

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

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PORTLAND LITHOGRAPH COMPANY
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PUBLIC LAWS
OF THE
STATE OF MAINE

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Sec. 2. 19 MRSA § 63, first sentence is repealed and the following enacted in its place:

All such certificates shall have conspicuously printed thereon the following words: "The laws of Maine provide that only authorized persons may solemnize marriages in this State."

Sec. 3. 19 MRSA § 693, as amended by PL 1977, c. 118, § 3, is repealed and the following enacted in its place:

§ 693. Expenses pending divorce

Pending a divorce action, the court may order either spouse to pay to the other spouse, or to the attorney for the other spouse, sufficient money for the defense or prosecution thereof; may make reasonable provision for either spouse's separate support, on a motion for which costs and counsel fees may be ordered; enter such decree for the care, custody and support of the minor children as the court deems proper; and in all cases enforce obedience by appropriate processes on which costs and counsel fees shall be taxed as in other actions. An order for child support under this section may include an order for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the children or an order to provide a policy or contract for coverage of such expenses. Availability of public welfare benefits to the family shall not affect the decision of the court as to the responsibility of a parent to provide child support.

Sec. 4. 19 MRSA § 722, first sentence, is repealed and the following enacted in its place:

Pending a petition to enforce a decree of alimony, or a decree for payment of money instead thereof, or for the support of minor children, or a decree for support pending the divorce action or for payment of counsel fees, or for the alteration of an existing decree for the custody or support of minor children, the court may order either spouse to pay to the other spouse, or to counsel for the other spouse, sufficient money for the prosecution or defense thereof, upon default of which order execution may issue as in actions of tort.

Effective October 24, 1977

CHAPTER 440

AN ACT Concerning Transient Sales of Consumer Merchandise.

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

Sec. 1. 32 MRSA c. 69, sub-cc I - IV, as amended, are repealed.

Sec. 2. 32 MRSA c. 69-A is enacted to read:

CHAPTER 69-A
TRANSIENT SALES

§ 4681. Definitions

1. Consumer. "Consumer" means any person who purchases or contracts for the purchase of merchandise for any purpose except resale in the ordinary course of trade or business.

2. Employee. "Employee" means any independent contractor, agent or person working for a salary or commission.

3. Merchandise. "Merchandise" includes any objects, wares, goods, promises, commodities, intangibles, services or other things of value but does not include food.

4. Permanent place of business. "Permanent place of business" means any building or other permanently affixed structure, including a home residence, which is owned or held under a 12-month lease or rental agreement at the time business is commenced, and is used in whole or in part for the purpose of engaging in sales of consumer merchandise.

5. Person. "Person" includes natural person, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entity.

6. Sale. "Sale" includes any sale, transfer, exchange or barter, offer for sale, promise to sell, attempt to sell, or advertisement for sale, of any merchandise for cash or for credit.

7. Transient seller of consumer merchandise. "Transient seller of consumer merchandise" means any person who engages in the business of selling merchandise to consumers by means of personal contact or telephone contact, whether or not the seller is present in the State at the time of the contact or the time of sale, and who does not have, for the purposes of carrying on such business, any permanent place of business within this State. "Transient sellers of consumer merchandise" does not include persons who sell at public fairs, expositions or bazaars or members selling on behalf of public service organizations or who sell exclusively by mail contact.

§ 4682. State license

Every person including the self-employed, who employs one or more transient sellers of consumer merchandise shall apply to the Department of Business Regulation and acquire a state license in the manner set forth in section 4684 before engaging in sales of consumer merchandise in this State.

§ 4683. Local license

Nothing in this chapter shall affect the right of any town or municipality to make such regulations relative to transient sellers of consumer merchandise as may be permissible under the general law or under any municipal charter.

§ 4684. Application

Each application for a transient seller of consumer merchandise license shall be made upon a form prescribed by the Department of Business Regulation and shall be sworn thereto and shall include:

1. Name and address. Name, local and permanent business address of the applicant;
2. Employees of the applicant. Names of all employees of the applicant employed in this State;
3. Statement. A statement of all judgments secured or outstanding against the applicant arising out of sales to consumers, during the 2 years immediately prior to making the application, and of all suits of either a criminal or civil nature pending against the applicant which arise out of sales to consumers, at the time of making the application;
4. Statement of yearly gross revenues. A statement of anticipated yearly gross revenues from sales of consumer merchandise in this State; and
5. Security deposits. Name and address of the person to whom security deposit made with the Department of Business Regulation pursuant to this chapter shall be returned.

The applicant shall promptly notify the Department of Business Regulation of all changes or additions in the above required information upon a form prescribed by the Department of Business Regulation.

Any false statement in an application, either original or supplementary, for a license shall subject the applicant to the same penalty as if he had no license.

§ 4684-A. Renewal application

A renewal application made upon a form prescribed by the Department of Business Regulation shall be filed each year by the applicant upon the anniversary date of the original application. The renewal application shall include all changes or additions in the information required by section 4684. The renewal application shall be accompanied by a \$5 filing fee.

§ 4685. License fee and security deposit

Every person, including the self-employed, who employs one or more transient sellers of consumer merchandise shall pay to the Department of Business Regulation a sum of \$10 as a state license fee at the time an application is made for the license.

Every person, including the self-employed, who employs one or more transient sellers of consumer merchandise shall also make a security deposit of \$10,000 or of a sum equal to the anticipated yearly gross revenues in this State, whichever is less, with the Department of Business Regulation for the protection of consumers as described in section 4687. The security deposit may be made by a bond as drawn by the Department of Business Regulation

and as secured by a surety approved by the Department of Business Regulation. Only one security deposit shall be required of each business entity engaged in transient sales of consumer merchandise.

