

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1357

H. P. 923

House of Representatives, February 13, 1963

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Ricker of Wales.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Transferring Duties of Liquor Hearing Examiner to the District Court.

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

Sec. 1. R. S., c. 108-A, §§ 11-A - 11-B, additional. Chapter 108-A of the Revised Statutes, as enacted by section 1 of chapter 386 of the public laws of 1961, and as amended, is further amended by adding 2 new sections, to be numbered 11-A and 11-B, to read as follows:

‘Sec. 11-A. Revocation of licenses. The Office of Hearing Examiner is hereby established and shall be under the supervision of a Hearing Examiner. The Hearing Examiner shall be appointed by the Governor by and with the advice of the Council, for a term of 4 years. The Hearing Examiner shall be an attorney-at-law duly admitted to practice before the courts of Maine. He may be removed from office by the Governor for misfeasance, malfeasance and non-feasance in office. He shall receive an annual compensation of \$6,000 and shall be entitled to actual and necessary expenses in the performance of his duties. The Hearing Examiner shall conduct hearings on all matters concerning violations by licensees of any federal or state law or regulation relating to intoxicating liquor or infractions of any rule or regulation issued by the State Liquor Commission after notice of such violation or infraction has been reported to him on a signed complaint. The Hearing Examiner shall thereupon notify the licensee by serving on him a copy of the complaint and a notice stating the time and place of hearing and that he may appear in person or by counsel at the hearing. Service of such complaint and notice shall be sufficient if sent by registered mail or certified mail to the address given by the licensee at the time of his application for a license, 7 days at least before the date of hearing. The

Hearing Examiner shall thereupon conduct a hearing limited to the facts and law, and rules and regulations of the State Liquor Commission, as specified in said complaint. The Hearing Examiner is authorized to subpoena and examine witnesses and to administer oaths. In the conducting of hearings, no hearsay testimony shall be admissible and the licensees named in the complaint shall have the right to have all witnesses testify in person at the hearing. The Hearing Examiner shall state in writing his findings and decision in each case, based upon the facts and the law, and the rules and regulations of the State Liquor Commission. Said findings shall specify the facts found and the law, rules or regulations found to be violated. The Hearing Examiner shall conduct hearings in such places as are within the jurisdiction of the District Court.

The Hearing Examiner may suspend or revoke licenses. Except as provided by subsection I, paragraph C, suspensions must be for a definite period of time. If the Hearing Examiner revokes a license, he shall specify that no license shall issue to the person whose license is revoked for a period of not less than one nor more than 5 years from the date of such revocation.

I. Causes for revocation and suspension of licenses. Licenses may be revoked or suspended by the Hearing Examiner for the following causes:

A. Violation of any federal or state law or regulation relating to intoxicating liquor or substantial infraction of any rule or regulation issued by the commission; except that licensees selling to minors furnishing fraudulent proof of age may be held not administratively liable by the Hearing Examiner;

B. Knowingly making a false material statement of fact in the application for the license;

C. Failure to have and maintain throughout the entire license period all of the requirements of definitions, laws, rules and regulations, necessary to qualify for a license. For this particular offense the Hearing Examiner shall be authorized to suspend licenses for an indefinite period of time until he is satisfied that the licensee has conformed to all qualifications required for licensing.

II. License subsequent to violation. Whenever violations by licensees occur in one year's license period and remain undiscovered or carry over into the next license year pending investigation or final disposition either in criminal courts or before the Hearing Examiner, any license issued subsequent to violation for a new license year may be suspended or revoked by the Hearing Examiner.

III. Warnings. After hearing, the Hearing Examiner may suspend the operation of a penalty or in lieu of imposing any penalty at all he may place a case on file.

In cases of ownership, direct or indirect, in more than one license, suspensions shall apply only to the premise where the violation occurs. The Hearing Examiner may order that a revocation shall apply to any premises in which the licensee, is directly or indirectly, interested.

In cases of corporations the officers, directors and substantial stockholders shall be treated in the same manner as though they were partners in a partnership.

Sec. 11-B. Appeal from decision of Hearing Examiner. A full and complete record shall be kept of all proceedings had before the Hearing Examiner.

If any person is aggrieved by the decision of the Hearing Examiner in revoking or suspending any liquor license he may appeal as provided in section 8. Pending appeal, the decision of the Hearing Examiner in revoking or suspending any license shall remain in full force and effect.'

Sec. 2. R. S., c. 61, §§ 56 and 56-A, repealed. Section 56 of chapter 61 of the Revised Statutes, as repealed and replaced by chapter 218 of the public laws of 1959 and as amended and section 56-A of chapter 61 of the Revised Statutes, as enacted by section 6 of chapter 410 of the public laws of 1957, are repealed.