

MAINE STATE LEGISLATURE

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EIGHTY-SECOND LEGISLATURE

H. P. No. 1103

H. D. No. 332

House of Representatives, March 10, 1925.

Referred to Committee on Legal Affairs and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Pierce of Sanford.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-FIVE

AN ACT to Amend Chapter Twenty of the Revised Statutes
Relating to Apothecaries and the Sale of Poisons.

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

Sections twenty, twenty-one, twenty-two, twenty-three,
2 twenty-four, twenty-five, twenty-six, twenty-seven, twenty-
3 eight, of chapter twenty of the revised statutes of nineteen
4 hundred and sixteen is hereby amended by striking out said
5 sections and substituting therefor the following sections:

'Sect. 20. Except as otherwise provided in following sec-
2 tions, no person shall sell, furnish, give or deliver any nar-
3 cotic drug except upon the written order of a manufac-
4 turer or jobber in drugs, wholesale druggist, registered

5 pharmacist actively engaged in business as such, physician,
6 dentist or veterinarian registered under the laws of the
7 state of Maine, or an incorporated hospital, college or sci-
8 entific institution through its superintendent or official in
9 immediate charge, or upon the written prescription of a
10 physician, dentist or veterinarian registered as above pro-
11 vided, such order bearing his legal signature, the date of
12 the signature, his office address, the registry number as-
13 signed him under the act of congress approved December
14 seventeenth, nineteen hundred and fourteen, and the name
15 and address of the patient for whom it is prescribed and
16 the reason for prescribing. The prescription, when filled,
17 shall show the date of filling and the serial number of the
18 prescription and should be filed away in a separate file from
19 non-narcotic prescriptions and kept for a period of two
20 years. No prescription shall be filled except in the manner
21 indicated therein and at the time when it is received, and
22 the full quantity of each substance prescribed shall be given.
23 Each pharmacist or apothecary who fills a prescription for
24 a narcotic drug shall securely attach to the container thereof
25 a label giving the name and address of the store where the
26 prescription is filled, the date of filling, the name of the
27 person for whom it is prescribed, the name of the physician,
28 dentist or veterinarian who issued it; and the narcotic drug
29 so delivered shall always be kept in its container until used.
30 No prescription shall be refilled, nor shall a copy of the
31 same be made except for the purpose of record by the

32 druggist filling the same, such record to be open at all times
33 to inspection by any member or members of the board of
34 commissioners of pharmacy, the board of registration of
35 medicine, officials of U. S. Public Health, and by the police
36 authorities and police officers of cities and towns.

The provisions of this section shall not apply to prescrip-
2 tions, nor to the sale, distribution, giving, dispensing or pos-
3 session of preparations or remedies, if such prescriptions
4 do not call for, or such preparations and remedies do not
5 contain, more than two grains of opium or more than one-
6 quarter of a grain of morphine, or more than one-eighth
7 of a grain of heroin or more than one grain of codeine, in
8 one fluid ounce, or, if a solid or semi-solid preparation, in
9 one avoirdupois ounce; nor shall they apply to liniments,
10 ointments or other preparations which are prepared for ex-
11 ternal use only, provided that such preparations, remedies,
12 or prescriptions are sold, distributed, given, dispensed or
13 held in possession in good faith as medicines and not for
14 the purpose of evading any provision of this section and
15 provided that the possession of any narcotic drug, except
16 in the form of prescriptions and preparations or remedies
17 especially exempted in this section, by any one not being a
18 manufacturer or jobber of drugs, or wholesale druggist,
19 registered pharmacist actively engaged in business as such,
20 or a physician, dentist or veterinarian registered as above
21 provided, exempt official or superintendent or official in
22 charge of an incorporated hospital, college or scientific in-

23 stitution shall, except as otherwise provided in a following
24 section, be presumptive evidence of an intent to violate sec-
25 tion twenty-two of this chapter. This section shall not
26 apply to a person having in his possession any of the above-
27 mentioned articles by virtue of a legal prescription legally
28 issued and not obtained by any false representation made
29 to the physician, dentist, or veterinarian issuing it, or to the
30 pharmacist who filled it or common carriers, etc.; nor shall
31 this section apply to decocainized coca leaves or prepara-
32 tions made therefrom or to other preparations of coca leaves
33 which do not contain cocaine.

