

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....
1841.

money knowingly lent or advanced for any gaming or betting, or lent and advanced at the time and place of such gaming and betting, shall be void and of no effect, as between the parties to the same, and all other persons, except such as hold and claim under them in good faith, and without notice of the illegality of the consideration of such contract or conveyance.

SECT. 6. If any person shall play at cards, dice or billiards or with any other implements used in gaming, in any tavern or house of entertainment, or place licensed for retailing spirituous liquors, or in any of the out houses, yards, gardens or appendages of the same, or shall, in any of the houses, or licensed places aforesaid, expose to view any of such implements, or shall be seen sitting at any table therein, with any of such implements before him, and shall be convicted thereof, before any justice of the peace, or the district court on indictment, the person so offending shall forfeit and pay a fine, not less than one, nor more than ten dollars, to the use of the town where the offence was committed.

Penalty for gaming at public houses. 1821, 18, § 5.

SECT. 7. If any person, or agent of any corporation, shall keep a house, shop or other place, resorted to for the purpose of gaming, or permit any person, in any house, shop or place under his control or care, to play at cards, dice, billiards or other game for money or other things, such person or corporation shall pay a fine of not less than twenty dollars, nor more than one hundred dollars; to be recovered on indictment, in the district court, for the prosecutor's use.

Penalty, for keeping a house, resorted to for gaming. 1836, 221, § 1.

SECT. 8. If any person shall, for money or other thing, there play at any of the games before named, or bet on any person, so playing, he shall pay a fine of not less than one dollar, nor more than twenty dollars; to be recovered on complaint before a justice of the peace, or before the district court, on indictment, to the use before mentioned.

Penalty, for gaming in such house. 1836, 221, § 2.

CHAPTER 36.

OF INNOLDERS, COMMON VICTUALERS AND RETAILERS OF SPIRITUOUS LIQUORS.

- | | |
|---|--|
| <p>SECT. 1. Licenses, when, and by whom granted.</p> <p>2. Persons licensed, to give bond.</p> <p>3. Licenses for part of a year, in certain cases.</p> <p>4. Fee for license.</p> <p>5. Duty of innholders, to provide entertainment.</p> <p>6. Duties of common victualers.</p> <p>7. Innholders and victualers, to keep up signs.</p> <p>8. Not to allow gaming.</p> <p>9. Penalty, for persons gaming.</p> <p>10. Reveling and tippling prohibited.</p> | <p>SECT. 11. Liquors, not to be furnished to United States' soldiers.</p> <p>12. Liquors, not to be furnished to indians.</p> <p>13. Selectmen may prohibit sale of liquors, to idlers and spendthrifts.</p> <p>14. Penalty, for violating such prohibition.</p> <p>15. Selectmen, &c. to revoke licenses of offenders, and to prosecute for breach of bond.</p> <p>16. Provisions, extended to cities and plantations.</p> <p>17. Penalty, for being an innholder or retailer, without license.</p> |
|---|--|

CHAP. 36.

SECT. 18. Penalty, for selling liquors in particular, without license.
 19. Recovery of fines, under twenty dollars.
 20. Recovery of fines, exceeding twenty dollars.

SECT. 21. Duty of municipal officers, to prosecute.
 22. Process not to be discontinued, without leave of court.
 23. Licenses heretofore granted, valid.

Licenses, when and by whom granted.
 1834, 141, § 2.

SECTION 1. The selectmen, treasurer and clerk of every town, shall, annually, meet on the first Monday of May, or on the succeeding day, or both, and, at such time and place, in said town; as the selectmen may appoint, by posting up notices in two or more public places therein, at least seven days previously, stating the purpose of the meeting; and, at such meeting, may license under their hands, as many persons of good moral character, and under such restrictions and regulations, as they may deem necessary, to be innholders, victualers or retailers of wine, brandy, rum or other strong liquors in said town, until the day succeeding the first Monday in May, of the next following year, in such house or other building, as the license may specify.

Licensed persons, to give bond.
 1834, 141, § 2.

SECT. 2. No person shall be entitled to receive his license, until he shall have given his bond to the said treasurer, to the acceptance of the board granting the same, with one or more sureties, in the penal sum of three hundred dollars, in substance as follows, viz:

"Know all men, that we, _____, as principal, and _____, as sureties, are holden, and stand firmly bound to _____ treasurer of the town of _____, in the sum of three hundred dollars, to be paid to him, or his successor in said office; to the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents. Sealed with our seals. Dated the _____ day of _____, in the year 18____. The condition of this obligation is such, that whereas the above bounden _____ has been duly licensed, as a _____ within the said town of _____, until the day succeeding the first Monday of May next; now if the said _____ shall, in all respects, conform to the provisions of the law, relating to the business for which he is licensed, and to such rules and regulations, as have been provided by the board granting his license, in reference thereto, then this obligation shall be void, otherwise shall remain in full force."

16 Maine, 121.

Licenses for part of a year, in certain cases.
 1834, 141, § 2.

