

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)

ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1572

House of Representatives, May 23, 1963
Reported by the Committee on Judiciary. Printed pursuant to House Rule
36.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

COMMITTEE AMENDMENT "A" to H. P. 922, L. D. 1356, Bill, "An Act
Revising the Administrative Code."

Amend said Bill by striking out all of the title and inserting in place thereof
the following new title: 'An Act Combining the Offices of the Administrative
Hearing Officer and the Hearing Examiner for the Liquor Commission, and
Revising the Administrative Code.'

Further amend said Bill by inserting before the enacting clause the following
emergency preamble:

'Emergency preamble. Whereas, Committee Amendment "A" consolidates
the duties of the Administrative Hearing Officer under the Administrative Code,
and the Office of Hearing Examiner for the State Liquor Commission into one
position designated "Administrative Hearing Commissioner"; and

Whereas, there is a vacancy in the office of Administrative Hearing Officer at
the present time; and

Whereas, the present Hearing Examiner for the State Liquor Commission is
to assume the responsibilities of the Administrative Hearing Officer; and

Whereas, the consolidation of the 2 offices will result in a biennial financial
saving of approximately \$10,000; and

Whereas, in the judgment of the Legislature, these facts create an emergency
within the meaning of the Constitution of Maine and require the following leg-
islation as immediately necessary for the preservation of the public peace, health
and safety; now, therefore,'

Further amend said Bill by inserting after the enacting clause the following section:

“Sec. 1. R. S., c. 20-A, § 1, sub-§ I, amended. Subsection I of section 1 of chapter 20-A of the Revised Statutes, as enacted by section 1 of chapter 394 of the public laws of 1961, and as amended, is further amended by inserting after the paragraph entitled “Maine Mining Bureau” the following paragraph:

‘State Liquor Commission.’”

Further amend said Bill by striking out in the 2nd line of that part designated subsection **“III.”** of section 3 the underlined word and punctuation **“form,”**

Further amend said Bill in section 4 by striking out all of the underlined subsection IV and inserting in place thereof the following:

“IV. Hearing Commissioner. “Hearing Commissioner” means the Administrative Hearing Commissioner appointed under section 6.’”

Further amend said Bill in that part designated **“Sec. 6.”** of section 9 by striking out in the 3rd line the underlined word **“Officer”** and inserting in place thereof the underlined word **‘Commissioner’**

Further amend said Bill in that part designated **“Sec. 6.”** of section 9 by striking out in the first line of subsection I the underlined word **“Officer”** where it appears in 2 places and inserting in place thereof the underlined word **‘Commissioner’**; and by striking out in the first line of subsection II the underlined word **“Officer”** where it appears in 2 places and inserting in place thereof the underlined word **‘Commissioner’**

Further amend said Bill in that part designated **“Sec. 6.”** of section 9 by striking out all of subsection III and inserting in place thereof the following:

‘III. Compensation of Hearing Commissioner. The Hearing Commissioner shall receive an annual compensation of \$8,000 and shall be entitled to actual and necessary expenses in the performance of his duties. He may employ necessary clerical assistance.’

Further amend said Bill in that part designated **“Sec. 6.”** of section 9 by striking out in the 2nd and 3rd lines of subsection IV the underlined word **“Officer”** and inserting in place thereof the underlined word **‘Commissioner’**

Further amend said Bill in that part designated **“Sec. 7.”** of section 9 by striking out in the first and 2nd lines the underlined word **“Officer”** and inserting in place thereof the underlined word **‘Commissioner’**

Further amend said Bill in that part designated **“Sec. 7.”** of section 9 by striking out in the first line of subsection II the underlined word **“Officer”** and inserting in place thereof the underlined word **‘Commissioner’**

Further amend said Bill by striking out in the 2nd line of subsections I and II of that part designated **“Sec. 8.”** of section 10 the underlined word **“Officer”** and inserting in place thereof the underlined word **‘Commissioner’**; and by striking out in the first line of subsections III, IV and V the underlined word **“Of-**

ficer" and inserting in place thereof the underlined word '**Commissioner**'; and by striking out in the 2nd line of subsection V the underlined words "**for notice and hearing**"

Further amend said Bill by adding after section 10 a new section to read as follows:

"**Sec. 11. R. S., c. 20-A, § 10-A, additional.** Chapter 20-A of the Revised Statutes, as enacted by section 1 of chapter 394 of the public laws of 1961, is amended by adding a new section 10-A, to read as follows:

'Sec. 10-A. Limitation. In any conflict between this chapter and chapter 61, the provisions of chapter 61, section 56, relative to notice of hearing on complaints shall prevail.'"

