

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1583

H. P. 1151

House of Representatives, May 21, 1965

Reported by five members "Report A" of the Committee on Judiciary.
Printed under Joint Rules No. 10.

JEROME G. PLANTE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Revising Laws Relating to Search and Seizure.

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

Sec. 1. R. S., T. 10, § 1555, repealed. Section 1555 of Title 10 of the Revised Statutes is repealed.

Sec. 2. R. S., T. 10, § 1803, repealed. Section 1803 of Title 10 of the Revised Statutes is repealed.

Sec. 3. R. S., T. 12, § 3051, repealed and replaced. Section 3051 of Title 12 of the Revised Statutes is repealed and the following enacted in place thereof:

‘§ 3051. Vehicles must stop on signal

Any officer whose duty it is to enforce the inland fish and game laws, if in uniform, may, at all times, stop any motor vehicle, boat, vessel, airplane or conveyance of any kind for the purpose of arresting or questioning the operator or occupant thereof, or to search said motor vehicle, boat, vessel, airplane or conveyance of any kind if the officer has probable cause to believe that a violation of the inland fish and game laws has taken or is taking place.

It shall be unlawful for the operator of any such motor vehicle, boat, vessel, airplane or conveyance of any kind to fail, or refuse to stop said conveyance, immediately upon request or signal of any such officer.

Whoever violates any provision of this section shall be punished by a fine of not more than \$400 or by imprisonment for not more than 90 days, or by both.’

Sec. 4. R. S., T. 12, § 3052, amended. Section 3052 of Title 12 of the Revised Statutes is amended to read as follows:

§ 3052. Arrest; jurisdiction; false personation

Any officer authorized to enforce the inland fish and game laws may ~~without process~~ arrest any violator of said laws and shall, with reasonable diligence, cause him to be taken before the District Court in the division in which the offense is alleged to have been committed, for a warrant and trial; or if the District Court in an adjoining division is the nearest court to the place of violation, concurrent jurisdiction is given to such District Court to hear and try such case.

Any game warden may arrest with or without warrant any person who impersonates or represents himself as being a game warden.'

Sec. 5. R. S., T. 12, § 3101, amended. The first 2 sentences of section 3101 of Title 12 of the Revised Statutes are amended to read as follows:

'All birds, fish or animals, or parts thereof, hunted, bought, sold, carried, transported or found in possession of any person in violation of chapters 301 to 335, or equipment possessed in violation of chapters 301 to 335, shall be contraband and shall be ~~forfeited to~~ **subject to seizure by the State. In all cases where a warden may find birds, fish or animals, or parts thereof, or equipment possessed in violation of chapters 301 to 335, he may seize the same without a warrant and keep them for a reasonable time.**

Sec. 6. R. S., T. 12, § 3103, repealed. Section 3103 of Title 12 of the Revised Statutes is repealed.

Sec. 7. R. S., T. 12, § 4503, amended. Section 4503 of Title 12 of the Revised Statutes is amended to read as follows:

§ 4503. Arrest

Any officer authorized to enforce the sea and shore fisheries laws may ~~without a warrant~~ arrest any violator of those laws.

1. Respondent to be taken to nearest court. The arresting officer shall with reasonable diligence cause the violator to be taken, for a warrant and trial, before the District Court in the division nearest to where the alleged offense was committed.'

Sec. 8. R. S., T. 12, § 4551, amended. Section 4551 of Title 12 of the Revised Statutes is amended by inserting before the first paragraph, a new paragraph, as follows:

'Such coastal warden in uniform may, at all times, stop any motor vehicle, boat, vessel or conveyance of any kind for the purpose of arresting or questioning the operator or occupant thereof, or to search said motor vehicle, boat, vessel or airplane if the warden has probable cause to believe that a violation of law has taken or is taking place.'

Sec. 9. R. S., T. 12, § 4552, sub-§1, amended. The first 2 sentences of subsection 1 of section 4552 of Title 12 of the Revised Statutes are amended to read as follows:

~~'Whenever a coastal warden may find any of the above items, he may seize~~

~~the same without a warrant and keep them for a reasonable time. If he does seize them Whenever a coastal warden seizes any of the above items and does not return them to the owner, except as provided in subsection 2, he shall within a reasonable time file a libel with a judge.'~~

Sec. 10. R. S., T. 12, § 4554, repealed. Section 4554 of Title 12 of the Revised Statutes is repealed.