Sect. 21. *Fraud, Deceit, et cetera.* Any fraud, deceit, mis-
2 representation, subterfuge, concealment of a material fact
3 or the use of a false name or the giving of a false address
4 in obtaining treatment in the course of which cocaine or
5 opium or their derivatives shall be prescribed or dispensed,
6 or in obtaining any supply of such drugs shall constitute
7 a violation of the provisions of this chapter and shall not
8 be deemed a privileged communication. The willful making
9 of any false statement in any required prescription blank,
10 order or record shall constitute a violation of this chapter;
11 and the person or persons responsible for such violation
12 shall be punished by a fine of not less than fifty dollars nor
13 more than one thousand dollars or by imprisonment in a
14 jail for a period of five years or by both fine and imprison-
15 ment upon conviction.

Sect. 22. *Illegal Possession.* It shall be unlawful for any

2 person not registered under the act of congress approved
3 December seventeenth, nineteen hundred and fourteen, as
4 further amended, and who has not qualified under the laws
5 of the state of Maine to practice, to have in his possession
6 or under his control any of the aforesaid drugs; and such
7 possession or control shall be presumptive evidence of a
8 violation of this section, and also of a violation by the pro-
9 visions of section twenty of this chapter; provided, that
10 this section shall not apply to any employee of a registered
11 person, or to a nurse under the supervision of a physician,
12 dentist, or veterinary surgeon registered under the act of
13 December seventeenth, nineteen hundred and fourteen, and
14 qualified under the laws of this state to practice medicine,
15 dentistry or veterinary surgery, having such possession or
16 control by virtue of his employment or occupation and not
17 on his own account; or to the possession of any of the afore-
18 said drugs which has or have been prescribed in good faith
19 by a physician, dentist, or veterinary surgeon, or to any
20 United States, state, county, municipal official who has pos-
21 session of any said drugs, by reason of his official duties,
22 or to a warehouseman holding possession for a person reg-
23 istered and who has paid the taxes required under the act
24 of congress approved December seventeenth, nineteen hun-
25 dred and fourteen, as amended, or to common carriers en-
26 gaged in transporting such drugs.

Sect. 23. The provisions of this chapter with its sections
2 shall not be construed to apply to the manufacture, sale,

3 distribution, giving away, dispensing, or possession of prep-
4 arations and remedies which do not contain more than two
5 grains of opium, or more than one-fourth of a grain of mor-
6 phine, or more than one-eighth of a grain of heroin, or
7 more than one grain of codeine, or any salt, or derivative
8 of any of them in one fluid ounce, or, if a solid or semi-
9 solid preparation, in one avoirdupois ounce; or to liniments,
10 ointments, or other preparations which are prepared for
11 external use only, except liniments, ointments and other
12 preparations which contain cocaine or any of its salts or
13 alpha or beta eucaine or any of their salts; provided, that
14 such remedies and preparations are manufactured, sold,
15 distributed, given away, dispensed, or possessed as medi-
16 cines and not for the purpose of evading the intentions and
17 provisions of an act of congress known as the Harrison
18 narcotic law, approved December seventeenth, nineteen hun-
19 dred and fourteen, as amended.

Such manufacturer, producer, compounder, or vendor (in-
2 cluding dispensing physicians) of the preparations and reme-
3 dies, mentioned in this section shall keep a record of all
4 sales, exchanges, or gifts of such preparations and reme-
5 dies as required by and in such manner as the commissioner
6 of internal revenue, with the approval of the secretary of
7 the treasury, shall direct and shall have paid the tax re-
8 quired under the laws of the act of congress approved De-
9 cember seventeenth, nineteen hundred and fourteen, as
10 amended.

Sect. 24. Each building, place or tenement which is re-
2 sorted to by habitual users of narcotic drugs for the purpose
3 of using such drugs, or which is used for the illegal keeping
4 or sale of the same, shall be deemed a common nuisance.

Narcotic drugs unlawfully in the possession or under the
2 control of any person, and which are kept and deposited
3 in the state, intended for unlawful sale in the state, and
4 the vessels in which they are contained, are contraband and
5 forfeited to the county in which they are so kept at the time
6 when they are seized under this chapter. And in all cases
7 where an officer may seize narcotic drugs or the vessels con-
8 taining them, upon a warrant, he may seize the same with-
9 out a warrant, and keep them in some safe place for a rea-
10 sonable time until he can procure such warrant.

