

# MAINE STATE LEGISLATURE

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

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Legislative Document

No. 23

H. P. 40

House of Representatives, January 14, 1937.

Referred to Committee on Public Health. Sent up for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Alden of Auburn.

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S T A T E   O F   M A I N E

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I N   T H E   Y E A R   O F   O U R   L O R D   N I N E T E E N   H U N D R E D  
T H I R T Y - S E V E N

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**AN ACT Relating to Apothecaries and the Sale of Poisons.**

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

**Sec. 1. R. S., c. 23, § 1, amended.** Section 1 of chapter 23 of the revised statutes is hereby amended to read as follows :

**‘Sec. 1. Business of apothecary regulated.** No person shall within the limits of this state conduct the business of an apothecary or any part thereof or sell or offer for sale any drugs or medicines, or display any drugs or medicines, drug store fittings or furnishings or any sign recognized as peculiar to drug stores such as pharmacy, apothecary, drugs, drug store, druggist, druggist sundries, drug sundries, medicine, medicine store, or any other word or words of similar or like import, ~~except as hereinafter provided~~ to give the appearance of an apothecary store, or claim to be or represent himself to be an apothecary or employ or permit advertising of any character which would convey such impression unless the same is placed and kept under the personal control and supervision of a registered apothecary; but such store may be under the charge of a qualified assistant during the temporary absence of such registered apothecary.

The provisions of this section shall not apply to physicians, hospitals and sanatoriums who supply medicines to their bona fide patients nor to non poisonous patent or proprietary preparations when sold in original and unbroken packages nor to the following remedies; alum, chloride of lime, vaseline, petroleum jelly, cream of tartar, borax, baking soda, castor oil, flax seed, carbonate of soda, ammonia, sulphur, olive oil, saltpetre, epsom salts, cotton seed oil, cod liver oil, linseed oil and flavoring extracts; nor to Paris Green, London Purple or other poisonous preparations or compounds used for the destruction of bugs, beetles, insects, slugs, grubs and fungi provided that the package is properly labeled. Be it further provided that in towns and villages where registered apothecaries are not located and where necessity exists for some means of obtaining drugs and medicines the commission shall designate such drugs and medicines other than those designated in this section, as might with safety to the public health, be sold in original packages as and when put up and labeled by qualified pharmacists.'

**Sec. 2. R. S., c. 23, s. 2, amended.** Section 2 of chapter 23 of the revised statutes, as amended by section 1 of chapter 48 of the public laws of 1931, is hereby further amended to read as follows:

**'Sec. 2. Commissioners of pharmacy, nomination and appointment; tenure; vacancies, how filled.** A board of commissioners of pharmacy consisting of 3 suitable persons, shall be appointed, and may be removed for cause, by the governor with the advice and consent of the council. The terms of office of said commissioners shall be so arranged that 1 member of said board shall be appointed annually for a term of 3 years from the first day of December in each year or until the successor is appointed and qualified. Vacancies caused by death, resignation, removal, or inability to perform the duties of the office shall be filled by appointment for the unexpired term. **The board of commissioners of pharmacy shall have power,**

(a) **To make such rules and regulations not inconsistent with the laws of the state, as may be necessary for the regulation of the business appertaining to the practice of pharmacy and the lawful performance of its duties;**

(b) **To regulate the practice of pharmacy;**

(c) **To regulate the sale of poisons and to adopt schedules of those poisons of which a written record shall be kept by the retailer;**

(d) **To inspect during business hours all apothecaries, dispensaries, stores or places in which drugs or medicines are manufactured, compounded, dispensed or retailed;**

(e) To employ an inspector or inspectors whose duty it shall be to inspect, under the general direction of the commissioners and during usual business hours, all registered apothecaries and other places where drugs or medicines, are or may be compounded, dispensed or retailed and to report to said commission any irregularities or violation of the apothecary law.

The Maine pharmaceutical association may, at its annual meeting each year, nominate 6 members of said association, whose names shall be forthwith certified by the president and secretary of said association to the governor, and members of said commission, appointed during any year, shall be selected from the persons whose names are so certified for said year, unless in the opinion of the governor said persons are manifestly unsuitable or incompetent.'