Further amend said Bill in that part designated "**Sec. 9.**" of section 11 by striking out in the first line the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'

Further amend said Bill in that part designated "**Sec. 10.**" of section 11 by striking out in the first line of subsections II, III and V the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'

Further amend said Bill in that part designated "**Sec. 11.**" of section 11 by striking out in the first and 2nd lines the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'; and by striking out in the 2nd and 4th lines of subsection I the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'

Further amend said Bill in that part designated "**Sec. 12.**" of section 11 by striking out in the 2nd line the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'; and by inserting after the underlined word "**or**" in the 3rd line the following underlined words '**if the applicable law so provides**'; and by striking out in the first and 2nd lines of subsection I the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'; and by striking out in the first line of subsection II the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'

Further amend said Bill in that part designated "**Sec. 13.**" of section 12 by striking out in the 4th and 5th lines of subsection I the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'; and by striking out in the 2nd line of subsection III the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'; and by striking out in the 3rd line of subsection IV the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'; and by striking out in the 6th, 8th and 9th lines of subsection V the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'; and by striking out in the 4th line of subsection VI the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'; and by striking out in the 2nd line of subsection VII the underlined word "**Officer**" and inserting in place thereof the underlined word '**Commissioner**'

Further amend said Bill by adding after section 13 the following new sections:
“Sec. 14. R. S., c. 61, § 8, sub-§ VIII, amended. Subsection VIII of section 8 of chapter 61 of the Revised Statutes is amended to read as follows:

‘VIII. Licensing. To issue and renew ~~suspend and revoke~~ all licenses provided for by this chapter and to hold hearings thereon.’

Sec. 15. R. S., c. 61, § 56, sub-§ I, amended. The first 6 sentences of subsection I of section 56 of chapter 61 of the Revised Statutes, as repealed and replaced by chapter 218 of the public laws of 1959, are amended to read as follows:

~~‘The Office of Hearing Examiner for the State Liquor Commission, as heretofore established, shall be under the supervision of a Hearing Examiner. The Hearing Examiner, as heretofore appointed, 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 nonfeasance 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 Administrative Hearing Examiner Commissioner, as designated in chapter 20-A, 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 by a duly designated enforcement officer of said commission.’~~

Sec. 16. R. S., c. 61, § 56-A, repealed and replaced. Section 56-A of chapter 61 of the Revised Statutes, as enacted by section 6 of chapter 410 of the public laws of 1957, is repealed and the following enacted in place thereof:

‘Sec. 56-A. Appeal. A full and complete record shall be kept of all proceedings had before the Administrative Hearing Commissioner on the revoking and suspending of any license issued by the commission.

If any person is aggrieved by the decision of the Administrative Hearing Commissioner, he may appeal under the provisions of chapter 20-A.’

Sec. 17. R. S., c. 61, § 57, amended. Section 57 of chapter 61 of the Revised Statutes, as amended, is further amended to read as follows:

‘Sec. 57. Additional appeal. If any person is aggrieved by the decision of the commission ~~in revoking or suspending any license issued by the commission or~~ by refusal of the commission to issue any license applied for, he may within 30 days thereafter appeal to the Superior Court, by filing a complaint therefor. The 30-day period for appeal shall commence ~~on the effective date of any suspension or revocation of a license, and,~~ in the case of refusal of the commission to issue license, on the day when the commission sends by registered or certified mail notice to the applicant at the address of his business given in his application for license. Filing appeal in the Superior Court shall stop the running of the limitation period. The court shall forthwith fix a time and place for immediate hearing and cause notice thereof to be given to the commission.

After hearing, the court may affirm, modify or reverse the decision of the commission. ~~Pending judgment of the court, the decision of the commission in revoking or suspending any license shall remain in full force and effect.~~ Appeal by such aggrieved person to the law court from such decision may be taken. Upon such appeal the law court may, after consideration, reverse or modify any decree so made by the court based upon an erroneous ruling or finding of law.' "

Further amend said Bill by striking out in the 5th line of section 14 the underlined word "Officer" and inserting in place thereof the underlined word 'Commissioner'

Further amend said Bill by striking out in the 6th line of section 15 the underlined word "Officer" and inserting in place thereof the underlined word 'Commissioner'

Further amend said Bill by striking out in the 6th line of section 16 the underlined word "Officer" and inserting in place thereof the underlined word 'Commissioner'

Further amend said Bill by striking out in the 4th line of section 17 the underlined word "Officer" and inserting in place thereof the underlined word 'Commissioner'

Further amend said Bill by adding after section 17 the following new section:

'Sec. 18. Amendatory clause. Wherever in the Revised Statutes or in the public laws the words "Hearing Officer", as they relate to the Administrative Code, and the words "Hearing Examiner", as they relate to the State Liquor Commission. appear, they shall mean 'Administrative Hearing Commissioner.'

Further amend said Bill by adding after section 18 a new section to read as follows:

'Sec. 19. Intent and first Administrative Hearing Commissioner. It is the intent of the Legislature that this act shall in no way affect the present tenure of office of the present Hearing Examiner for the State Liquor Commission. The first Administrative Hearing Commissioner under this act shall be the Hearing Examiner for the State Liquor Commission serving as such at the effective date of this act. and he shall serve until the expiration of his term.'

Further amend said Bill by striking out all of section 19 and inserting in place thereof the following:

'Sec. 19. Appropriation. There is appropriated from the General Fund to the Administrative Hearing Commissioner the sum of \$14,908 for the fiscal year ending June 30, 1964 and \$15,012 for the fiscal year ending June 30, 1965 to carry out the purposes of this act. The breakdown is as follows:

	1963-64	1964-65
ADMINISTRATIVE HEARING COMMISSIONER		
Personal Services	\$13,408	\$13,512

All Other	1,500	1,500
	<hr/>	<hr/>
	\$14,908	\$15,012

Further amend said Bill by adding at the end the following :

'Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.'

Further amend said Bill by renumbering the sections of the Bill to read consecutively.