

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING THE SESSION

A. D. 1891.



AUGUSTA:
BURLEIGH & FLYNT, PRINTERS TO THE STATE.
1892.

Sixty-Fifth Legislature.

SENATE.

No. 145.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-ONE.

AN ACT to amend chapters seventeen, twenty-seven, twenty-eight and one hundred and six of the Revised Statutes, and chapter three hundred and sixty-six of the Public Laws of 1885, and chapter one hundred and forty of the Public Laws of 1887, relating to intoxicating liquors.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECTION 1. Amend section fourteen of chapter twenty-
2 seven of the Revised Statutes by adding thereto, the
3 following: 'Any citizen of the State may prosecute for
4 any violation of any of the preceding sections of this act,
5 in the same manner as the licensing board may prosecute,
6 in which case all penalties recovered shall inure to the

7 person so prosecuting,' so that said section shall read as
8 follows :

'Section 14. The licensing board shall prosecute for
10 any violations of the foregoing sections that come to their
11 knowledge, by complaint, indictment or action of debt ;
12 and all penalties recovered shall inure to the town where
13 the offense is committed. Any citizen of the State may
14 prosecute for any violation of any of the preceding sec-
15 tions of this act in the same manner as the licensing
16 board may prosecute, in which case all penalties recovered
17 shall inure to the person so prosecuting.'

SECT. 2. Section twenty-one of chapter twenty-seven
2 of the Revised Statutes, is hereby amended so that when
3 amended it shall read as follows :

'Section 21. The governor with the advice and consent of
5 the council, on petition of one per centum of the inhabitants
6 of any town or city in the State, by the census next pre-
7 ceding the date of the petition, shall designate some suit-
8 able person as agent of said town or city, who shall not
9 be one of the municipal officers of said town or city, to
10 sell intoxicating liquors at some convenient place therein,
11 to be used for medicinal, mechanical and manufacturing
12 purposes, and no other ; such agent shall receive such
13 compensation for his services and in the sale of such
14 liquors, shall conform to such regulations not inconsistent
15 with law as the selectmen of towns or the mayor and
16 aldermen of cities may prescribe, and shall hold his situa-
17 tion for one year. Vacancies occurring during the year,
18 shall be filled in the same manner as original appointments
19 are made. No such agent shall have any interest in such
20 liquors or in the profits of the sale thereof. He shall, at

21 the close of his service, sell such intoxicating liquors as
 22 he may then have in his possession to the municipal offi-
 23 cers of said town or city to be disposed of in accordance
 24 with this chapter.'

SECT. 3. Section twenty-two of chapter twenty-seven
 2 of the Revised Statutes is hereby amended so that, when
 3 amended, it shall read as follows :

'Section 22. Such agent shall receive a certificate from
 5 the secretary of state, authorizing him, as the agent of
 6 such town or city, to sell intoxicating liquors for medi-
 7 cinal, mechanical and manufacturing purposes only ; but
 8 it shall not be delivered to such agent until he has exe-
 9 cuted and delivered to the proper municipal officers of
 10 such town or city a bond, with two sufficient sureties, in
 11 the sum of six hundred dollars, in substance as follows :

“Know all men that we, —— ———, as principal,
 13 and —— ——— and —— ———, as sureties, are
 14 held and stand firmly bound unto the inhabitants of the
 15 town of ——,” (or city, as the case may be) “in the
 16 sum six hundred dollars, to be paid to them, to which
 17 payment we bind ourselves, our heirs, executors and
 18 administrators firmly by these presents. Sealed with our
 19 seals, and dated this —— day of ——, 18—.

The condition of this obligation is such that whereas the
 21 above bounden —— has been duly appointed an agent
 22 for said town,” (or city) “to sell intoxicating liquors for
 23 medicinal, mechanical and manufacturing purposes and no
 24 other, until the —— day of ——, 18—; now if the
 25 said —— —— shall in all respects conform to the
 26 provisions of law relating to the business for which he is
 27 appointed, and to such regulations as are or shall be from

28 time to time established by the municipal officers of the
29 town" (or city) "of ——, then this obligation shall be
30 void; otherwise, shall remain in full force."