Sec. 11. R. S., T. 17, § 1135, repealed. Section 1135 of Title 17 of the Revised Statutes is repealed.

Sec. 12. R. S., T. 17, § 1802, amended. The first sentence of section 1802 of Title 17 of the Revised Statutes is amended to read as follows:

~~'Whoever keeps or assists in keeping a gambling house or tenement or other place occupied, used, kept or resorted to for the purposes described in section 1812 use as a common gambling house, or for the purpose of gambling for money or other property, or is kept, used or occupied for promoting a lottery or for the sale of lottery tickets, or for prompting the game known as policy lottery or policy, or for buying or selling of pools or registering of bets upon any race, game, contest, act or event, or is found gambling or present as described in said section 1812 at an establishment as described in this section, or permits any person to gamble in any way in any tenement or other place under his care or control, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 4 months.'~~

Sec. 13. R. S., T. 17, § 1812, repealed. Section 1812 of Title 17 of the Revised Statutes is repealed.

Sec. 14. R. S., T. 17, § 1813, amended. The last sentence of section 1813 of Title 17 of the Revised Statutes is amended to read as follows:

~~'All moneys, prizes, furniture and fixtures so seized shall be declared forfeited to the county in which they were seized and turned over to an officer to be sold as provided in section 2301 and in all cases where an officer may seize tools, machines, dies, plates or materials provided for making counterfeit or spurious coin or for forging bank notes or other instruments, burglars' tools or implements prepared or designed for burglary, lottery tickets or materials for a lottery or procured for the purpose of a lottery, gambling apparatus or implements for gambling and all moneys therein contained, prizes, furniture and fixtures, upon a warrant, he may seize the same without a warrant and keep them in some safe place for a reasonable time until he can procure such warrant.'~~

Sec. 15. R. S., T. 17, § 2004, amended. That part of section 2004 of Title 17 of the Revised Statutes, which relates to **"Form of Recognizance in Case of Seizure"** and **"Form of Libel"**, are amended to read as follows:

~~' "Be it remembered, that at the District Court held in, on the day of, in the year of our Lord nineteen hundred, personally appeared A.B., C.D. and E.F. and severally acknowledged themselves to be indebted to the State of Maine, in the respective sums following, to wit:~~

The said , as principal, in the sum of dollars, and the said and , as sureties, in the sum of dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof, of their bodies, to the use of the State, if default is made in the condition following:

The condition of this recognizance is such, that whereas said has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath, of G. H., of , a competent witness in civil actions, charging him, said , with having at , in the said county of , on the day of , 19. , kept and deposited certain intoxicating liquors in ” (here describe the place where the same are deposited) “with intent that the same should be sold in violation of law; ~~and a search warrant having been issued upon said complaint, and said liquors above described, having been seized thereon, and said arrested thereon, and said liquors above described having been lawfully seized, and said having been lawfully arrested;~~ and said having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to And said , having appealed from said sentence to the Superior Court, next to be held at , within and for said county of , on the Tuesday of , in the year of our Lord nineteen hundred :

Now therefore, if said shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license; then this recognizance shall be void; otherwise shall remain in full force and virtue.

.....
District Court Judge.”

Form of Libel
STATE OF MAINE

.....
District
Division of
“County of , ss.—To A. B., District Court Judge
Clerk
Complaint Justice

The libel of C. D., of , shows that he had, by ~~virtue of a warrant duly issued on the day of , A. D. 19. , by , officer of said District Court lawful seizure,~~ seized certain intoxicating liquors and the vessels in which the same were contained, described as follows: ” (here follows a description of the liquors.) “because the same were kept and deposited at ” (describing the place) “in the said county of , and were intended for sale, in violation of law. Wherefore he prays for a decree of forfeiture of said liquors and vessels, according to the provisions of law in such case made and provided.

Dated at , in said county, this day of , in the year of our Lord nineteen hundred

(Signed.) ”

Sec. 16. R. S., T. 22, § 2367, repealed and replaced. Section 2367 of Title 22 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 2367. Narcotic drugs; contraband; procedure

Narcotic drugs unlawfully in the possession or under the control of any person and which are kept and deposited in the State intended for unlawful sale in the State, and the vessels in which they are contained, are contraband and forfeited to the county in which they are so kept at the time when they are seized.

If narcotic drugs are in any manner destroyed by any person on or about the premises which are about to be, or are being, searched for the purposes of preventing their seizure by officers authorized to make such search and seizure, such drugs may be held to have been unlawfully in possession and the penalties shall be the same as if said drugs had been seized.'

