

MAINE STATE LEGISLATURE

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N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 602

H. P. 1137 House of Representatives, February 17, 1943.
Referred to Committee on Legal Affairs. Sent up for concurrence and
ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Sichel of Lisbon by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

**AN ACT to Increase and Stimulate Business and the Sale of Merchandise
by Means of Trade Cards or Trade Boards.**

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

Sec. 1. Unlawful to display trade cards, etc. It shall be unlawful for any person, firm or corporation to have in their possession publicly or on display trade cards or trade boards for sale or sale therefrom for the purpose of increasing or stimulating business, unless such person, firm or corporation first obtain a license from the state tax assessor as herein provided.

Sec. 2. Licenses; fee. A person, firm or corporation desiring to have in their possession publicly or on display trade cards or trade boards for sale or sale therefrom for the purpose of increasing or stimulating business shall make application to the state tax assessor for said license. After investigation should the state tax assessor determine that said applicant is a person of good character and properly entitled to receive such a license, he may issue the same. The state tax assessor shall charge a fee, as herein-after provided, for each license issued for a period of 1 year. Said license shall not be assignable or transferable.

Sec. 3. Powers and duties of state tax assessor. The state tax assessor shall have the following powers and duties:

1. To grant and rescind for cause, any of the licenses provided for in this act.
2. To make an annual report to the governor and council of his activities, of the amount of license fees collected and such other information as he deems advisable or as the governor and council may require.

Sec. 4. Licenses for sale and distribution of trade cards by wholesaler or jobber. Licenses for the sale and distribution of trade boards or trade cards at wholesale, by wholesaler or jobber, may be issued by the state tax assessor to wholesalers and jobbers of confectioneries and tobaccos upon application to the state tax assessor and upon payment of an annual fee of \$50.

Sec. 5. Qualifications of wholesaler or jobber. A wholesaler or jobber before he can apply for license must:

1. Be a resident of the state of Maine for a period of 3 successive years. If said wholesaler or jobber is a corporation then said corporation to have an established place of business or an office in the state for 3 years.
2. He must have been in the wholesale or jobbing business for over 2 years.
3. Must in the opinion of the state tax assessor be of good character.

Sec. 6. Fee for licenses for sale of trade cards. Licenses for the sale from trade boards or trade cards for the purpose of increasing or stimulating business at retail may be issued by the state tax assessor to retailers of confectioneries and tobaccos upon application to the state tax assessor and upon payment of the annual fee of \$10.

Sec. 7. Licenses not to be issued to certain retailers. No retail license shall be issued to any retailer of confectioneries or tobaccos upon or in whose premises malted beverages or intoxicating liquors are sold for consumption on or in the premises.

Sec. 8. Renewal of licenses. 1. Licenses shall be issued for the license year expiring on December 31st following the date of issuance and the fee prescribed therefor shall accompany the application.

2. Licenses may be renewed upon application therefor by a licensee and the payment of the annual fee for same, and the state tax assessor may make rules and regulations regarding applications for renewal of licenses and the time when such applications shall be made.

Sec. 9. Display of licenses. All licensees shall publicly display their licenses on the premises to which same apply.

Sec. 10. Applications for licenses to state certain information. The application for said license and also the licensee shall state the location at which such trade cards or trade boards shall be possessed and displayed for sale or sale therefrom; also the name of the person, firm or corporation displaying same. If said applicant is a firm, the name of the owners of said firm shall appear thereon and if a corporation the names of its president and secretary shall appear thereon.

Sec. 11. Number of trade cards or trade boards that may be displayed. Such licensee shall at no time possess publicly or display for sale for the purpose of increasing or stimulating business more than 3 trade cards or 3 trade boards at any one time; that is, said licensee may display two trade cards and one trade board or 2 trade boards and 1 trade card at any one time and no more.

Sec. 12. Minors not to purchase goods from trade cards or trade boards. Licenses shall not permit minors under 18 years of age to purchase goods from said trade cards or trade boards.

Sec. 13. Manufacturer's name to appear on trade cards or trade boards. The licensee shall at all times have printed and in a conspicuous place upon the front of said card or board the name of the manufacturers thereof, together with the name or names of the person, firm or corporation from whom such licensee purchased said trade board or card also the manufacturer's license number.

Sec. 14. Percentage of pay out on trade cards, or boards. All trade boards or cards must pay out in merchandise 75% of the gross sale or intake of each board or card, said 75% to be figured at retail value of the merchandise, this 75% to include the price of the trade board or card.