SECT. 4. Section twenty-five of chapter twenty-seven
2 of the Revised Statutes is hereby amended so that, as
3 amended, it shall read as follows:

‘Section 25. Any person authorized, as aforesaid, who
5 violates section thirty-three shall be fined twenty dollars
6 for every such offence, and shall also be liable, notwith-
7 standing such punishment, to a suit upon his bond; and
8 the aldermen, selectmen or assessors, of the city, town or
9 plantation to which such bond was given, shall cause the
10 same to be sued and prosecuted to judgment and satis-
11 faction in behalf of the city, town or plantation. The
12 court by which judgment is rendered upon any bond
13 required by this chapter has such chancery powers therein,
14 as the supreme judicial court has in cases of forfeiture of
15 penalties to the State. Whenever such a conviction is
16 obtained or judgment recovered as aforesaid, the authority
17 of such person to sell intoxicating liquors is vacated.’

SECT. 5. Section thirty-one of chapter twenty-seven of
2 the Revised Statutes, as amended by section three of the
3 public laws of 1887, is hereby amended, so that said sec-
4 tion as amended, shall read as follows:

‘Section 31. No person shall knowingly bring into the
6 State or knowingly transport from place to place in the
7 State, any intoxicating liquors, with intent to sell the
8 same in the State in violation of law, or with intent that
9 the same shall be sold by any person, or to aid any person
10 in such sale, under a penalty of five hundred dollars and
11 costs for each offence, and in addition thereto shall be

12 imprisoned one year at hard labor. In default of pay-
13 ment of said fine and costs the party shall suffer an addi-
14 tional imprisonment of one year, always at hard labor.
15 Any servant, agent or employe of any railroad corpora-
16 tion, or of any express company doing business in this
17 State, who shall remove any intoxicating liquors from any
18 railroad car at any place other than the usual and estab-
19 lished stations, depots or places of business of such rail-
20 road corporation or who shall aid in or consent to such
21 removal, shall be subject to a penalty of fifty dollars for
22 every such offence; provided, that said penalty shall not
23 apply to any liquor in transit when changed from car to
24 car to facilitate transportation. All such liquors intended
25 for unlawful sale in the State, may be seized while in
26 transit and proceeded against the same as if they were
27 unlawfully kept and deposited in any place. And any
28 steamboat, railroad or express company knowingly trans-
29 porting or bringing such liquors into the State shall be
30 punished, upon conviction, by a fine of five hundred dol-
31 lars and costs for each offence. Knowledge on the part
32 of any employe of such company shall be deemed knowl-
33 edge of the corporation.'

SECT. 6. Section two of chapter three hundred and
2 sixty-six of the public laws of eighteen hundred and
3 eighty-five, amendatory of section thirty-four, chapter
4 twenty-seven of the Revised Statutes, is hereby amended
5 so that said section thirty-four, when amended, shall read
6 as follows:

'Section 34. Whoever by himself, clerk, servant or
8 agent, sells any intoxicating liquors in this State in viola-
9 tion of law, shall pay a fine of five hundred dollars and

10 costs, and in addition thereto shall be imprisoned one
11 year. In default of said payment he shall be imprisoned
12 one year additional. Any clerk, servant, agent or other
13 person in the employment or on the premises of another,
14 who violates or in any manner aids or assists in violating
15 any provisions of this act, or any other act relating to
16 intoxicating liquors, is equally guilty with the principal,
17 and shall suffer like penalties.'

SECT. 7. Section six of chapter one hundred and forty
2 of the public laws of 1887, amendatory of section thirty-
3 five of chapter twenty-seven of the Revised Statutes, is
4 hereby amended so that said section thirty-five, as
5 amended, shall read as follows :

'Section 35. No person shall be a common seller of
7 intoxicating liquors. Whoever violates this section shall
8 be fined five hundred dollars and costs, and in addition
9 thereto be imprisoned one year. In default of payment
10 of said fine and costs, the party shall suffer an additional
11 imprisonment of one year, always at hard labor.'

SECT. 8. Section seven of chapter one hundred and
2 forty of the Public Laws of 1887, amendatory of section
3 thirty-seven of chapter twenty-seven of the Revised Stat-
4 utes, is hereby amended so that said section thirty-seven,
5 as amended, shall read as follows :

'Section 37. No person shall keep a drinking house and
7 tippling shop. Whoever sells intoxicating liquors in any
8 building, vessel or boat, contrary to law, and the same
9 are there drank, is guilty of keeping a drinking house and
10 tippling shop, and upon conviction thereof shall be fined
11 five hundred dollars and costs, and in addition thereto be
12 imprisoned one year. In default of payment of said fine

13 and costs, the party shall suffer an additional imprison-
14 ment of one year.'