**Sec. 3. R. S., c. 23, § 8, amended.** Section 8 of chapter 23 of the revised statutes is hereby amended, to read as follows :

**'Sec. 8. Certificates of 2 grades may be issued.** Certificates of 2 grades or kinds may be issued, whereof 1 shall declare that the holder is skilled in pharmacy as in the preceding section, and the other kind which after the examination of the applicants therefor, may be issued to such as shall not be less than ~~18~~ 21 years of age and who have served ~~2~~ 3 full years in an apothecary store where physicians' prescriptions are compounded, shall declare that the holder is a qualified assistant and is qualified to take charge of the business of an apothecary during the temporary absence of the registered apothecary; and the fee for such assistant's examination shall be \$5 ~~\$10.~~'

**Sec. 4. R. S., c. 23, § 10, repealed.** Section 10 of chapter 23 of the revised statutes is hereby repealed.

**Sec. 5. R. S., c. 23, § 11, amended.** Section 11 of chapter 23 of the revised statutes, as amended by section 3 of chapter 48 of the public laws of 1931, is hereby repealed and the following enacted in place thereof :

**'Sec. 11. Penalty for falsely claiming to be an apothecary; disposal of fines and forfeitures.** Unless otherwise provided for, the violation of any provision of this chapter shall constitute a misdemeanor and any person convicted of such violation shall be subject to a fine of not more than \$100. The violation of each section of this chapter shall constitute a separate offense. All fees, fines and forfeitures collected under the provisions of this chapter shall be paid to the treasurer of state and shall be considered

funds of the board of commissioners of pharmacy, to be by them expended for the enforcement of laws relating to apothecaries and the sale of poisons and for expenses incurred in their official work.'

**Sec. 6. R. S., c. 23, § 12, repealed.** Section 12 of chapter 23 of the revised statutes is hereby repealed.

**Sec. 7. R. S., c. 23, § 16, amended.** Section 16 of chapter 23 of the revised statutes, is hereby amended, to read as follows:

**'Sec. 16. Sale of poisonous drugs without prescription, regulated.** Whoever sells arsenic, arsenious acid, atropia, or any of its salts, chloral hydrate, chloroform, cotton root and its fluid extract, Fowler's solution, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot and its fluid extract, sugar of lead, oil of savin, oil of tansy, Parsons' vermin exterminator, phosphorus, prussic acid, Rough on Rats, strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum viride, crystals of carbolic acid, or a strong solution of carbolic acid without the written prescription of a physician shall keep a record of such sales, the name and quantity of the article sold and the name and residence of the person or persons to whom it was delivered, which record shall be made before the article was delivered and shall be open to inspection by any member of the board of commissioners of pharmacy, or by any inland fish and game warden, or by the police authorities and the officers of cities and towns. Whoever neglects to keep or refuses to show to said officers such record shall be punished by a fine of not more than \$50. Whoever sells any of the poisonous articles named in this section without the written prescription of a physician, shall affix to the bottle, box, or wrapper containing the article sold a label of red paper or white paper and red printing, upon which shall be printed in large letters the word "poison" and also the word "antidote" and the name and place of business of the vendor. The name of an antidote, if there be any, for the poison sold, shall also be upon the label. Every neglect to affix such label to such poisonous article sold before the delivery thereof to the purchaser shall be punished by a fine of not more than \$50. Whoever purchases poisons as aforesaid and gives a false or fictitious name to the vendor shall be punished by a fine of not more than \$50. But nothing in this section shall be construed to apply to wholesale dealers or to manufacturing chemists in their sales to retail trade, ~~nor to the general merchant, nor to a firm or corporation in trade, who may sell in~~ nor to the sale of unbroken packages prepared by the manufacturers,

Paris green, London purple, or other poisonous preparations or compounds used for the destruction of bugs, beetles, insects, slugs, grubs, caterpillars, or worms. Upon each and every package so sold shall be printed in large letters the word "poison," and the name of an antidote or antidotes if any. Every neglect to affix such label with the word "poison" thereon to such poisonous article before the delivery thereof to the purchaser shall be punished by a fine of not more than \$50.'