The Department of Business Regulation shall issue to a transient seller of consumer merchandise a license upon receipt of a completed application in proper form, a license fee and a security deposit.

§ 4685-A. Waiver of Security deposit

Transient sellers of consumer merchandise may apply to the Department of Business Regulation for waiver of the security deposit required by section 4685 by presenting to the authorized person within the Department of Business Regulation the following information in addition to the information required under section 4684:

1. Consumer sales. A sworn statement by the applicant that the applicant has continuously engaged in consumer sales in this State for a period not less than 3 years;

2. Theft offenses; fraudulent or deceptive business practice. A sworn statement by the applicant that no employee of the applicant operating in this State has been convicted of any theft offense or fraudulent or deceptive business practice in any United States jurisdiction;

3. Complaints on file against applicant. A letter from the Attorney General's office in the State where the applicant has its principal place of business, stating the nature or absence thereof of complaints on file against the applicant; and

4. Letter of recommendation. A letter of recommendation from an appropriate trade association which promotes sound and ethical trade practices and the processing of consumer complaints and that the applicant is a member in good standing of that association.

The authorized person within the Department of Business Regulation shall forward the completed application for waiver of security deposit to the Office of Attorney General for review and shall within 15 days of receipt of the completed application and with the advice of the Attorney General, grant or deny the application for waiver.

§ 4685-B. Revocation of right to waive security deposit

The authorized person within the Department of Business Regulation shall rescind the right of a transient seller of consumer merchandise to waive a security deposit upon occurrence of any of the following:

1. Conviction for theft or fraudulent business practices. The transient seller or any employee is convicted of a theft offense or fraudulent or deceptive business practice;

2. Failure to defend action under Title 5, section 206 et seq. The transient seller or employee fails to successfully defend any action brought against it under Title 5, section 206 et seq.; or

3. Failure to negotiate consumer complaints. The transient seller or any employee fails to negotiate consumer complaints filed against it with the Attorney General.

§ 4686. Expiration

1. Licenses issued under section 4685 shall expire:

A. On the date that the licensee establishes a permanent place of business and surrenders his license to the Department of Business Regulation.

B. When the licensee fails to file a renewal application as required by section 4684-A.

C. Upon the surrender of the license for cancellation.

§ 4687. Security deposit subject to claims; order of preference; return of security deposit

Each security deposit made under section 4685 shall be subject, so long as it remains in the hands of the Department of Business Regulation, to the attachment and execution in behalf of consumers whose claims arise in connection with the transient sale of consumer merchandise in this State. The Department of Business Regulation may be impleaded as a trustee in any civil action brought against any licensee, and shall pay over, under order of court, such sum of money as the Department of Business Regulation may be found chargeable. The security deposit shall be subject to the payment of any and all fines and penalties incurred by the licensee through any of the provisions of this chapter, and the clerk of the court in which such fine or penalty is imposed shall thereupon notify the Department of Business Regulation of the name of the licensee against whom such fine or penalty is adjudged and of the amount of such fine or penalty. The Department of Business Regulation, if they have in their hands a sufficient sum deposited by such licensee, shall pay the sum so specified to the clerk. If the Department of Business Regulation shall not have a sufficient sum so deposited, they shall make payment of so much as they have in their hands. All claims upon the deposit shall be satisfied after judgment, fine and penalty, in the order in which the order of court is entered in the respective suits, until all claims are satisfied or the security deposit is exhausted. No security deposit shall be paid over by the Department of Business Regulation to a licensee so long as there are any outstanding claims or notices of claims which are subject of suit against the licensee, in which case the Department of Business Regulation shall retain only such sum of the security deposit as is subject of claim.

The security deposit shall be returned to the person so designated in the licensee's application for license 12 months following the expiration of the license.

§ 4688. Violations and penalties

Any person engaging in transient sales of consumer merchandise without a license lawfully issued pursuant to this chapter shall be punished for each offense as a Class D crime pursuant to Title 17-A.

Failure to comply with this chapter shall constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

§ 468g. Service of process

The Department of Business Regulation shall be an agent of each person, including the self-employed, who employs one or more transient sellers of consumer merchandise for service of any process, notice or demand required or permitted by law to be served and this service shall be binding upon the person. Service of any such process, notice or demand shall be made as provided by Rule 4(d)(b) of the Maine Rules of Civil Procedure, as the same has been or may hereafter be amended.

Effective October 24, 1977

CHAPTER 441

AN ACT to Clarify and Modify Causes for 7-Day Notice of Termination of Tenancy at Will.

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

14 MRSA § 6002, sub-§ 1, as enacted by PL 1971, c. 322, § 3, is amended to read:

1. Causes for 7-day notice of termination of tenancy. Notwithstanding any other provisions of this chapter, in the event that the landlord can show, by affirmative proof, that the tenant, the tenant's family or an invitee of the tenant has caused intentional and substantial damage to the demised premises which the tenant has not repaired or caused to be repaired before the giving of the notice provided in this subsection, has caused or permitted a nuisance within said premises, or has violated or permitted a violation of the law regarding said tenancy, or when the tenant is ~~30~~ 14 days or more in arrears in payment of his rent, the tenancy may be terminated by the landlord by 7 days' notice in writing for that purpose given to the tenant. If a tenant, who is 14 days or more in arrears in payment of his rent, pays the full amount of rent due before the expiration of the 7-days' notice in writing, that notice shall be void.

Effective October 24, 1977

CHAPTER 442

AN ACT to Require Certification of Nomination Petitions.