

# MAINE STATE LEGISLATURE

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CHAPTER 91  
NUISANCES

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SUBCHAPTER I

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**§ 2701. 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.1954, c. 141, § 18; 1961, c. 317, § 472.

**§ 2702. Abatement of nuisance**

When on indictment, complaint or action any person is adjudged guilty of a nuisance, the court, in addition to the fine imposed, if any, or to the judgment for damages and costs for which a separate execution shall issue, may order the nuisance abated or removed at the expense of the defendant. After inquiring into and estimating, as nearly as may be, the sum necessary to defray the expense thereof, the court may issue a warrant therefor substantially in the form following:

## "STATE OF MAINE

....., ss. To the sheriff of our county of .....,  
or either of his deputies, Greetings.

Whereas, by the consideration of our honorable .....  
Court, at a term begun and held at ....., within and for  
said county, upon indictment," (or "complaint," or "action in  
favor of A. B.," as the case may be,) "C. D., of ....., &c., was  
adjudged guilty of erecting," ["causing," or "continuing,"] "a  
certain nuisance, being a building in ....., in said county,"  
(or "fence," or other thing, describing particularly the nuisance  
and the place,) "which nuisance was ordered by said court to be  
abated and removed: We therefore command you forthwith to  
cause said nuisance to be abated and removed; also that you levy  
of the materials by you so removed, and of the goods, chattels  
and lands of said C. D., a sum sufficient to defray the expense of  
removing and abating the same, not to exceed ..... dol-  
lars," (the sum estimated by the court,) "together with your law-  
ful fees, and thirty-three cents more for this writ. And, for want  
of such goods and estate to satisfy said sums, we command you  
to take the body of said C. D., and him commit unto our jail in  
....., in said county, and there detain until he pays such  
sums or is legally discharged. And make return of this warrant,  
with your doings thereon, within thirty days. Witness, A. B.,  
Esq., at ....., this ..... day of ....., in the year of our Lord  
19...

J. S., Clerk."

R.S.1954, c. 141, § 19; 1963, c. 402, § 231.

### § 2703. Stay on security to discontinue

Instead of issuing the warrant required by section 2702, the court 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 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 on being satisfied of such default, may forthwith issue the warrant and entertain an action to enforce the recognizance.

R.S.1954, c. 141, § 20; 1959, c. 317, § 284; 1963, c. 402, § 232.

**§ 2704. Expenses of abatement defrayed; poor debtor's oath**

The expense of abating a nuisance by virtue of a warrant shall be collected by the officer as damages and costs are collected on execution; except that the materials of buildings, fences or other things removed as a nuisance may be first levied upon and sold by the officer, and the proceeds, if any remain after paying the expense of removal, shall be paid by him, on demand, to the defendant or the owner of such property. If said proceeds are not sufficient to satisfy the expenses, the officer shall collect the residue as aforesaid. A person committed to jail on such warrant may avail himself of the poor debtor's oath, as if he had been committed on execution. If said expense cannot be collected of the defendant, it shall be paid as costs in criminal prosecutions.

R.S.1954, c. 141, § 21.

**§ 2705. Jurisdiction by injunction**

Any court of record before which an indictment, complaint or action for a nuisance is pending may, in any county, issue an injunction to stay or prevent such nuisance, and make such orders and decrees for enforcing or dissolving it as justice and equity require.

R.S.1954, c. 141, § 22.

**§ 2706. Penalty and abatement of nuisance**

Whoever erects, causes or continues a public or common nuisance, as herein described or at common law, where no other punishment is specially provided, shall be punished by a fine of not more than \$100. The court with or without such fine may order such nuisance to be discontinued or abated, and issue a warrant therefor as provided.

R.S.1954, c. 141, § 15.

## SUBCHAPTER II

## COMMON NUISANCES

Sec.

2741. Common nuisances; jurisdiction to abate.

2742. —Penalties.

2743. Lease void; remedy of owner.

2744. Liability of building owner.

**§ 2741. Common nuisances; jurisdiction to abate**

All places used as houses of ill fame, or for the illegal sale or keeping of intoxicating liquors or narcotic drugs, 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.1954, c. 141, § 1; 1961, c. 317, § 471; 1963, c. 327, § 7.

**§ 2742. —Penalties**

Whoever keeps or maintains such nuisance shall be punished by a fine of not less than \$200 nor more than \$1,000, and in addition thereto by imprisonment for not less than 60 days nor more than 11 months, and in default of payment of said fine shall be imprisoned for an additional term of not less than 60 days nor more than 11 months.

R.S.1954, c. 141, § 2.