Sec. 15. Limitation on merchandise to be sold on trade cards or boards. The licensee shall only offer for sale upon said board or card such merchandise as is regularly carried in the stock of said licensee or stock of similar nature.

Sec. 16. License fee and excise tax for use of trade cards or boards. Whereas the license fees hereinbefore provided for under this act are for the purpose of regulating the sale of trade boards and cards, now therefor, in addition thereto there is hereby levied and imposed an excise tax of \$2 for trade boards or cards of \$25 or over and an excise tax of \$1 on trade boards or cards up to \$25. The payment of said tax shall be evi-

denced by a stamp affixed to each board and card. Said stamp shall express the amount of the tax paid evidenced thereof. No trade board or trade card shall be displayed for the sale or sale therefrom unless such stamp shall be affixed thereto.

Sec. 17. Sale of tax stamps. The state tax assessor shall secure stamps, of such design and denomination as he shall prescribe, suitable to be affixed to trade boards or trade cards as evidence of the payment of the tax imposed by this act. He shall sell such stamps to licensed wholesalers or jobbers of confectioneries or tobaccos at their face value. The face value of the stamps when affixed shall be considered as part of the cost of the merchandise. He shall keep accurate records of all stamps sold to each wholesaler and jobber and shall pay over all receipts from the sale of stamps to the treasurer of state daily.

Sec. 18. Disposal of unused tax stamps. No wholesaler or jobber shall sell or transfer any stamps issued under the provisions of this act. The assessor shall redeem any unused; uncanceled stamps presented by any licensed wholesaler or jobber, at a price equal to the amount paid therefor by such jobber or wholesaler, and the treasurer of state shall provide, out of money collected hereunder, the funds necessary for such redemption.

Sec. 19. Tax stamps to be affixed to boards or cards. Each wholesaler or jobber of confectioneries and tobaccos shall affix, or cause to be affixed, in such manner as the assessor may specify in regulations issued pursuant to this act, to each individual trade board or trade card sold or distributed by him, stamps of the proper denominations, as required by section 16 of this act. Such stamps may be affixed by a wholesaler or jobber at any time before the trade boards or cards are transferred out of his possession.

Sec. 20. Records to be kept; examination of records authorized. Each wholesaler and jobber of confectioneries and tobaccos shall keep complete and accurate records of all trade boards or cards purchased and sold. Such records shall be of such kind and in such form as the tax assessor may prescribe and shall be safely preserved for 2 years in such manner as to insure permanence and accessibility for inspection by the assessor and his authorized agents. The assessor and his authorized agents may examine the books, papers and records of any wholesaler or jobber in this state, for the purpose of determining whether the tax imposed by this act has been fully paid, and may investigate and examine the stock of trade boards or trade cards in or upon any premises where such trade boards or cards are possessed, stored or sold, for the purpose of determining whether the provisions of this act are being obeyed.

Sec. 21. Forging stamps, penalty. Any person who shall make, forge or utter any false stamps provided for in this act shall be guilty of a felony and shall be subject to the same penalties as provided for counterfeiting of public securities under the law of the state of Maine.

Sec. 22. General penalty. Whoever violates any of the provisions of this act other than making or uttering false stamps as hereinbefore provided, shall be punished by a fine of not more than \$500 or by imprisonment for a term not more than 11 months or of both fine and imprisonment.

Sec. 23. Revocation of licenses. Such license may be revoked by the state tax assessor or suspended by him at any time after the licensee shall have been convicted in any court of any offense under the provisions of this act and without refunding to said licensee any part of the license fee heretofore paid.

Sec. 24. Restrictions on reissuing of licenses. No person, firm or corporation having had his or its license under this act revoked for cause shall be granted a license until the expiration of 2 years from date of such revocation.

Sec. 25. Repealing clause. All acts or parts of acts in conflict with the provisions of this act are hereby repealed insofar as they conflict with any provision of this act and no act or part of an act inconsistent with the provisions of this act shall apply to possessing publicly or displaying for sale or sale therefrom trade cards or trade boards for the purpose of increasing and stimulating business by any person holding a license in accordance with the provisions of the act.

Sec. 26. Constitutionality clause. If any section, subsection, sentence, clause or phrase of this act is, for any reason, held to be unconstitutional, such decision shall not effect the validity of the remaining portions of this act.

Sec. 27. Net revenue hereof, appropriated for old age assistance. The revenue derived from the tax imposed by this act is hereby appropriated for the payments of old age assistance; provided, however, that all the expenses incurred by the state in carrying out the provisions of this act shall be paid out of the aforesaid revenue.