If any person competent to be a witness in civil suits,
2 makes sworn complaint before any judge of a municipal
3 or police court or trial justice, that he believes that nar-
4 cotic drugs are unlawfully kept or deposited in any place
5 in the state by any person, or that the same are intended
6 for sale within the state in violation of law, such magistrate
7 shall issue his warrant directed to any officer having power
8 to serve criminal process, commanding him to search the
9 premises described and specially designated in such com-
10 plaint and warrant, and if said narcotic drugs are there
11 found, to seize the same, with the vessels in which they
12 are contained, and them safely keep until final action there-
13 on, and make immediate return of said warrant. The name

14 of the person so keeping said drugs as aforesaid, if known
15 to the complainant, shall be stated in such complaint, and
16 the officer shall be commanded by said warrant, if he find
17 said drugs, to arrest said person and hold him to answer
18 as having in possession said drugs as aforesaid. Any per-
19 son who may be suspected of unlawfully having in his pos-
20 session, or selling from, or keeping for illegal sale in his
21 pockets, narcotic drugs, may be searched in the same man-
22 ner and by the same process as is provided for the search
23 of places, and if drugs are found upon his person, may be
24 held to answer as though such drugs were kept and depos-
25 ited by him in any place. If narcotic drugs are in any man-
26 ner destroyed by the tenant, assistant or other person, when
27 premises are about to be searched, manifestly for the pur-
28 pose of preventing their seizure by officers authorized to
29 make such search and seizure, such drugs may be held to
30 have been unlawfully in possession, and the penalties shall
31 be the same as if said drugs had been seized. If the name
32 of the person keeping such drugs is unknown to the com-
33 plainant, he shall so allege in his complaint, and the magis-
34 trate shall thereupon issue his warrant as provided in the
35 first sentence of this section. If upon trial, the court is of
36 the opinion that the drug was possessed as aforesaid, or in-
37 tended for unlawful sale, by the person named in said com-
38 plaint, or by any other person with his knowledge or con-
39 sent, he shall be found guilty thereof, and sentenced to a
40 fine of not less than one hundred nor more than five hun-

41 dred dollars and costs and in addition thereto be imprisoned
42 not less than two nor more than six months, and in default
43 of payment of said fine and costs he shall be imprisoned six
44 months additional.

Sect. 25. No warrant shall be issued to search a dwelling-
2 house occupied as such, unless it, or some part of it, is used
3 as an inn or shop, or for purposes of traffic, or unless the
4 magistrate before whom the complaint is made, is satisfied
5 by evidence presented to him, and so alleges in said warrant,
6 that narcotic drugs are kept in such house or its appurte-
7 nances in the manner, or for the purposes aforesaid, in vio-
8 lation of law.

Sect. 26. The forms set forth in section fifty-four of
2 chapter one hundred and twenty-seven of the revised stat-
3 utes, when changed by substituting the words "narcotic
4 drugs" for the words "intoxicating liquors," wherever
5 found in the same, together with such other changes therein
6 as further adapt them for use under the provisions of this
7 act, and with such additional changes as adapt them for use
8 in cities, towns and plantations, are sufficient in law, for all
9 cases arising under this act, to which they purport to be
10 adapted.

Sect. 27. *Practitioners shall not prescribe opium, etc., to*
2 *habitual users.* No practitioner of medicine, dentistry, or
3 veterinary medicine shall prescribe for the use of an habitual
4 user of the same, opium, morphine, heroin, codeine, or any
5 salt or compound of the said substances, or any preparation

6 containing any of the said substances or their salts or com-
7 pounds, or cocaine or its salts or alpha or beta eucaine or
8 their salts or any preparation containing the same or any
9 salt or compound thereof; nor shall any practitioner of
10 dentistry prescribe any of the said substances for any per-
11 son not under his treatment in the regular practice of his
12 profession, nor shall any practitioner of veterinary medi-
13 cine prescribe any of the substances for the use of a hu-
14 man being; provided, however, that the provisions of this
15 section shall not be construed to prevent a lawfully author-
16 ized practitioner of medicine from prescribing for the use
17 of any habitual user of hypnotic or narcotic drugs, who is
18 under the professional care of such practitioner, such sub-
19 stances as he may deem necessary for treatment; if such
20 prescriptions are given in good faith for medical treatment
21 and not for the purpose of evading the provisions of this
22 section.

Sect. 28. *Penalty.* Whoever violates any provision of the
2 nine preceding sections, or aids or abets another in the vio-
3 lation thereof, shall be punished by a fine of not less than
4 fifty dollars nor more than one thousand dollars, or by
5 imprisonment for not more than eleven months, or by both
6 fine and imprisonment. The county attorney in each county,
7 upon complaint made by any member of the board of com-
8 missioners of pharmacy or of the state board of health, shall
9 prosecute all violations of this chapter. Judges of the mu-
10 nicipal and police courts and trial justices shall have original

11 and concurrent jurisdiction with the supreme judicial court
12 and superior courts of offenses under the nine preceding
13 sections.'