

MAINE STATE LEGISLATURE

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E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 320

H. P. 929

House of Representatives, Feb. 1, 1933.

Referred to Committee on Taxation and 1,000 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Ashby of Fort Fairfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-
THREE

AN ACT Imposing a License Tax on Merchants.

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

License tax on merchants. Every person, firm and corporation engaged in the business of a merchant shall pay a license tax for the privilege of doing business in this state to be graduated by the amount of purchases made by him or it during the next preceding year, and all goods, wares and merchandise manufactured by such merchant and sold or offered for sale, in this state, as merchandise, shall be considered as purchases within the meaning of this act; provided, that this act shall not be construed as applying to manufacturers taxed on capital by this state, who offer for sale at the place of manufacture, goods, wares and merchandise manufactured by them.

For every license to a merchant, firm, company or corporation engaged in the business of a merchant, the amount to be paid shall be graduated as follows:

If the amount of purchases shall not exceed \$1,000.00, the amount shall be \$10.00; when purchases exceed \$1,000.00, but do not exceed \$2,000.00, the amount shall be \$20.00; and when purchases exceed \$2,000.00, but do not exceed \$100,000.00, the amount shall be \$20.00 for the first \$2,000.00 and 20c on the \$100.00 on the excess from \$2,000.00 to \$100,000.00, and when purchases exceed \$100,000.00, the amount shall be \$20.00 on the first

\$2,000.00, 20c on the \$100.00 from \$2,000.00 to \$100,000.00 and 10c on the \$100.00 upon all in excess of \$100,000.00.

To ascertain the amount of purchases it shall be the duty of such merchant, on the 1st day of January of each year, or within 10 days thereafter to make report in writing, under oath, to the assessors for the town or city in which he was licensed, showing purchases as herein defined, during the next preceding twelve months. The form of the report required by this act shall be prepared by the bureau of taxation, and furnished to each assessor, and by him distributed to each merchant.

For the purpose of ascertaining the tax to be paid by a merchant beginning business, his purchases shall be considered to be the amount of goods, wares and merchandise bought to commence business with, including goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a merchant, provided such place is not the place of manufacture, also including an estimate of purchases which the merchant will make between the date of the issuance of his license and the 31st of December following, and including an estimate of the amount of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a merchant, provided such place is not the place of manufacture.

If, after the close of the year for which the license is issued, the merchant should elect not to renew it, but desires the privilege to sell whatever remnant or purchase he may have on hand at the time, it may be lawful for him to do so upon the payment of a license upon said remnant of merchandise to be regarded for purposes of revenue as purchases.

A merchant's license, the tax on which would be \$50.00 or more were it issued for the period of one year, may be issued quarterly, but inasmuch as every merchant's license tax is measured by the purchases, no question or proration can arise.

Each merchant shall keep his invoices and a record with ink of all purchases, and from whom made, which record shall be open to inspection and examination by the bureau, and the report of purchases made by the merchant shall be taken from that record; and he or his agents shall make oath to the correctness of the report that the same is in accordance with said record, and that the record has been accurately kept. It shall be the duty of the bureau to examine the record of purchases required to be kept by the merchant and to verify the merchant's report of purchases by that record.

Every merchant who does not keep the record herein provided for shall be punished by a penalty of \$25.00, in addition to such tax as may be ascertained as hereinafter provided. Every merchant who does not keep

the record herein provided for shall be summoned before the tax assessor and by such investigation and examination as he deems proper to make, he shall correctly determine the true and correct purchases of such merchant, and when this fact has been ascertained the assessor shall assess such merchant with the state license tax provided by law upon the purchases so ascertained, in addition to the penalty of \$25.00 hereinbefore provided for. Such penalty shall in every such case be added by the assessor to the license tax, and shall become a part thereof, and shall be collected in the same manner as license taxes are collected; provided, however, that any merchant who shall continue to violate the law requiring such record to be kept, after receiving written notice from the assessor, shall be subject to a further penalty of \$25.00 for each month such violation of the law shall continue after the giving of such notice, which penalty shall be assessed and collected in the same manner as taxes are assessed and collected.