SECT. 9. Section eight of the public laws of 1887,
2 amendatory of section forty of chapter twenty-seven of
3 the Revised Statutes is hereby amended so that said section
4 forty, as amended, shall read as follows :

'Section 40. If any person competent to be a witness
6 in civil suits, makes sworn complaint before any judge of
7 a municipal or police court or trial justice, that he believes
8 that intoxicating liquors are unlawfully kept or deposited
9 in any place in the state by any person, and that the same
10 are intended for sale within the state in violation of law,
11 such magistrate shall issue his warrant, directed to any
12 officer having power to serve criminal process, command-
13 ing him to search the premises described and specially
14 designated in such complaint and warrant, and if said
15 liquors are there found, to seize the same, with the vessels
16 in which they are contained, and them safely keep until
17 final action thereon, and make immediate return on said
18 warrant. The name of the person so keeping said liquors,
19 as aforesaid, if known to the complainant, shall be stated
20 in such complaint, and the officer shall be commanded by
21 said warrant, if he finds said liquors or has reason to
22 believe that such person has concealed them about his
23 person to search the said person, and if such liquors are
24 found upon his premises or person to arrest him and hold
25 him to answer as keeping said liquors intended for unlaw-
26 ful sale. Any person who may be suspected of selling
27 from, or keeping for illegal sale in his pockets, intoxi-
28 cating liquors may be searched by any officer who may
29 legally serve a search warrant and if liquors are found

30 upon his person may be held to answer as though such
31 liquors were found upon the person in the premises
32 described in this section. If fluids are poured out or
33 otherwise destroyed by the tenant, assistant or other per-
34 son, when premises are about to be searched manifestly
35 for the purpose of preventing their seizure by officers
36 authorized to make such search and seizure, said fluids
37 may be held to have been intoxicating and intended for
38 unlawful sale, and the penalties shall be the same as if
39 said liquors had been seized. If the name of the person
40 keeping such liquors is unknown to the complainant, he
41 shall so allege in his complaint, and the magistrate shall
42 thereupon issue his warrant as provided in the first sen-
43 tence of this section. If, upon trial, the court is of the
44 opinion that the liquor was so aforesaid kept and intended
45 for unlawful sale, by the person named in said complaint,
46 or by any other person with his knowledge or consent, he
47 shall be found guilty thereof, and sentenced to a fine of
48 five hundred dollars and costs and in addition thereto be
49 imprisoned one year. In default of payment of fine and
50 costs the party shall be imprisoned one year additional
51 always at hard labor. The payment of the United States
52 special tax as a liquor seller, or notice of any kind in any
53 place of resort, indicating that intoxicating liquors are
54 there sold, kept or given away unlawfully, shall be held
55 to be prima facie evidence that the person or persons
56 paying said tax, and the party or parties displaying said
57 notices, are common sellers of intoxicating liquors, and
58 the premises so kept by them common nuisances.'

SECT. 10. Section forty-five of the Revised Statutes is
2 hereby amended so that when amended it shall read as
3 follows :

‘Section 45. If complaint is made upon oath to any
5 magistrate against any claimant under this chapter, alleg-
6 ing that the liquors so claimed by him were, prior to, and
7 at the time when the same were seized, kept or deposited
8 by said claimant, or by some person by his authority, and
9 intended for unlawful sale in this State, either by such
10 person, or the said claimant, the magistrate shall issue
11 his warrant against such claimant so charged, and he shall
12 be arrested thereon, and be brought before such magis-
13 trate, and on conviction shall be punished as is provided
14 in the preceding section.’

SECT. 11. Section ten of chapter one hundred and forty
2 of the public laws of 1887 amendatory of section forty-
3 eight of chapter twenty-seven of the Revised Statutes is
4 hereby amended so that the said section shall read as
5 follows :

‘Section 48. Any person found intoxicated in any street,
7 highway or other public place, shall be punished for the
8 first offence by a fine not exceeding ten dollars, or by
9 imprisonment not exceeding thirty days, and upon any
10 subsequent conviction by imprisonment for thirty days.
11 Any person found intoxicated in his own house, or in any
12 other building or place, who is quarrelsome and is dis-
13 turbing the public peace, or the peace of his own or any
14 other family, shall be punished for the first and any
15 subsequent conviction, as provided in the preceding clause
16 of this section. Any such intoxicated person shall be
17 taken into custody by any sheriff, deputy sheriff, constable,
18 marshal, deputy marshal, police officer or watchman, and
19 committed to the watch house or police station, or re-
20 strained in some other suitable place, until a complaint

21 can be made and a warrant issued against him, upon which
22 he may be arrested and tried. Such persons shall be
23 held to answer as to where and of whom they had obtained
24 intoxicating liquors at any time within the past six months.
25 Failing to answer they shall be committed for contempt
26 for such term as the justice or judge may determine, not
27 exceeding six months. When such persons indicate those
28 of whom they have obtained liquor within said term,
29 warrants for their arrest shall immediately issue, and the
30 persons who have made the disclosure may be held as
31 witnesses.'

