

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

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1961 CUMULATIVE SUPPLEMENT

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years, unless such license is sooner revoked for cause, such persons to be authorized to investigate, arrest and prosecute any person charged with violating any of the provisions of sections 2 to 22, inclusive, the same as any sheriff, deputy sheriff or constable can do, and whose jurisdiction shall extend throughout the state. Each person so licensed before receiving his commission shall give bond in the sum of \$500. Such bond shall be executed by a surety company authorized to do business within the state and shall be on a form approved by the insurance commissioner and shall be filed with the state auditor. Such bond shall be conditioned for the proper discharge of the services which he may perform by virtue of such license. Every person licensed as a state humane agent shall, before receiving his license, pay to the secretary of state \$10. (R. S. c. 127, § 22, 1945, c. 234, 1957, c. 105.)

Effect of amendment. — The 1957 amendment rewrote this section.

Chapter 141.

Nuisances.

Sec. 1. Common nuisances; jurisdiction to abate. — All places used as houses of ill fame, or for the illegal sale or keeping of intoxicating liquors, or resorted to for lewdness or gambling; all houses, shops or places where intoxicating liquors are sold for tipping purposes, and all places of resort where intoxicating liquors are kept, sold, given away, drunk or dispensed in any manner not provided for by law are common nuisances. The superior court shall have jurisdiction upon information filed by the county attorney or upon complaint filed by not less than 7 legal voters of his county setting forth any of the facts contained herein, to restrain, enjoin or abate the same, and an injunction for such purpose may be issued by said court. Such injunction shall be recorded within 30 days in the registry of deeds in the county where said nuisance is located and shall forever run against the building or other place or structure in which said nuisance is committed. No dismissal of such information or complaint shall prevent action upon any information or complaint subsequently filed covering the same subject matter. (R. S. c. 128, § 1, 1961, c. 317, § 471.)

Effect of amendment.—The 1961 amendment rewrote the second sentence of this section.

Sec. 6. Certain nuisances described.

Cavity in black top of sidewalk, with a submerged gasoline filler cap for the use of an adjacent gasoline filling station, constitutes a common and public nuisance.

Daniel v. Morency, 156 Me. 355, 165 A. (2d) 64.

Cited in Verreault v. Lewiston, 150 Me. 67, 104 A. (2d) 538.

Sec. 11-A. Dumping of oil.—Oil, and a petroleum base, or materials containing significant quantities of such oil shall not be intentionally placed or deposited directly into or on banks of any river or stream, permanent or temporary, lake, pond or tidal waters or on the ice thereof where such material may fall or otherwise find its way into said watercourse or tidal waters, or shall such material be intentionally placed or deposited directly in pits, wells or on ground surfaces in such a manner that oil will percolate, seep or otherwise find access into ground waters or into wells used for the production of water. (1961, c. 132.)

Sec. 14. Repealed by Public Laws 1955, c. 405, § 46.

Sec. 17-A. Certain lights prohibited along highways. — No person shall place or maintain upon or in view of any highway any light so that its beams or rays are directed at any portion of a public street or highway when the

light is of such brilliance and so positioned as to blind, dazzle or otherwise impair the vision of the driver of any motor vehicle upon said street or highway; or any rotating or flashing light or signal which imitates or simulates the flashing or rotating lights used on school buses, police, fire or highway vehicles, except safety signaling devices required by law. Whoever violates this section shall be punished by a fine of not more than \$100. (1959, c. 208.)

Sec. 18. Action for damages caused by nuisance.—Any person injured in his comfort, property or the enjoyment of his estate by a common and public or a private nuisance may maintain against the offender a civil action for his damages, unless otherwise specially provided. (R. S. c. 128, § 16. 1961, c. 317, § 472.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action on the case” in this section.

Contributory negligence precludes recovery from injuries arising from the main-

tenance of a nuisance. *Daniel v. Morency*, 156 Me. 355, 165 A. (2d) 64.

Cited in *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

Sec. 20. Warrant stayed, if defendant gives security to discontinue nuisance.—Instead of issuing the warrant required by section 19, the court or trial justice may order it to be stayed on motion of the defendant, and on his entering into recognizance in such sum and with such surety as the court or justice directs, in case of an indictment, to the state, or in case of a complaint or action, to the plaintiff, conditioned that the defendant will either discontinue said nuisance, or that within a time limited by the court and not exceeding 6 months, he will cause it to be abated and removed, as may be directed by the court. On failing to perform such condition, the recognizance shall be deemed forfeited, and the court, or said trial justice on being satisfied of such default, may forthwith issue a warrant and entertain an action to enforce the recognizance. (R. S. c. 128, § 18. 1959, c. 317, § 284.)