Sec. 17. R. S., T. 28, § 1155, repealed and replaced. Section 1155 of Title 28 of the Revised Statutes is repealed and the following enacted in place thereof:

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

Any sheriff, deputy sheriff, constable, municipal or state police officer, or liquor enforcement officer, may, at any time, for the purpose of enforcing the liquor laws, stop any motor vehicle, boat, vessel, airplane or conveyance of any kind for the purpose of arresting or questioning the operator or occupant thereof, or to search said motor vehicle, boat, vessel, airplane or conveyance of any kind if the officer has probable cause to believe that a violation of the liquor laws has taken or is taking place.'

Sec. 18. R. S., T. 28, § 1203, repealed and replaced. Section 1203 of Title 28 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 1203. Dumping of evidence; prima facie evidence of common sellers

If any place in the State is searched for liquors which are unlawfully kept or deposited and which are intended for sale in violation of law, and if such liquors are there found, they shall be seized with the vessels in which they are contained, and safely kept until final action thereon. The person who is found to be unlawfully keeping such liquors shall be arrested and held to answer as keeping such liquors intended for unlawful sale. If fluids are poured out or otherwise destroyed by any person on or about the premises which are about to be, or are being, searched for the purposes of preventing their seizure by officers making 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. Any person found guilty of a violation of this section 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.'

Sec. 19. R. S., T. 28, § 1206, repealed. Section 1206 of Title 28 of the Revised Statutes is repealed.

Sec. 20. R. S., T. 28, § 1208, amended. The first sentence of section 1208 of Title 28 of the Revised Statutes is amended to read as follows:

'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.'

Sec. 21. R. S., T. 29, § 2121, amended. Section 2121 of Title 29 of the Revised Statutes is amended to read as follows:

§ 2121. Examination of vehicles by police officers

~~All police officers in uniform may at all times, with or without process, stop any motor vehicle to examine identification numbers and marks thereon, raising the hood or engine cover if necessary to accomplish this purpose, and may demand and inspect the driver's license, registration certificate and permits.~~

Any law enforcement officer in uniform whose duty it is to enforce the motor vehicle laws may stop and examine any motor vehicle for the purpose of ascertaining whether its equipment complies with the requirements of section 2122, and the officer may demand and inspect the operator's license, certificate of registration and permits. He may also examine the identification numbers of said motor vehicle and any marks thereon. Such law enforcement officer in uniform may, at all times, stop a motor vehicle for the purpose of arresting or questioning the operator or occupant thereof, or for the purpose of searching said motor vehicle if the officer has probable cause to believe that a violation of law has taken or is taking place.

It shall be unlawful for the operator of any motor vehicle to fail or refuse to stop ~~any~~ such vehicle, upon request or signal of any ~~such~~ officer ~~whose duty it is to enforce the motor vehicle laws when such officer is in uniform.~~

Whenever a motor vehicle is being operated by a person not having upon his person or in such vehicle the registration certificate covering such vehicle, or if it be operated by a person other than the person in whose name it is registered, and such operator is unable to present **reasonable** evidence of his authority to operate such motor vehicle, such ~~police law enforcement~~ officer, or any ~~sheriff or his deputy~~ other law enforcement officer, may impound such vehicle and hold it until the same is claimed and taken by the registered owner thereof, who shall be forthwith notified of the impounding. ~~Said officers if wearing a badge may also at all times, with or without process, and with or without uniform, enter public garages, parking places and buildings where motor vehicles are stored or kept, for the purpose of examining identification numbers and marks thereon and may also examine any vehicle standing in any public way~~

~~or place; or until the registered owner shall verify the authority of the operator to so operate.~~

~~Any such officer may in like manner and under like circumstances examine any vehicle to ascertain whether its equipment complies with the requirements of this Title.~~

Whoever while operating a vehicle in violation of any of the provisions of this Title shall fail or refuse when requested by an officer authorized to make arrests to give his correct name and address shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both.'

Sec. 22. R. S., T. 38, § 205, sub-§ 1, amended. Subsection 1 of section 205 of Title 38 of the Revised Statutes is amended to read as follows:

'1. Stopping and boarding. All such officers when in uniform have authority to stop any watercraft ~~inspect any watercraft and its certificate of number for the purpose of inspecting said craft and its equipment and its documents or certificates~~ and to board all watercraft where necessary to enforce this subchapter and to make arrests.'