For the purpose of ascertaining the full, complete and correct purchases of a merchant in any case where a full, complete and correct report has not been made to the state tax assessor, it shall be his duty to make such investigation and examination for that purpose as may be necessary; and he may summon the merchant and any person whom he believes, or has reason to believe, can furnish information relative to the purchases of any merchant; and any merchant or person so summoned failing to appear and give testimony under oath shall be punished by a fine of not less than \$10.00, not more than \$100.00, and each day's refusal or failure to furnish the information or to testify shall constitute a separate offense; such fine may be recovered by indictment or complaint. When the full, complete and correct purchases of the merchant have been ascertained in the manner herein provided it shall be the duty of the state tax assessor to notify the merchants whose purchases have been increased and the state tax assessor shall upon the blank form prescribed and furnished by the department, assess the state license tax prescribed by law upon such increase of purchases and he shall deliver a copy of the assessment to the city treasurer, and shall retain in his office a copy. It shall thereupon be the duty of the merchant to pay, and the duty of the treasurer to collect, the state license tax so assessed, the treasurer receipting for said tax, and he shall deliver the receipt to the merchant, which receipt together with the license already issued the merchant by the state tax assessor, shall constitute the merchant's license. A merchant who fails or refuses to pay the state license tax assessed on increased purchases within fifteen days from the receipt of the notice required to be furnished him shall pay in addition to the state license tax a penalty of twenty per cent thereon, and

it shall be the duty of the treasurer to immediately levy and distrain upon any property of the merchant to collect the tax and penalty.

Merchants' capital, which is by law segregated for local taxation exclusively, is hereby defined for purposes of local taxation, as follows: Inventory of stock on hand; the excess of bills and accounts receivable over bills and accounts payable; money on hand and on deposit, and all other personal property of any kind whatsoever, except tangible personal property not offered for sale as merchandise, which tangible personal property shall be reported and assessed as such.

Goods, wares and merchandise not belonging to a merchant which are offered for sale by the merchant or by another person at the merchant's duly licensed place of business shall require such merchant to take out the license of a commission merchant.

A manufacturer engaged in business in this state may, without a merchants' license, sell at the place of manufacture, the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell, at a definite place or store, other than the place of manufacture, the goods, wares and merchandise manufactured by him, then such manufacturer must take out a merchant's license, though this definite place or store be located in the same county, city or town in which his place of manufacture is established. When a manufacturer establishes a place or store for the sale of his goods other than at his place of manufacture, the amount of the state license tax is to be graded not only by the amount of purchases made by such manufacturer from others, but also by the goods, wares and merchandise manufactured by him and sent from the place of manufacture to his store for sale; and he is required to report not only the amount of goods purchased by him from others and offered for sale, but also the amount of goods manufactured by him either within or without this state and offered for sale by him at his store or definite place in this state other than the place of manufacture. The cost of manufacture shall be taken as the purchase price of the goods, wares and merchandise in the case of a manufacturer who is also a merchant within the meaning of the law.

A manufacturer taxable on capital by the state may, except as in this section provided, sell and deliver at the same time to licensed dealers or retailers, but not to consumers, anywhere in the state, without the payment of any license tax of any kind for such privilege to the state, or to any city, town or county.

A merchant, who has been duly licensed by the state, and duly licensed by the city or town, or in lieu of a license tax to the city or town, has been taxed by the city or town on the capital employed in business, may, other

than at a definite place of business, sell and deliver at the same time to licensed dealers or retailers, but not to consumers, anywhere in the state, without the payment of any additional license tax of any kind for such privilege to the state, unless otherwise provided by law.

No additional license, state or local, shall be required of any person, firm or corporation licensed as a merchant in this state for engaging in the business of selling goods, wares, or merchandise by sample, where delivery is not made at the time of the sale and where the goods, wares or merchandise subsequently delivered are not the samples.

Dealers in coal, wood or ice paying license tax under this section may peddle the same from vehicles without paying additional tax. But nothing in this section shall be so construed as to require a license of any person who may canvass any county or corporation to buy lambs, pigs, calves, fowls, eggs, butter and such like small matters, of subsistence designed as food for man, but any person who shall keep a place of business for the purpose of selling such articles in, or within a half mile of any city or town in the state, shall take out license therefor, as hereinbefore prescribed; provided that dealers in coal and wood in cities of forty thousand inhabitants or more, who peddle the same from vehicles shall pay an additional tax of fifty dollars for each wagon thus used.

For every distributing house or place in this state (other than the house or place of manufacture) operated by any person, firm or corporation engaged in the business of a merchant in this state, for the purpose of distributing goods, wares and merchandise among his or its retail stores, a separate merchant's license shall be required, and the goods, wares and merchandise distributed through such distributing houses or place shall be regarded as purchases for the purpose of measuring the license tax.