

# MAINE STATE LEGISLATURE

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# Sixty-Sixth Legislature.

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HOUSE.

No. 159.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND NINETY-THREE.

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AN ACT to prevent and punish fraud in sales of Goods,  
Wares and Merchandise at public or private sale by  
Itinerant Vendors, and to regulate such sales.

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*Be it enacted by the Senate and House of Representatives  
in Legislature assembled, as follows:*

SECTION 1. Every itinerant vendor who shall sell or  
2 expose for sale, at public or private sale, any goods, wares  
3 and merchandise without state and local licenses therefor,  
4 issued as hereinafter provided, shall be guilty of a misde-  
5 meanor and shall be punished for each offence by fine not  
6 exceeding fifty dollars or by imprisonment not exceeding  
7 sixty days, or by both such fine and imprisonment.

SECT. 2. All persons, both principals and agents, who  
2 shall by circular, handbill, newspaper, or in any other

3 manner, advertise any such sales as those referred to in  
4 the section last preceding, before proper licenses shall be  
5 issued to the vendor, shall be guilty of a misdemeanor and  
6 shall be punished by fine not exceeding fifty dollars or  
7 imprisonment not exceeding sixty days, or by both such  
8 fine and imprisonment.

SECT. 3. It shall be the duty of every itinerant vendor,  
2 whether principal or agent, before commencing business  
3 to take out a state license and local licenses in the manner  
4 hereinafter set forth, but nothing herein contained shall  
5 effect the right of any municipal officers to make such  
6 regulations relative to itinerant vendors as may be permis-  
7 sible under the general law or under their respective  
8 charters.

SECT. 4. Every itinerant vendor desiring to do business  
2 in this State shall deposit with the secretary of State the  
3 sum of five hundred dollars as a special deposit, and after  
4 such deposit, upon application in proper form and the  
5 payment of a further sum of twenty-five dollars as a  
6 state license fee, the secretary of State shall issue to him  
7 an itinerant vendor's license, authorizing him to do busi-  
8 ness in this State in conformity with the provisions of  
9 this act for the term of one year from the date thereof.  
10 Every license shall set forth a copy of the application  
11 upon which it is granted. Such license shall not be trans-  
12 ferable, nor give authority to more than one person to  
13 sell goods as an itinerant vendor, either by agent or clerk  
14 or in any other way than in his own proper person, but

15 any licensee may have the assistance of one or more  
16 persons in conducting his business who shall have author-  
17 ity to aid that principal but not to act for or without him.

SECT. 5. All applications for licenses shall be sworn  
2 to, shall disclose the names and residences of the owners  
3 or parties in whose interests said business is conducted,  
4 and shall be kept on file by the secretary of State and a  
5 record shall be kept by him of all licenses issued upon  
6 such applications. All files and records both of the secre-  
7 tary of State and of the respective town or city clerks shall  
8 be in convenient form and open for public inspection.

SECT. 6. Before selling under said State license every  
2 itinerant vendor shall exhibit the same to the clerk of the  
3 town or city where he proposes to make sales. And  
4 upon payment to said clerk of a further local license fee,  
5 to be ascertained in the manner provided in the following  
6 section, and the proof of payment of all such other license  
7 fees, if any, as are legally chargeable upon local sales,  
8 the clerk shall record the said State license in full, shall  
9 endorse upon it the words "local license fees paid," and  
10 shall affix thereto his official signature together with the date  
11 of such endorsement. Any failure to obtain a local license,  
12 and for proper endorsements made on the said license,  
13 shall be subjected to the same penalty as though no State  
14 license had been issued.

SECT. 7. Any itinerant vendor before making any  
2 sales of such goods, wares and merchandise shall furnish  
3 to the clerk of the city or town where any goods, wares

4 and merchandise are kept or to be kept or exposed for  
5 sale or sold by him or them, a true statement of the  
6 average quantity and value of the stock of goods, wares  
7 and merchandise so kept or exposed for sale. The per-  
8 son furnishing such statement shall make oath that the  
9 same is true, and said oath may be administered by said  
10 clerk or any officer qualified to administer oaths. Such  
11 clerk shall thereupon ascertain the amount to be paid for  
12 the local license, by a computation based upon the aver-  
13 age valuation of such stock of goods, wares and merchan-  
14 dise so kept or exposed for sale, in the ratio and of the  
15 rate per thousand dollars of valuation of the last preced-  
16 ing tax levy made in such city or town; and upon  
17 receipt of the amount so fixed and ascertained shall issue  
18 to the person filing or furnishing such statement a local  
19 license authorizing the sale of such goods, wares and  
20 merchandise within the limits of such town or city, which  
21 license shall be and continue in force so long as the  
22 licensee thereunder shall continuously keep and expose  
23 for sale in such city or town such stock of goods, wares  
24 and merchandise, except that such license shall in any  
25 event terminate and expire on the first day of April next  
26 following its date. If the statement required by this  
27 section is not filed as aforesaid, the clerk of the city or  
28 town in which such goods are so kept or exposed for  
29 sale, or where such itinerant vendor desires to sell such  
30 goods, wares and merchandise, shall thereupon fix the

31 sum to be paid for such license, which sum shall be bind-  
32 ing upon the parties.

SECT. 8. Whoever neglects or refuses to file the state-  
2 ment required by section 7 of this act, or whoever makes a  
3 false or fraudulent representation therein, shall be pun-  
4 ished by a fine of not less than five dollars nor more than  
5 twenty dollars for each and every day such goods, wares  
6 or merchandise are kept or exposed for sale.

