vote
17 to allow them to do so. The procedures for conduct of this local
18 option election are those outlined in the Maine Revised Statutes,
19 Title 28-A, sections 121 to 124, which deal with local option
20 elections on sales of alcoholic beverages on Sundays. The bill
21 allows stores which may be open during this summer period to
22 operate between noon and 5 p.m. as under current law. The bill
23 does not otherwise affect the types of businesses subject to
24 Sunday closing laws.

25
26 The bill is designed to leave the decision on whether to
27 remain open on Sundays from Memorial Day to Labor Day, in those
28 communities which have voted to allow retailers to operate during
29 this period, to individual retail store owners. To achieve this
30 result, the bill disallows contractual terms which require retail
31 store owners to remain open on these summer Sundays under certain
32 circumstances.

33
34 Finally, the bill rearranges provisions of current law to
35 make them more understandable.