**§ 2743. Lease void; remedy of owner**

If any tenant or occupant, under any lawful title, of any building or tenement not owned by him uses it or any part thereof for any purpose named in section 2741, he forfeits his right thereto, and the owner thereof may make immediate entry, without process of law, or may avail himself of the remedy provided in Title 14, chapter 709.

R.S.1954, c. 141, § 3.

**§ 2744. Liability of building owner**

Whoever knowingly lets any building or tenement owned by him, or under his control, for any purpose named in section 2741,



or knowingly permits the same or part thereof to be so used, or who, after being notified in writing of such illegal use by an officer or citizen of the county in which the building or tenement is located, omits to take all proper measures either to abate said nuisance or, failing therein, to eject therefrom the person or persons maintaining such nuisance is guilty of aiding in the maintenance of a nuisance and shall be punished by a fine of not less than \$200 nor more than \$1,000, and in addition thereto by imprisonment for not less than 60 days nor more than 11 months, and in default of payment of said fine shall be imprisoned for an additional term of not less than 60 days nor more than 11 months.

R.S.1954, c. 141, § 4.

### SUBCHAPTER III

#### PARTICULAR NUISANCES

Sec.

- 2791. Blasting; notice.
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- 2801. Spite fences.
- 2802. Miscellaneous nuisances.
- 2803. —Assignment of place for.
- 2804. —Complaints about.

#### § 2791. Blasting; notice

Persons engaged in blasting limerock or other rocks shall before each explosion give seasonable notice thereof, so that all persons or teams approaching shall have time to retire to a safe distance from the place of said explosion. No such explosion shall be made after sunset.

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.1954, c. 141, § 24; 1961, c. 317, § 474.

### § 2792. Burning of bricks

A town, at its annual meeting, may prohibit the burning of bricks or the erecting of brickkilns within such parts thereof as they deem for the safety of the citizens or their property. If any person, by himself or others, violates such prohibition, the municipal officers shall cause said bricks or brickkiln to be forthwith removed, at the expense of the owner thereof; and the offender forfeits not more than \$200 to the town. If said bricks or brickkiln are not removed before conviction, the court may issue a warrant for the removal thereof, or stay it as provided.

R.S.1954, c. 141, § 10.

### § 2793. 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.

### § 2794. 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.

**§ 2795. License for use of certain engines**

No stationary, internal combustion or steam engine shall be erected in a town until the municipal officers have granted license therefor, designating the place where the buildings therefor shall be erected, the materials and mode of construction, the size of the boiler and furnace, and such provision as to height of chimney or flues, and protection against fire and explosion, as they judge proper for the safety of the neighborhood. Such license shall be granted on written application, recorded in the town records and a certified copy of it furnished, without charge, to the applicant.

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.

Any such engine erected without a license shall be deemed a common nuisance without other proof than its use.

Said officers shall have the same authority to abate and remove an engine, erected without license, as is given to the local health officer in Title 22, chapter 153.

R.S.1954, c. 141, § 23; 1961, c. 317, § 473.

**§ 2796. Manufacture of powder**

If any person manufactures gunpowder, or mixes or grinds the composition therefor, in any building within 80 rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly.

R.S.1954, c. 141, § 9.

**§ 2797. Mills and dams; fences and buildings on public ways**

The erection and maintenance of watermills and dams to raise water for working them upon or across streams not navigable as provided in Title 38, chapter 5, shall not be deemed a nuisance, unless they become offensive to the neighborhood, or injurious to the public health, or unless they occasion injuries or annoyances of a kind not authorized by said chapter. Fences and buildings fronting on public ways, commons or lands appropriated to public use shall not be deemed nuisances when erected for the times and in the manner provided in Title 23, section 2952, unless the owner of the same shall be estopped as therein provided from justifying his occupation within the limits of said way.

R.S.1954, c. 141, § 13.

**§ 2798. Mufflers required on motorboats**

All motorboats run or operated in any tidal or other waters within the State shall be provided or equipped with proper and suitable mufflers or other devices which shall effectually deaden sound. Said muffler shall be used all the time the engine of the motorboat is in operation. It shall be allowable to cut out said mufflers, in case of boats while entered and competing in boat races held under the auspices of some regularly organized club, between the hours of 8 o'clock in the morning and sunset following.

Any muffling device approved by the United States inspectors having jurisdiction of the tidal waters of this State shall, in case of motorboats run or operated on such tidal or other waters in the State, be deemed to be a compliance with this section, provided such defense shall be set up and proved by the defendant.

Whoever violates any provision of this section between 8 o'clock in the forenoon and 8 o'clock at night shall be punished by a fine of not less than \$5 nor more than \$25; whoever violates any provision of this section between 8 o'clock in the afternoon and 8 o'clock in the forenoon shall be subject to a double penalty; and any such violation shall be deemed a common nuisance within the meaning of section 2706.

