

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)

Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 5
Titles 26 to 32



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
Copyright © 1964
by
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

CHAPTER 29

ENFORCEMENT AND JURISDICTION

Subch.	Sec.
I. Enforcement Generally	1101
II. Officials and Their Duties	1151
III. Search and Seizure	1201

SUBCHAPTER I

ENFORCEMENT GENERALLY

Sec.

1101. Jurisdiction of courts.
 1102. Bail after commitment for illegal manufacture or sale.
 1103. Evidence; parties liable; prosecution; prior convictions; amendment of process.
 1104. Persons in unlawful liquor traffic disqualified from jury.
 1105. Appeals; discharge of sureties.
 1106. Continuance for sentence.

§ 1101. Jurisdiction of courts

In prosecutions under this Title, except when otherwise expressly provided, the District Court shall have, by complaint, jurisdiction concurrent with the Superior Court.

R.S.1954, c. 61, § 71; 1957, c. 208; 1963, c. 402, § 98.

§ 1102. Bail after commitment for illegal manufacture or sale

In any prosecution for violation of the statutes relating to manufacture or sale of intoxicating liquor a respondent therein who has failed to comply with the term of any recognizance entered into by him in such case shall not again be admitted to bail in such case or upon arrest on any capias issued therein, except by a justice of the court in which such prosecution is pending.

R.S.1954, c. 61, § 74.

§ 1103. Evidence; parties liable; prosecution; prior convictions; amendment of process

Whenever an unlawful sale is alleged and a delivery proved, it is not necessary to prove a payment, but such delivery is suffi-

cient evidence of sale. A partner in business is liable for the unlawful keeping or selling by his copartner, done in the copartnership business, or by any other person in any shop, store or other place of business of such copartnership with his knowledge or assent. A principal and his agent, clerk and servant may all be included in the same complaint and process. The mayor or municipal officers of cities, or selectmen of towns or assessors of plantations may cause a civil action to be commenced on any bond or recognizance given under this Title in which the municipality is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. The mayor, aldermen, selectmen, assessors and constables in every municipality shall make complaint and prosecute all violations and shall promptly enforce this Title. The willful or corrupt neglect or refusal of any of such officials to enforce this Title shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months. If a municipal officer, after being furnished with a written notice of a violation of this Title, signed by 2 persons competent to be witnesses in civil actions, and containing the names and residences of the witnesses to prove such offense, willfully neglects or refuses to institute proceedings therefor, he shall be punished by a fine of not less than \$20 nor more than \$50, to be recovered by indictment. The oath required of any such officer to the complaint may be, in substance, that from a written notice signed by 2 persons competent to be witnesses in civil actions, he believes the complaint signed by him to be true. If an execution or other final process, issued in any civil or criminal action instituted under this Title, is placed in the hands of any proper officer to be by him executed and he unreasonably neglects or refuses to do so, an action may be commenced against him by any voter in the county and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it is a process that requires him to take and commit an offender to prison, the damages shall not be less than \$50 nor more than \$500. In actions, complaints, indictments or other proceedings for a violation of any provision of this Title, other than for a first offense, it is not requisite to set forth particularly the record of a former conviction, but it is sufficient to allege briefly that such person has been convicted of a violation of a particular provision or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment, may be amended without terms and as a matter of right. Any process civil or criminal, legally amendable, may, in any stage

of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment.

R.S.1954, c. 61, § 76; 1963, c. 414, § 86.

§ 1104. Persons in unlawful liquor traffic disqualified from jury

No person engaged in the unlawful traffic in liquor is competent to sit as a juror in any case arising under this Title. When information is communicated to the court that a member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall inquire of the juror of whom such belief is entertained; and no answer which he makes shall be used against him in any case arising under this Title. If he answers falsely, he shall be incapable of serving on any jury; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a juror.

R.S.1954, c. 61, § 77.

§ 1105. Appeals; discharge of sureties

In appeals, the proceedings shall be the same in the appellate court as they would be in the court below, and shall be conducted therein by the attorney for the State. The jury shall find specially under the direction of the court on all facts necessary to determine the adjudication thereof. If a claimant or other respondent fails to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed. No portion of the penalty of any recognizance taken under this Title shall be remitted by any court in any suit thereon, nor shall a surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance unless the principal has been actually sentenced upon the indictment or complaint on which the recognizance was taken. The appeals of claimants provided for in section 1205 shall be entered as all other appeals in criminal cases, and be subject to the requirements of law appertaining to them.

R.S.1954, c. 61, § 73.