SECT. 3. The said selectmen, treasurer and town clerk, may, at any other time, at a meeting, specially called and notified as aforesaid, for the consideration of any application therefor to them made, grant such license on the like conditions; but all such licenses shall expire on the day mentioned in the first section.

Fee for license.
 1834, 141, § 2.

SECT. 4. Every person licensed shall pay to the treasurer, for the use of the board granting the license, one dollar; and the clerk shall make a record of all the licenses granted.

Duty of innholders, to provide entertainment.
 1834, 141, § 3.

SECT. 5. Every innholder shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers, and with stable room, hay and provender for their horses and cattle; and with pasturing, if required by the terms of his license; and it shall be his duty to grant such reasonable accommodations, as occasion may require, to strangers, travelers and others.

Duties of com-

SECT. 6. Every common victualer shall have all the rights and

CHAP. 36.

privileges, and be subject to all the duties and obligations of an innholder, excepting, that he shall not be required to furnish lodging for travelers, nor stable room, hay or provender for cattle.

SECT. 7. Every innholder and common victualer shall, at all times, have a board or sign affixed to his house, shop, cellar or store, or in some conspicuous place near the same, with his name, at large, thereon, and the employment, for which he is licensed.

SECT. 8. No innholder, common victualer or retailer shall have or keep about his house, shop, or other buildings, yards, gardens or dependencies, any dice, cards, bowls, billiards, quoits or other implements, used in gaming; nor shall suffer any person, resorting thither; to use or exercise any of said games or any other unlawful game or sport, within his said premises.

SECT. 9. Every person, who shall use or exercise any such game or sport, in any place prohibited by the preceding section, shall forfeit five dollars.

SECT. 10. No innholder, common victualer, or retailer of strong liquors, shall suffer any reveling, riotous or disorderly conduct in his house, shop or other dependencies; nor shall suffer any person to drink to drunkenness or excess therein; nor suffer any minor or servant, except travelers, to have any strong drink there.

SECT. 11. No innholder, common victualer or retailer of strong liquors, shall sell or furnish to any non commissioned officer or soldier in the service of the United States, knowing him to be such, any spirituous liquors, or any liquors, part of which are spirituous, within five miles of any fort, barracks or military post, nor beyond that distance, if on duty, without a permit from the commanding officer of the corps, to which such officer or soldier may belong; provided, such commanding officer shall cause to be posted, in the office of the town or plantation clerk, where such innholder, victualer or retailer resides, a list of the names of the non commissioned officers and soldiers belonging to his corps.

SECT. 12. No innholder, victualer or retailer shall sell, give, or in any manner furnish, to any indian, any wine, rum or other spirituous liquors, or any liquors part of which are spirituous, unless in case of sickness, and then only under the direction of a regular practising physician.

SECT. 13. Whenever any person shall, by idleness or excessive drinking of spirituous liquors, so misspend, waste, or lessen his estate, as thereby either to expose himself, or his family, to want, or the town to which he belongs, to expense for the maintenance of him or his family, or shall so habitually indulge himself in the use of spirituous liquors, as thereby greatly to injure his health, or endanger the loss thereof, the selectmen of the town, in which such person lives, shall in writing under their hands, forbid all licensed innholders, common victualers and retailers of the same town, to sell to him any spirituous or strong liquors for the term of one year; and they may in like manner forbid licensed persons in any other town, to which it may be probable such misspender of time and estate may resort for the same; and the selectmen may renew such prohibitions, from year to year, until they shall be satisfied that the person, to whom they relate, shall have reformed; and all such

mon victualers.
1 Fairf. 436.
16 Maine, 121.
Innholders and victualers, to keep up signs.
1834, 141, § 3.

Not to allow gaming.
1834, 141, § 4.
3 Pick. 261, 300.
4 Pick. 251.

Penalty, for persons gaming.
1834, 141, § 4.

Reveling and tipping prohibited.
1834, 141, § 5.

Liquors, not to be furnished to soldiers of the United States.
1823, 423.

Liquors, not to be furnished to indians.
1830, 482, § 3.

Selectmen may prohibit sale of liquors, to idlers and spend-thrifts.
1834, 141, § 7.

CHAP. 36. prohibitions shall be binding upon the licensed persons, to whom they shall be communicated.

Penalty, for violating such prohibition.
1834, 141, § 9.

SECT. 14. If, during the continuance of any such prohibition, as is provided in the preceding section, any person, whatever, having knowledge thereof, shall purchase, procure or sell any spirituous or strong liquors, to or for the use of any person, who is the subject of such prohibition, he shall forfeit ten dollars.

Selectmen, &c. to revoke licenses of offenders, and to prosecute for breach of bond.
1834, 141, § 8.

SECT. 15. The selectmen, treasurer and clerk of every town shall, whenever any instance of a breach of the condition of the bond, described in the second section of this chapter, by any licensed innholder, victualer or retailer, shall have come to their knowledge, and after complaint, notice to the party complained of, and a hearing thereon, revoke and make void his license; they shall also, at the expense and for the use of the town, cause his bond to be put in suit, in any court proper to try the same.

Provisions, extended to cities and plantations.