**Sec. 8. R. S., c. 23, § 17, repealed.** Section 17 of chapter 23 of the revised statutes is hereby repealed.

**Sec. 9. R. S., c. 23, § 19, amended.** Section 19 of chapter 23 of the revised statutes, is hereby amended, to read as follows :

**'Sec. 19. Sale of opium restricted; penalty.** No person except a registered apothecary or a physician of regular standing in his profession, shall furnish, sell, or keep for sale any opium, morphine, laudanum, **or preparations containing opium, morphine or derivative of opium.** Whoever violates this section shall be punished by a fine of not less than \$5, nor more than \$50 for each offense, to be recovered by complaint or indictment.'

**Sec. 10. R. S., c. 23, § 36, amended.** Section 36 of chapter 23 of the revised statutes as amended is hereby repealed and the following enacted in place thereof.

**'Sec. 36. Annual store registration; procedure; revocation.** It shall be unlawful for any person, co-partnership, association or corporation to operate, maintain, open or establish any apothecary store within this state without first having obtained a permit to do so from the board of commissioners of pharmacy.

The application for such a permit shall be made on a form to be prescribed and furnished by said board and shall be accompanied by the required fee of two dollars, which amount shall also be paid for each renewal of such permit. If it is desired to operate, maintain, open or establish more than one apothecary store, separate application shall be made and separate permits issued for each.

On evidence satisfactory to said board of commissioners of pharmacy ;  
(a) that the apothecary store for which said permit is sought will be conducted with full compliance with the laws and with the rules and regula-

tions of said board; (b) that the location and appointments of said apothecary store are such that it can be operated and maintained without endangering the public health or safety; and (c) that said apothecary store shall be under the personal supervision of a registered apothecary, a permit shall be issued to such person, co-partnership, association or corporation as said board of commissioners of pharmacy shall deem qualified to conduct such apothecary store. If the application shall be refused, the said board of commissioners of pharmacy shall notify the applicant in writing of its decision and the reason thereof.

Permits issued under the provisions of this section shall be exposed in a conspicuous place in the apothecary store for which issued. Such permit shall not be transferable, shall expire the last day of December following the date of issue, and shall be renewed annually.

The said board of commissioners of pharmacy shall make such rules and regulations not inconsistent with the law as may be necessary to carry out the purposes and enforce the provisions of this section, and is hereby authorized, after due notice and opportunity for hearing in the county in which the apothecary store is located, to revoke any permit when examination or inspection of the apothecary store shall disclose that such apothecary store is not being conducted according to law or is being conducted so as to endanger the public health or safety.'

**Sec. 11. R. S., c. 23, amended by adding new section forty.** Chapter 23 of the revised statutes is hereby further amended by adding thereto another section, to be known as section 40, and to read as follows:

**'Sec. 40. Equipment.** There shall be kept in every registered apothecary store a copy of the latest revision of the United States Pharmacopoeia and the latest revision of the National Formulary, modern prescription scales and weights, necessary graduates, mortars and pestles and such other equipment as the board of commissioners of pharmacy may from time to time specify when the same has been duly promulgated by said board, also such United States Pharmacopoeia and National Formulary preparations and other commonly used chemicals, drugs and preparations sufficient to compound ordinary prescriptions as dictated by experience in the community where the apothecary store is located.'

**Sec. 12. R. S., c. 23, amended by adding new section 41.** Chapter 23 of the revised statutes is further amended by adding thereto another section, to be known as section 41, and to read as follows:

**'Sec. 41. Sale of drugs, etc. by medicine shows prohibited.** It shall be unlawful for any person to sell, distribute, vend or otherwise dispose of any drug, medicine or pharmaceutical or medical preparation by means of any public exhibition, entertainment, performance or carnival commonly known as a medicine show or a patent medicine show.'