§ 1106. Continuance for sentence

When a person has been convicted in the Superior Court of a violation of any of the provisions of this Title, the county attor-

ney shall move for sentence at the same term, unless for reasons satisfactory to the court the case is continued for sentence for one term, but no longer.

R.S.1954, c. 61, § 72.

SUBCHAPTER II

OFFICIALS AND THEIR DUTIES

Sec.

- 1151. Duty of sheriffs, deputies and county attorneys; refusal or neglect.
- 1152. Attorney General to take charge of investigations before grand jury in certain matters.
- 1153. Compensation of deputy sheriff.
- 1154. Duty of county attorneys.
- 1155. Power of police officers to stop vehicles; restrictions.

§ 1151. Duty of sheriffs, deputies and county attorneys; refusal or neglect

Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law within their respective counties and institute proceedings in case of violations or supposed violations of law, and particularly the law against the illegal sale of liquor, gambling houses or places and houses of ill fame. Sheriffs and their deputies shall promptly enter complaints before a judge and execute the warrants issued thereon, or shall furnish the county attorney promptly and without delay with the names of alleged offenders and of the witnesses. Any sheriff, deputy sheriff or county attorney, who shall willfully or corruptly refuse or neglect to perform any of the duties required by this section, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months.

R.S.1954, c. 61, § 78.

§ 1152. Attorney General to take charge of investigations before grand jury in certain matters

The Attorney General shall take charge of all investigations before the grand jury in case of refusal or neglect of any sheriff, deputy sheriff or county attorney to perform any of the duties required by section 1151 and, in case of the finding of an indictment, shall conduct all subsequent proceedings in court in behalf of the State as prosecuting attorney. In all such prosecutions the

Attorney General shall act in place of the county attorney, and he is invested with all the rights, powers and privileges of the county attorney for that purpose, the powers of the county attorney with respect to prosecutions under this section being suspended.

R.S.1954, c. 61, § 79.

§ 1153. Compensation of deputy sheriff

For services under sections 1151 and 1152 a deputy sheriff acting under the direction of the sheriff shall receive the same per diem compensation as is now allowed for attendance on the Superior Court and the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as are just and proper; bills for which shall be audited by the county commissioners and paid from the county treasury; but they shall not allow any per diem compensation to deputies for any day for which they are entitled to fees or compensation for attendance at or service in any court. This section as to compensation of deputy sheriffs and Title 30, section 1051 shall not apply to the deputies of the sheriff of Cumberland County, acting under this section.

R.S.1954, c. 61, § 80.

§ 1154. Duty of county attorneys

County attorneys shall cause promptly to be summoned before the grand jury all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in section 1151, and shall faithfully direct inquiries before that body into violations of law, prosecute persons indicted and insist upon the prompt sentence of convicts.

R.S.1954, c. 61, § 81.

§ 1155. Power of police officers to stop vehicles; restrictions

No sheriff, deputy sheriff, constable, municipal or state police officer shall between one hour after sunset and the following sunrise, for the purpose of enforcing the laws against the illegal sale, transportation or possession of intoxicating liquor, stop any motor vehicle lawfully using any of the highways in the State, unless said officer be in uniform or unless said officer has reasonable grounds to believe and does believe that said motor vehicle is being operated or occupied by a person violating some provision of said law or unless said officer be acting under a warrant in his hands for service.

R.S.1954, c. 61, § 93.

SUBCHAPTER III

SEARCH AND SEIZURE

Sec.

- 1201. Seizure and forfeiture of vehicles containing liquor.
- 1202. Claim of owner that unlawful use of vehicle or boat was without knowledge or consent.
- 1203. Warrants; dumping of evidence; notice of liquor for sale, prima facie evidence of common sellers.
- 1204. Duty of officer on seizure; proceedings.
- 1205. Forfeiture where no appearance; proceedings on appearance.
- 1206. Warrant to search dwelling house.
- 1207. Warrant against claimant.
- 1208. Destruction to prevent seizure; arrest of owner; appliances and evidences seized.
- 1209. Death of officer making seizure.
- 1210. Replevy pending proceeding prohibited.
- 1211. Disposal of forfeited liquors.