SECT. 9. Whenever a person liable therefor, and after  
2 demand made by the clerk of the city or town in which he  
3 is located, refuses or neglects to pay the license fee pro-  
4 vided for in this act, the said clerk may, in his own name  
5 but for the use and benefit of such city or town, maintain  
6 an action of debt or trustee process therefor in a like man-  
7 ner as for his own debt. Municipal courts and trial jus-  
8 tices shall have concurrent jurisdiction with the superior  
9 court and supreme judicial court, of such actions and of  
10 complaints under section 2 of this act.

SECT. 10. No itinerant vendor shall advertise, repre-  
2 sent or hold forth any sale as an insurance, bankrupt,  
3 insolvent, assignee, trustee, testator, executor, adminis-  
4 trator, receiver, wholesale or manufacturers, or closing  
5 out sale or as a sale of any goods damaged by smoke, fire,  
6 water or otherwise, or in any similar form, unless he  
7 shall before so doing state under oath to the secretary of  
8 State either in the original application for a State license  
9 or in a supplementary application subsequently filed, and  
10 copy on the license all the facts relating to the reasons

11 and character of such special sale so advertised or repre-  
12 sented, including a statement of the names of the persons  
13 from whom the goods, wares and merchandise were  
14 obtained, the date of delivery to the person applying for  
15 the license, and the place from which said goods, wares  
16 merchandise were last taken, and all details necessary to  
17 exactly locate and fully identify all goods, wares and  
18 merchandise to be so sold.

SECT. 11. Any false statement in an application, either  
2 original or supplementary, for a license, and any failure  
3 on the part of any licensee to comply with all the require-  
4 ments of the last preceding section shall subject said itiu-  
5 erant vendor to the same penalty as if he had no license.

SECT. 12. All state licenses issued under this act shall  
2 expire by limitation one year from the date thereof, and  
3 may be, if so desired, surrendered at any time prior  
4 thereto for cancellation.

SECT. 13. Upon the expiration and return or surrender  
2 of each state license the secretary of State shall cancel  
3 the same, endorse the date of delivery and cancellation  
4 thereon, and place the same on file. He shall then hold  
5 the special deposit of each licensee hereinbefore men-  
6 tioned for the period of sixty days, and after satisfying  
7 any and all claims made upon the same under section  
8 fourteen, shall return said deposit or such portion of the  
9 same, if any, as may remain in his hands, to the licensee  
10 depositing it.

SECT. 14. Each deposit made with the secretary of  
2 State shall be subject, so long as it remains in his hands,  
3 to attachment and execution in behalf of creditors whose  
4 claims arise in connection with business done in the State,  
5 and the secretary of State may be held to answer as  
6 trustee, under the trustee process, in any civil action in  
7 debt or case brought against any licensee, and the secre-  
8 tary of State shall pay over, under order of court, or  
9 upon execution, such sum of money as he may be charge-  
10 able with upon his answer or otherwise. Said deposit  
11 shall also be subject to the payment of any and all fines  
12 and penalties incurred by the licensee through violation  
13 of this act, and the clerk or recorder of the court in  
14 which, or the trial justice by whom, such fine or penalty  
15 is imposed shall thereupon notify the secretary of State  
16 of the name of the licensee against whom such fine or  
17 penalty is adjudged and of the amount of such fine or  
18 penalty, and the secretary of State, if he has in his hands  
19 a sufficient sum deposited by such licensee shall pay the  
20 sum so specified to said clerk, recorder or trial justice,  
21 and if the secretary of State shall not have a sufficient  
22 sum so deposited he shall make payment as aforesaid of  
23 so much as he has in his hands. All claims upon deposit  
24 shall be satisfied after judgment, fine or penalty in the  
25 order in which notice of the claim is received by the sec-  
26 retary of State, until all such claims are satisfied or the  
27 deposit exhausted, but no notice filed after the expiration  
28 of the sixty days' limit aforesaid shall be valid. No



29 deposits shall be paid over by the secretary of State to  
 30 the licensees so long as there are any outstanding claims  
 31 or notices of claims against them, respectively, unless he  
 32 is satisfied that such claims will not be prosecuted to final  
 33 judgment or that no fine or penalty will be imposed.

SECT. 15. The words "itinerant vendors" for the pur-  
 2 poses of this act shall be construed to mean and include  
 3 all persons, both principals and agents, who engage in a  
 4 temporary or transient business in this State, either in one  
 5 locality or in travelling from place to place selling goods,  
 6 wares and merchandise, and who for the purposes of  
 7 carrying on such business hire, lease or occupy any build-  
 8 ing or structure for the exhibition and sale of such goods,  
 9 wares and merchandise.

SECT. 16. The provisions of this act shall not apply to  
 2 sales made to dealers by commercial travellers or selling  
 3 agents in the usual course of business, nor to *bona fide*  
 4 sales of goods, wares and merchandise by sample for future  
 5 delivery, or to hawkers on the streets or peddlers from  
 6 vehicles.

SECT. 17. All acts and parts of acts inconsistent here-  
 2 with are hereby repealed.

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## STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
 February 21, 1893. }

Reported by Mr. MORRILL of Portland, from Committee on Legal  
 Affairs and ordered printed under joint rules.

W. S. COTTON, *Clerk.*