SECT. 16. All the preceding provisions of this chapter, relating to towns and their treasurers and clerks, shall be applicable to cities and plantations and the treasurers and clerks thereof; and those, relating to selectmen, shall also be applied to the mayor and aldermen of cities, and the assessors of plantations.

Penalty, for being an innholder or retailer, without license.
1834, 141, § 1.
6 Greenl. 412.
9 Pick. 165.
13 Pick. 359.
16 Maine, 241.

SECT. 17. No person shall be allowed to be a common victualer, innholder or seller of wine, brandy, rum or any strong liquors, by retail or in a less quantity than twenty eight gallons, and that delivered and carried away all at one time, except such person be duly authorized therefor, and have given bond therefor, pursuant to the provisions of this chapter; on pain of forfeiting not less than fifty, nor more than three hundred dollars.

Penalty, for selling liquors in particular, without license.
1834, 141, § 1.

SECT. 18. If any person, not being licensed, and under bonds as aforesaid, shall at any time sell any spirituous liquors, or any mixed liquors, part of which is spirituous, he shall forfeit and pay, for each offence, not less than ten dollars.

Recovery of fines, under twenty dollars.
1834, 141, § 10.
1835, 193, § 1.
3 Fairf. 204.
13 Maine, 307.
15 Maine, 473.

SECT. 19. Any fine, forfeiture or penalty, not exceeding twenty dollars, arising from any of the offences aforesaid, may be recovered by an action of debt, or by complaint, before any justice of the peace for the county where the offence was committed; or the action may be brought in the name of the said town; and, in either case, the whole penalty shall enure to the town.

Recovery of fines, exceeding twenty dollars.
1834, 141, § 10.
1835, 193, § 1.

SECT. 20. All fines, forfeitures or penalties, exceeding twenty dollars, may be recovered before any court of competent jurisdiction, by an action of debt, in the name of the person prosecuting, or of the town or plantation, where the offence may have been committed, or by indictment; and the whole forfeiture, so recovered, and also the forfeiture of any bond, given pursuant to the second section of this chapter, shall, when recovered, enure to the sole use of such town or plantation.

Duty of municipal officers, to prosecute.
1834, 141, § 10.
1835, 193, § 1.

SECT. 21. It shall be the duty of the mayor and aldermen of cities, selectmen of towns, and assessors of plantations, and of the treasurers and clerks thereof, respectively, to prosecute every person, who, without being duly licensed, shall be an innholder, common victualer, or retailer of spirituous liquors, on obtaining evidence thereof; or any person, who shall otherwise violate the provisions of this chapter, within their city, town or plantation.

SECT. 22. No prosecuting officer shall discontinue any legal process commenced, or to be commenced, under the provisions of this chapter, except by direction of the court, before which the same may be pending.

CHAP. 37.

Process not to be discontinued, without leave of court. 1835, 193, § 1. Licenses heretofore granted, valid.

SECT. 23. All licenses heretofore granted shall retain the same validity, according to the conditions thereof, as if this chapter had not been enacted.

CHAPTER 37.

OF PREVENTING ABUSES IN DISTILLING STRONG LIQUORS.

- | | |
|---|-----------------------------------|
| SECT. 1. Leaden worms or pipes, prohibited. | SECT. 4. Powers of assay masters. |
| 2. Not to be made of base pewter. | 5. Recovery of forfeitures. |
| 3. Assay masters, and their duties. | |

SECTION 1. No person shall distil or draw off any spirit or strong liquors, through leaden heads, worms or pipes.

Leaden worms or pipes, prohibited. 1821, 29, § 1.

SECT. 2. No brazier, pewterer, or other artificer, shall make any worm or head for distilling, of coarse and base pewter, or such as has any mixture of lead in it.

Not to be made of base pewter. 1821, 29, § 2.

SECT. 3. Every town, in which the distilling trade is carried on, may at the annual meeting thereof, choose two or more assay masters, who shall be duly sworn, and whose business it shall be to inspect and try such heads and worms, as they may suspect to be illegally made; and if found to be made of lead or other base metal, on trial, they shall give notice thereof to the distiller; and he shall not make any further use of them in distilling.

Assay masters, and their duties. 1821, 29, § 3.

SECT. 4. Assay masters or inspectors, chosen as aforesaid, are empowered to enter into any still house, or place where suspected utensils are used or kept, and cut off so much, as may be needful to make the assay; and every distiller shall be bound to produce a certificate from the assay master for the time being, for all pewter heads and worms, which they use for distilling, that they have been tried, approved and marked; for marking which a stamp shall be prepared by the town; for which certificate, they shall be allowed by the distiller or owner of the heads and worms, one dollar; and such certificate shall be entered in the town clerk's books; whose fee therefor shall be ten cents.

Powers of assay masters. 1821, 29, § 4.

SECT. 5. Any of the persons, mentioned in the first, second or third section, who shall neglect to perform the duties required of them, or who shall violate any of the prohibitions in either of said sections, shall forfeit the sum of three hundred dollars; one half to the town, where the offence is committed, and the other half to the person, who shall inform and sue for the same.

Recovery of forfeitures. 1821, 29, § 1, 2, 4.