§ 1201. Seizure and forfeiture of vehicles containing liquor

All automobiles, trucks, wagons, aircraft, boats or vessels, and vehicles of every kind, not common carriers, containing intoxicating liquors intended for illegal sale shall be seized by any officers seizing the intoxicating liquors transported therein, and the said intoxicating liquors shall be libeled as provided for in section 1204. In all cases where an officer may seize intoxicating liquors which are transported for illegal sale he may seize within a period of 30 days of such transportation, with a warrant upon a sworn complaint issued by the proper officer of the District Court upon complaint, said automobile, truck, wagon, aircraft, boat or vessel or vehicle or every kind, not common carrier, which have been so used to transport intoxicating liquors intended for illegal sale. Said automobile, truck, wagon, aircraft, boat or vessel and vehicle of every kind shall be libeled in the same manner as intoxicating liquors as provided in section 1204 and disposed of in the same manner as intoxicating liquors as provided for in section 1205. This section shall not interfere with the rights of a bona fide purchaser, or holder of a bona fide lien who has acquired such status between the time of such illegal transportation and such seizure under the terms of this section. This section is subject to the rights of persons not in possession or con-

trol of such automobile, truck, wagon, aircraft, boat or vessel or vehicle of every kind as provided by section 1202.

R.S.1954, c. 61, § 82; 1961, c. 289; 1963, c. 402, § 99.

§ 1202. Claim of owner that unlawful use of vehicle or boat was without knowledge or consent

Any right, title or interest of any person other than the person or persons in possession or control of any such automobile, truck, wagon, boat, vessel or vehicle shall be forfeited unless its use for the transportation of liquors was without his knowledge or consent. Any claimant of any right, title or interest in such automobile, truck, wagon, boat, vessel or vehicle must allege and prove that its use for the transportation of liquors was without his knowledge or consent; and the court or judge may determine in the proceeding on such claim the right, title or interest, if any, of such claimant.

R.S.1954, c. 61, § 83.

§ 1203. Warrants; dumping of evidence; notice of liquor for sale, prima facie evidence of common sellers

If any person competent to be a witness in civil actions makes sworn complaint before the proper officer of the District Court that he believes that liquors are unlawfully kept or deposited in any place in the State by any person and that the same are intended for sale in violation of law, such judge shall issue his warrant directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if such liquors are there found, to seize them, with the vessels in which they are contained, and safely keep the same until final action thereon and to make immediate return of the warrant. The name of the person so keeping such liquors, if known to the complainant, shall be stated in the complaint, and the officer shall be commanded by the warrant if he finds such liquors to arrest the person so named and hold him to answer as keeping such liquors intended for unlawful sale. In all cases where an officer may seize liquors or the vessels containing them, upon a warrant, he may seize them without a warrant and keep them in some safe place for a reasonable time until he can procure such warrant. Any person who may be suspected of selling from, or keeping for illegal sale in his pockets, liquors, may be searched in the same manner and by the same process as is provided for the search of

places, and if liquors are found upon his person, he may be held to answer as though they were kept and deposited by him in any place. If fluids are poured out or otherwise destroyed by the tenant, assistant or other person when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such fluids may be held to have been intended for unlawful sale, and the penalties shall be the same as if they had been seized. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and the judge shall thereupon issue his warrant as provided in the first sentence of this section. If, upon trial, the court is of opinion that the liquors were so kept and intended for unlawful sale by the person named in the complaint or by any other person with his knowledge or consent, he shall be found guilty thereof and shall be punished by a fine of not less than \$100 nor more than \$500, and costs, and in addition thereto, by imprisonment for not less than 2 months nor more than 6 months, and in default of payment of said fine and costs, by imprisonment for 6 months additional. Notice of any kind in any place or resort, indicating that liquors are there unlawfully kept, sold or given away shall be held to be prima facie evidence that the person or persons displaying such notice are common sellers of liquors, and that the premises so kept by them are common nuisances.

R.S.1954, c. 61, § 84; 1963, c. 402, § 100.

§ 1204. Duty of officer on seizure; proceedings

When liquors and vessels are seized as provided in section 1203 the officer who made such seizure shall immediately file with the court or judge before whom the warrant is returnable, a libel against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept and intended for sale in violation of law, and shall pray for a decree of forfeiture thereof. Such court or judge shall thereupon fix a time for the hearing on such libel and shall issue his monition and notice thereof to all persons interested, citing them to appear at the time and place appointed and show cause why such liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of the libel and monition to be posted in 2 public and conspicuous places in the town or place where such liquors were seized 10 days at least before the day to which the libel is returnable.

R.S.1954, c. 61, § 85.