Effect of amendment.—The 1959 amendment divided this section into two sentences, substituted “section 19” for “the preceding section” in the first sentence, deleted “or any justice thereof, in term time or in vacation” after the word “court” and substituted “entertain an action to enforce” for “scire facias or” in the second sentence.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows:

“This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail.”

Sec. 23. Stationary, internal combustion or steam engine not used without license from town officers.

When application is made for such license, said officers shall assign a time and place for its consideration, and give at least 14 days’ public notice thereof, in such manner as they think proper, at the expense of the applicant. Any person aggrieved by the decision of the selectmen of towns in granting or refusing such license may appeal therefrom within 30 days to the superior court held in said county, which court may appoint a committee of 3 disinterested persons, as is provided in relation to appeals from location of highways. Said committee shall be sworn and give 14 days’ notice of the time and place of their hearing to the parties interested, view the premises, hear the parties, and affirm, reverse or annul the decision of said selectmen, and their decision shall be final. Pending such appeal from granting such license, the superior court may enjoin the erection of such building and engine.

(1961, c. 317, § 473.)

Effect of amendment.—The 1961 amendment substituted “within 30 days to the

superior court” for “to the next term of the superior court” in the second sentence

of the second paragraph of this section and substituted "the superior court" for "the supreme judicial court in equity or the superior court in equity" in the fourth sentence of such paragraph.

As the rest of the section was not affected by the amendment, only the second paragraph is set out.

Sec. 24. Blasting rocks, notice given.

Whoever violates any provision of this section forfeits to the prosecutor \$5 for each offense, to be recovered in a civil action, and is liable for all damages caused by any explosion. If the persons engaged in blasting rocks are unable to pay or, after judgment and execution, avoid payment of the fine, damages and costs by the poor debtor's oath, the owners of the quarry, in whose employment they were, are liable for the same. (R. S. c. 128, § 22. 1961, c. 317, § 474.)

Effect of amendment.—The 1961 amendment divide the last paragraph of this section into two sentences and substituted "a civil action" for "an action of debt" in the present first sentence of such para-

graph.

As the first paragraph of the section was not affected by the amendment, it is not set out.

Sec. 26. Town officers may order nuisance abated.—If no application is made to the superior court, as is provided, the municipal officers of such town shall cause said nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within 30 days after demand, or may be recovered of such person by an action for money paid. (R. S. c. 128, § 24. 1961, c. 317, § 475.)

Effect of amendment.—The 1961 amendment substituted "the superior court, as is provided" for "a justice of the supreme ju-

dicial court or the superior court, as is hereafter provided" near the beginning of this section.

Sec. 27. Owner may apply to superior court.—Any owner aggrieved by such order may, within 30 days after said order is so made and filed, apply to the superior court which shall forthwith, after notice and hearing, affirm, annul or alter such order. (R. S. c. 128, § 25. 1947, c. 27. 1961, c. 317, § 476.)

Effect of amendment.—The 1961 amendment substituted "the superior court which" for "a justice of the supreme judicial or superior court in term time or vaca-

tion, who" in the first sentence of this section and deleted the former second sentence.

Chapter 142.

Timber upon Rivers, Streams and Adjacent Lands.

Sec. 3. Presumptive evidence of guilt; double damages.—In prosecutions under sections 1 and 2, if such log, mast or spar is found in the possession of the accused partly destroyed, partly sawed or manufactured, or with the marks cut out or altered, not being his property, it is presumptive evidence of his guilt. The burden of proof is then on him. Whoever is guilty of the offense described in either section is liable to the owner, in a civil action, for double the value of the log, mast or spar so dealt with. (R. S. c. 129, § 3. 1961, c. 317, § 477.)

Effect of amendment.—The 1961 amendment divided this section into three sentences, substituted "a civil action" for "an

action of debt" in the present third sentence and made other minor changes in the section.

Sec. 4. Right of owner to search mill, boom or raft for lost logs.—The owner of such logs, masts or spars may at any time, by himself or his agent, enter in a peaceable manner upon any mill, mill-brow, boom or raft of logs or other timber in search of such lost property. Whoever willfully prevents or ob-