R.S.1954, c. 141, § 17.

**§ 2799. Possession of poisonous snakes**

The possession of poisonous snakes shall be a public nuisance, except where poisonous snakes shall be continuously confined in such type of enclosure as may be determined to be escape proof.

R.S.1954, c. 141, § 12.

**§ 2800. Removal of bushes, trees and stumps from flowed area**

Whoever hereafter erects a dam on any of the public waters of this State shall, within 3 years after a head of water is held and flowage created thereby, remove from the flowed area all trees, bushes and stumps that he can legally remove therefrom, to such an extent that the tops of all trees, bushes and stumps left thereon shall be at least 5 feet below the surface of the mean low-water level maintained during the period beginning June 1st and ending December 1st next following of each year and shall within said 3-year period remove such growth as he can legally remove from the edge of the flowed area to such an extent that no dry-ki and debris shall form to be carried away by the water. For the purpose of protecting the right of the public in the navigation of the waters over said flowed area the owner of such dam shall, after the creation of flowage thereby, have the right to cut and remove from the flowed area all trees, bushes and stumps remaining thereon, and the damage to the owner thereof caused by such removal shall be ascertained in the same manner as is provided for the ascertainment of the damages caused by the flowage.

Any dam erected hereafter which is maintained in violation of this section shall constitute a public nuisance, and be subject to section 2706.

This section shall not apply to dams which are created solely for log driving purposes where the water is stored for not exceeding 3 months of each year, nor shall the same be interpreted in any instance to require the removal of stumps below the swell of the roots.

R.S.1954, c. 141, § 16.

**§ 2801. Spite fences**

Any fence or other structure in the nature of a fence, unnecessarily exceeding 6 feet in height, maliciously kept and main-

tained for the purpose of annoying the owners or occupants of adjoining property shall be deemed a private nuisance.

R.S.1954, c. 141, § 5.

### § 2802. Miscellaneous nuisances

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream or pond; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked automobiles, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery and injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.

R.S.1954, c. 141, § 6; 1963, c. 305.

### § 2803. —Assignment of place for

The municipal officers of a town, when they judge it necessary, may assign places therein for the exercise of any trades, employments or manufactures described in section 2802, and may forbid their exercise in other places, under penalty of being deemed public or common nuisances and the liability to be dealt with as such. All such assignments shall be entered in the records of the town and may be revoked when said officers judge proper.

R.S.1954, c. 141, § 7.

**§ 2804. —Complaints about**

When a place or building so assigned becomes a nuisance, offensive to the neighborhood or injurious to the public health, any person may complain thereof to the Superior Court and if, after notice to the party complained of, the truth of the complaint is admitted by default or made to appear to a jury on trial, the court may revoke such assignment and prohibit the further use of such place or building for such purposes, under a penalty of not more than \$100 for each month's continuance after such prohibition, to the use of said town; and may order it to be abated and issue a warrant therefor, or stay it as provided; but if the jury acquit the defendant, he shall recover costs of the complainant.

R.S.1954, c. 141, § 8.

**SUBCHAPTER IV****DANGEROUS BUILDINGS**

Sec.

- 2851. Dangerous buildings.
- 2852. Town officers may order nuisance abated.
- 2853. Aggrieved owner may appeal to court.
- 2854. Costs.
- 2855. Entry into force by town vote.

**§ 2851. Dangerous buildings**

When the municipal officers of a town, after personal notice in writing to the owner of any burnt, dilapidated or dangerous building, or by publication in a newspaper in the same county, if any, 3 weeks successively, otherwise in the state paper, and after a hearing of the matter, adjudge the same to be a nuisance or dangerous, they may make and record an order prescribing what disposal shall be made thereof, and thereupon the town clerk shall deliver a copy of such order to a constable, who shall serve such owner, if a resident of the State, with an attested copy thereof, and make return of his doings thereon to said clerk forthwith. If the owner, or part owner, is unknown or resides without the State, such notice shall be given by publication in the state paper, or in a paper published in the county, 3 weeks successively.

R.S.1954, c. 141, § 25.

**§ 2852. 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.1954, c. 141, § 26; 1961, c. 317, § 475.

**§ 2853. Aggrieved owner may appeal to 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.1954, c. 141, § 27; 1961, c. 317, § 476.

**§ 2854. Costs**

If the court affirms such order, costs shall be recovered by the town. If it wholly annuls such order, costs shall be recovered by the applicant. If it alters it in part, the court may render such judgment as to costs as justice requires.

R.S.1954, c. 141, § 28.

**§ 2855. Entry into force by town vote**

This subchapter shall not be in force in any town unless adopted at a legal meeting thereof.

R.S.1954, c. 141, § 29.