

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE.

1893.

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1893.

PUBLIC LAWS
OF THE
STATE OF MAINE.

1893.

Chapter 259

An act to prevent and punish fraud in sales of goods, wares and merchandise at public or private sale by Itinerant Vendors, and to regulate such sales.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

Itinerant vendors, selling without licenses, shall be guilty of a misdemeanor.

—how punished.

Penalty for advertising sale, before proper licenses shall be issued.

Vendors shall take out state and local licenses.

—shall not affect right of municipal officers to make regulations.

Vendors shall deposit \$500 with secretary of state, and procure license.

—fee.

—license not transferable.

SECT. 1. Every itinerant vendor who shall sell or expose for sale, at public or private sale, any goods, wares and merchandise without state and local licenses therefor, issued as hereinafter provided, shall be guilty of a misdemeanor and shall be punished for each offense by fine not exceeding fifty dollars or by imprisonment not exceeding sixty days, or by both such fine and imprisonment.

SECT. 2. All persons, both principals and agents, who shall by circular, handbill, newspaper, or in any other manner, advertise any such sales as those referred to in the section last preceding, before proper licenses shall be issued to the vendor, shall be guilty of a misdemeanor and shall be punished by fine not exceeding fifty dollars or imprisonment not exceeding sixty days, or by both such fine and imprisonment.

SECT. 3. It shall be the duty of every itinerant vendor, whether principal or agent, before commencing business to take out a state license and local licenses in the manner hereinafter set forth, but nothing herein contained shall affect the right of any municipal officers to make such regulations relative to itinerant vendors as may be permissible under the general law or under their respective charters.

SECT. 4. Every itinerant vendor desiring to do business in this state shall deposit with the secretary of state the sum of five hundred dollars as a special deposit, and after such deposit, upon application in proper form and the payment of a further sum of twenty-five dollars as a state license fee, the secretary of the state shall issue to him an itinerant vendor's license, authorizing him to do business in this state in conformity with the provisions of this act for the term of one year from the date thereof. Every license shall set forth a copy of the application upon which it is granted. Such license shall not be transferable nor give authority to more than one person to sell goods as an itinerant vendor, either by agent or clerk or in any other way than in his own proper person, but any licensee may have the assistance of one or

more persons in conducting his business, who shall have authority to aid that principal but not to act for or without him.

SECT. 5. All applications for licenses shall be sworn to, shall disclose the names and residences of the owners or parties in whose interests said business is conducted, and shall be kept on file by the secretary of state, and a record shall be kept by him of all licenses issued upon such applications. All files and records both of the secretary of state and of the respective town or city clerks, shall be in convenient form and open for public inspection.

Applications shall be sworn to, and shall disclose name and residence of owners.

—records shall be open to public inspection.

SECT. 6. Before selling under said state license every itinerant vendor shall exhibit the same to the clerk of the town or city where he proposes to make sales. And upon payment to said clerk of a further local license fee, to be ascertained in the manner provided in the following section, and the proof of payment of all such other license fees, if any, as are legally chargeable upon local sales, the clerk shall record the said state license in full, shall endorse upon it the words, "local license fees paid," and shall affix thereto his official signature together with the date of such endorsement. Any failure to obtain a local license, and for proper endorsements made on the said license, shall be subjected to the same penalty as though no state license had been issued.

License shall be exhibited to clerk of town, by vendor.

—town clerk shall record state license, and make proper endorsement.

—penalty for failure to procure local license.

SECT. 7. Any itinerant vendor before making any sales of such goods, wares and merchandise shall furnish to the clerk of the city or town where any goods, wares and merchandise are kept or to be kept or exposed for sale or sold by him or them, a true statement of the average quantity and value of the stock of goods, wares and merchandise so kept or exposed for sale. The person furnishing such statement shall make oath that the same is true, and said oath may be administered by said clerk or any other officer qualified to administer oaths. Such clerk shall thereupon ascertain the amount to be paid for the local license, by a computation based upon the average valuation of such stock of goods, wares and merchandise so kept or exposed for sale, in the ratio and of the rate per thousand dollars of valuation of the last preceding tax levy made in such city or town; and upon receipt of the amount so fixed and ascertained shall issue to the person filing or furnishing such statement a local license authorizing the sale of such goods, wares and merchandise

Vendor shall make statement to clerk of city or town, of the quantity and value of stock for sale.

—make oath.

—amount to be paid for local license, how ascertained.

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—time. license shall continue in force.

—if statement is not filed, clerk may fix fee for license.

Penalty for making false statement.

How fee may be collected, if vendor refuses or neglects to pay.

—jurisdiction of such actions.

Vendor, before advertising bankrupt sale, etc., shall state to secretary of state all facts relating to and for such sale.

within the limits of such town or city, which license shall be and continue in force so long as the licensees thereunder shall continuously keep and expose for sale in such city or town such stock of goods, wares and merchandise, except that such license shall in any event terminate and expire on the first day of April next following its date. If the statement required by this section is not filed as aforesaid, the clerk of the city or town in which such goods are so kept or exposed for sale, or where such itinerant vendor desires to sell such goods, wares and merchandise, shall thereupon fix the sum to be paid for such license, which sum shall be binding upon the parties.