§ 1205. Forfeiture where no appearance; proceedings on appearance

If no claimant appears, such court or judge shall, on proof of notice, declare the same forfeited to the county in which they were seized. If any person appears and claims such liquors or any part thereof, as having a right to the possession thereof at the time when they were seized, he shall file with the court or judge his claim in writing, stating specifically the right so claimed and the foundation thereof, the items claimed, the time and place of the seizure and the name of the officer by whom they were seized, and in it he shall declare that they were not kept or deposited for unlawful sale as alleged in the libel and monition, and shall state his business and place of residence and shall sign and make oath thereto before such court or judge. If any person so makes claim, he shall be admitted as a party to the process; and the court or judge shall proceed to determine the truth of the allegations in the libel and claim, and may hear any pertinent evidence offered by the libellant or claimant. If the court or judge is, upon the hearing, satisfied that such liquors were not kept or deposited for unlawful sale, and that the claimant is entitled to the custody of the whole or any part thereof, he shall give him an order in writing, directed to the officer having them in custody, commanding him to deliver to the claimant the liquors to which he is so found to be entitled within 48 hours after demand. If the court or judge finds the claimant entitled to no part of such liquors, he shall render judgment against him for the libellant for costs, to be taxed as in civil cases before such court or judge, shall issue execution thereon and shall declare such liquors forfeited to the county where seized. The claimant may appeal and shall recognize with sureties as on appeals in civil cases.

R.S.1954, c. 61, § 86.

§ 1206. Warrant to search dwelling house

No warrant shall be issued to search a dwelling house occupied as such, unless it or some part of it is used as an inn or shop or for purposes of traffic, or unless the judge before whom the complaint is made is satisfied by evidence presented to him, and so alleges in the warrant, that liquors are kept in such house or its appurtenances intended for sale in violation of law.

R.S.1954, c. 61, § 87.

§ 1207. Warrant against claimant

If complaint is made upon oath to any court or judge against any claimant under this Title, alleging that the liquors claimed by him were, prior to and at the time when they were seized, kept or deposited by him or by some person by his authority, and were intended for unlawful sale in this State either by him or by such person, the court or judge shall issue his warrant against such claimant so charged, who shall be arrested thereon and be brought before the court or judge, and if convicted, he shall be punished as is provided in section 1203.

R.S.1954, c. 61, § 89.

§ 1208. Destruction to prevent seizure; arrest of owner; appliances and evidences seized

If an officer, having a warrant issued under this Title directing him to seize any liquors and to arrest the owner or keeper thereof, is prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant and bring him before the court or judge, and make return upon the warrant that he was prevented from seizing such liquors by their being poured out or otherwise destroyed, as the case may be. In his return he shall state the quantity so poured out or destroyed, as nearly as may be, and the court or judge shall put the owner or keeper so arrested upon trial. If it is proved that such liquors as were described in the warrant were so poured out or destroyed, and that they were so kept or deposited and intended for unlawful sale, and that the person so arrested was owner or keeper thereof, he shall be punished in the same manner as if the liquors described in the warrant and in the return had been seized on the warrant and brought before the court or judge by the officer. All dumps or appliances for concealing, disguising or destroying liquors so that the same cannot be seized or identified, found in the possession or under the control of any person or persons, shall be taken by the officer making the search or seizure, so far as may be practicable, together with all bottles and drinking glasses or vessels found in the possession or under the control of any such person or persons, and they, together with all evidences of such dumps or appliances for concealing, disguising or destroying liquors, shall be presented to the next grand jury sitting in the county where the search and seizure is made for their consideration, and they shall thereafter be subject to the order of the court or judge issuing the warrant for such search and seizure.

R.S.1954, c. 61, § 90.

§ 1209. Death of officer making seizure

If any deputy sheriff, after having executed a warrant by a seizure, dies or goes out of office before final execution in the proceedings is done, the liquors shall be held in the custody of the sheriff or of another deputy. If any other officer dies or goes out of office under like circumstances, the court or judge before whom the proceedings were commenced shall designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

R.S.1954, c. 61, § 91.

§ 1210. Replevy pending proceeding prohibited

Liquors seized and the vessels containing them shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings provided are pending. Final judgment in such proceedings shall be in all cases a bar to any civil action for the recovery of any liquors seized or of their value, or for damages alleged to have been sustained by reason of the seizure and detention thereof.

R.S.1954, c. 61, § 92; 1963, c. 414, § 87.

§ 1211. Disposal of forfeited liquors

All liquors declared forfeited by any court or judge under this Title shall, by order of the court or judge rendering final judgment thereon, be turned over to the commission for distribution upon request to hospitals and state institutions for medicinal purposes only. Any such liquor held undistributed by the commission for a period of 6 months may be destroyed on order of the commission in the same manner as provided for destruction of liquor by order of court. If any liquor is determined by the court or judge to be unfit or unsatisfactory for distribution to such hospitals and state institutions, the court or judge may order such liquor to be destroyed by any officer competent to serve the process on which it was forfeited, and he shall make return accordingly to such court or judge. Such liquors shall be destroyed by pouring them upon the ground or into some public sewer.

R.S.1954, c. 61, § 88.