

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 374

H. P. 1155

House of Representatives, February 5, 1935.

Referred to Committee on Public Health, sent up for concurrence and 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Hescock of Monson.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT for the Regulation of Cosmetics.

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

Sec. 1. Registration of cosmetics. No person, firm, corporation or co-partnership shall hold for sale, sell, offer for sale, in intra-state commerce, give away, deal in, within this state, supply or apply in the conduct of a beauty shop, barber shop, hairdressing establishment or similar establishment, any cosmetic preparation unless the said preparation has been registered with the department of health and welfare.

Every manufacturer, proprietor or producer of any cosmetic preparation before offering any such cosmetic preparation for sale, in intra-state commerce, in the state shall register the same with, and procure a certificate of registration from the said department in accordance with the regulations of the said department.

On and after the effective date of this act, no cosmetic preparation shall be held for sale, sold, offered for sale, in intra-state commerce, or given away, in the state, unless such preparation shall have been registered with the said department in accordance with the regulations of the said department, nor shall any such preparation be held for sale, offered for sale, in intra-state commerce, sold, or given away, in said state, contrary to the regulations of the said department.

Sec. 2. Department of health and welfare authorized to issue certificate of registration. The said department is authorized to issue a certificate of registration to the manufacturer, proprietor, or producer of any cosmetic preparation, which shall be registered with the said department under such terms and conditions as it deems advisable, and on the payment of an initial registration fee of 50 cents per preparation, which certificate of registration shall be renewed annually, on or before the 1st day of July, on the payment of a fee of 50 cents, providing that no change is made in the ingredients of the preparation.

The said department is authorized to refuse permits for and to prohibit the sale of cosmetic preparations which in its judgment contain injurious substances in such amounts as to be poisonous, injurious, or detrimental to the person.

Fees received under the provisions of this section shall be used by the said department for carrying out the purposes of this act.

Sec. 3. Cosmetic preparations defined. "Cosmetic preparations" shall mean tonics, lotions, creams, powders, antiseptics, clays, bleaches, colors, dyes, soaps, or other substance used with or without mechanical or electrical apparatus to massage, cleanse, stimulate, manipulate, color, bleach, or otherwise to treat, improve or to beautify, the scalp, face, neck, shoulders, busts, arms, arm pits, hands, or to arrange, dress, curl, wave, cleanse, bleach, color or similarly treat the hair of any person.

Sec. 4. Permits issued under public laws, 1933, chapter 278. Permits issued under chapter 278 of the public laws of 1933 shall be considered to be permits issued under this act and shall remain in effect until June 30, 1936 without further payment therefor and may be renewed at the renewal rate provided unless such preparations are prohibited by this act.

Sec. 5. Cosmetic preparations kept or deposited for unlawful sale or use in this state are liable to forfeiture. Cosmetic preparations kept or deposited within the state intended for unlawful sale or use, and the vessels in which they are contained, are contraband and are subject to forfeiture to the state unless they have been registered with the said department as prescribed in the preceding sections. Sheriffs, deputy sheriffs, police officers, state police officers and duly authorized agents of the said department, shall have the power to seize the same with or without process. In cases where cosmetic preparations are seized without a warrant said cosmetic preparations shall be kept in some safe place for a reasonable time until a warrant can be procured.

Sec. 6. Duty of officer or duly authorized agent of the said department.

When cosmetic preparations and vessels are seized as provided in the preceding sections the officer or duly authorized agent of the said department, who made such seizure shall immediately file with the magistrate before whom such warrant is returnable, a libel against such cosmetic preparations and vessels, setting forth this seizure by him describing the cosmetic preparations, their vessels, and the place of seizure, and that they were kept or intended for unlawful sale and use in violation of law and pray for a decree of forfeiture thereof, and such magistrate shall fix a time for the hearing of such libel and shall issue his monition and notice of the same to all persons interested, citing them to appear at the time and place appointed to show cause why said cosmetic preparations and vessels in which they are contained, should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such cosmetic preparations were seized, 10 days at least before said libel is returnable.

Sec. 7. Forfeiture in case no claimant appears; proceedings when claimant to be admitted as a party.

If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same to be forfeited to the state. If any person appears and claims such cosmetic preparations, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer or duly authorized agent of the said department by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale and use, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libelant or claimant. If the magistrate is, upon hearing, satisfied that said cosmetic preparations were not so kept or deposited for unlawful sale or use, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer or duly authorized agent of the said department having the same in custody, commanding him to deliver to said claimant the cosmetic preparation to which he is so found to be entitled, within 48 hours after demand. If the magistrate finds the claimant entitled to no part of said cosmetic preparation he shall render judgment against him for the libelant

for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said cosmetic preparation forfeited to the state. The claimants may appeal and shall recognize with securities as on appeals in civil causes from a magistrate.

Sec. 8. Constitutionality. If any section or part thereof, of this act, shall be declared unconstitutional it shall not affect the constitutionality of the remaining parts of this act.

Sec. 9. Exceptions. Any preparation or preparations purchased prior to the effective date of this act shall not be subject to the provisions of this act, provided that satisfactory evidence is presented that purchase was made prior to the effective date of this act, and further provided that such preparation or preparations are not prohibited by this act because they contain ingredients that are poisonous, injurious or irritating.

Sec. 10. Penalty. Any person, firm or corporation that violates any provision of the preceding sections, or any ordinance, or by-law, or regulation made thereunder, shall be punished by a fine of not more than \$100.

All fines, forfeitures and costs collected under this act shall be paid to the county as provided by chapter 148 of the revised statutes.

Sec. 11. Repeal. Chapter 278 of the public laws of 1933 is hereby repealed.