SECT. 8. Whoever neglects or refuses to file the statement required by section seven of this act, or whoever makes a false or fraudulent representation therein, shall be punished by a fine of not less than five dollars nor more than twenty dollars for each and every day such goods, wares or merchandise are kept or exposed for sale.

SECT. 9. Whenever a person liable therefor, and after demand made by the clerk of the city or town in which he is located, refuses or neglects to pay the license fee provided for in this act, the said clerk may, in his own name but for the use and benefit of such city or town, maintain an action of debt or trustee process therefor in a like manner as for his own debt. Municipal courts and trial justices shall have concurrent jurisdiction with the superior court and supreme judicial court, of such actions and of complaints under section two of this act.

SECT. 10. No itinerant vendor shall advertise, represent or hold forth any sale as an insurance, bankrupt, insolvent, assignee, trustee, testator, executor, administrator, receiver, wholesale or manufacturers, or closing out sale or as a sale of any goods damaged by smoke, fire, water or otherwise, or in any similar form, unless he shall before so doing, state under oath to the secretary of the state, either in the original application for a state license or in a supplementary application subsequently filed, and copy on the license all the facts relating to the reasons and character of such special sale so advertised or represented, including a statement of the names of the persons from whom the goods, wares and merchandise were obtained, the date of delivery to the person applying for the license, and the place from which said goods, wares

and merchandise were last taken, and all details necessary to exactly locate and fully identify all goods, wares and merchandise to be so sold.

SECT. 11. Any false statement in an application, either original or supplementary, for a license, and any failure on the part of any licensee to comply with all the requirements of the last preceding section shall subject said itinerant vendor to the same penalty as if he had no license.

Penalty for making false statement.

SECT. 12. All state licenses issued under this act shall expire by limitation one year from the date thereof, and may be, if so desired, surrendered at any time prior thereto for cancellation.

When state licenses shall expire.

SECT. 13. Upon the expiration and return or surrender of each state license, the secretary of state shall cancel the same, endorse the date of delivery and cancellation thereon, and place the same on file. He shall then hold the special deposit of each licensee hereinbefore mentioned for the period of sixty days, and after satisfying any and all claims made upon the same under section fourteen, shall return said deposit or such portion of the same, if any, as may remain in his hands, to the licensee depositing it.

Upon expiration or surrender of license, secretary of state shall cancel same.

—shall hold special deposit for 60 days.

SECT. 14. Each deposit made with the secretary of state shall be subject, so long as it remains in his hands to attachment and execution in behalf of creditors whose claims arise in connection with business done in the state, and the secretary of state may be held to answer as trustee, under the trustee process, in any civil action in debt or case brought against any licensee, and the secretary of state shall pay over, under order of court, or upon execution, such sum of money as he may be chargeable with upon his answer or otherwise. Said deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violation of this act, and the clerk or recorder of the court in which, or the trial justice by whom, such fine or penalty is imposed shall thereupon notify the secretary of state of the name of the licensee, against whom such fine or penalty is adjudged and of the amount of such fine or penalty, and the secretary of state if he has in his hands a sufficient sum deposited by such licensee shall pay the sum so specified to said clerk, recorder or trial justice, and if the secretary of state shall not have a sufficient sum so deposited he shall

Deposits shall be subject to attachment and execution.

—to payment of fines and penalties incurred by licensee.

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—all claims shall be satisfied in the order in which notice of claim is received by secretary of state.

—deposits shall not be paid to licensee, so long as there are claims against them.

Construction of words, "itinerant vendors."

Act shall not apply to commercial travelers.

Inconsistent acts repealed.

make payment as aforesaid, of so much as he has in his hands. All claims upon deposit shall be satisfied after judgment, fine or penalty in the order in which notice of the claim is received by the secretary of state, until all such claims are satisfied or the deposit exhausted, but no notice filed after the expiration of the sixty days' limit aforesaid shall be valid. No deposits shall be paid over by the secretary of state to the licensees so long as there are any outstanding claims or notices of claims against them, respectively, unless he is satisfied that such claims will not be prosecuted to final judgment or that no fine or penalty will be imposed.

SECT. 15. The words "itinerant vendors" for the purposes of this act shall be construed to mean and include all persons, both principals and agents, who engage in a temporary or transient business in this state, either in one locality or in traveling from place to place selling goods, wares and merchandise, and who for the purposes of carrying on such business hire, lease or occupy any building or structure for the exhibition and sale of such goods, wares and merchandise.

SECT. 16. The provisions of this act shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery, or to hawkers on the streets or peddlers from vehicles.

SECT. 17. All acts and part of acts inconsistent herewith, are hereby repealed.

Approved March 28, 1893.

Chapter 260.

An Act amendatory of Section fifty-three, Chapter four of the Revised Statutes, relating to Elections.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Sec. 53, ch. 4.
R. S., amended.

SECT. 1. Section fifty-three of chapter four of the revised statutes is hereby amended by striking out the word "office" in the first line of said section, and by inserting in the place thereof the words 'or municipal office,' and by striking out in the third line the words "who holds" and inserting in the place thereof the word 'holding,' and by striking out the word "his" and the words "from the governor and council,