SECT. 12. Amend section 51 of chapter 27 of the Revised
2 Statutes, so that it shall read as follows :

'Section 51. Prosecutions for manufacturing liquors in
4 violation of law, for keeping drinking houses and tippling
5 shops, and for being common sellers of intoxicating
6 liquors, shall be by indictment; but in all other prosecu-
7 tions under this chapter, judges of municipal courts and
8 trial justices have by complaint, jurisdiction, original
9 and concurrent with the supreme judicial and superior
10 courts. The person or persons who give the information
11 which results in the conviction of a violator of any of the
12 provisions of this chapter, shall be allowed by the court
13 one-fourth of the fines collected. All prosecutions in the
14 supreme judicial and superior courts shall be by indict-
15 ment. Said magistrates, in cases not within their juris-
16 diction, may examine and hold to bail. And in appeals
17 from any judgment or sentence before such magistrate,
18 the penal sum in every recognizance shall be two hundred
19 dollars. No recognizance before such magistrate, shall be
20 in a sum less than two hundred dollars; nor in the

21 supreme judicial or superior court in less than five hun-
22 dred dollars.'

SECT. 13. Section fifty-eight of chapter twenty-seven
2 is hereby repealed.

SECT. 14. Amend section sixty of chapter twenty-seven
2 so as to read as follows :

'Section 60. Sheriffs and their deputies and county
4 attorneys shall diligently and faithfully inquire into all
5 violations of law, within their respective counties, and
6 institute proceedings against violations or supposed viola-
7 tions of law, and particularly the laws against the illegal
8 sale of intoxicating liquors, and the keeping of drinking
9 houses and tippling shops, gambling houses or places, and
10 houses of ill-fame, either by promptly entering a com-
11 plaint before a magistrate and executing the warrants
12 issued thereon, or by furnishing the county attorney
13 promptly and without delay, with the names of alleged
14 offenders, and of the witnesses. For services under this
15 section, sheriffs, and their deputies acting under their
16 directions, shall receive the same per diem compensation,
17 as for attendance on the supreme judicial court, and the
18 same fees for travel as for the service of warrants in
19 criminal cases, together with such necessary incidental
20 expenses as are just and proper ; bills for which shall be
21 audited by the county commissioners, and paid from the
22 county treasury. But said commissioners shall not allow
23 any per diem compensation to said sheriffs or their depu-
24 ties, for any day for which said sheriffs or their deputies
25 are entitled to fees or compensation for attendance at or
26 service in any court.

SECT. 15. Cases arising under chapters seventeen and
2 twenty-seven of the Revised Statutes, or under this act

3 shall not be continued for trial if the witnesses can be
4 found, or for sentence; they shall be promptly tried and on
5 conviction shall be promptly sentenced. The courts shall
6 not reduce or in any way modify the penalties of fine and
7 imprisonment fixed by this act or any other act relating to
8 intoxicating liquors. The full penalties shall be enforced
9 in each and every case.

SECT. 16. In all cases of appeal under chapters seven-
2 teen and twenty-seven of the Revised Statutes or under
3 this act, the party shall recognize with two good and suffi-
4 cient sureties in the sum of one thousand dollars. Said
5 sureties shall justify in unincumbered real estate in \$2,000,
6 the recognizance to be a prior lien on the property.

SECT. 17. The party shall also recognize with two other
2 good and sufficient sureties in the sum of one thousand
3 dollars, that will not violate the law during the pendency
4 of the case. Said sureties shall justify in \$2,000 in unin-
5 cumbered real estate, the recognizance to be a prior lien.

SECT. 18. Amend section four of chapter twenty-eight
2 of the Revised Statutes, so as to read as follows:

‘Section 4. Any person engaged in the business of
4 apothecary on the eleventh day of March, eighteen hun-
5 dred and seventy-seven, may receive a certificate and be
6 registered as aforesaid, on application to said commis-
7 sioners, with proof of his competency. He shall also file
8 a bond in the sum of two thousand dollars, with two or
9 more good and sufficient sureties, with the county com-
10 missioners of the county in which he is doing or proposes
11 to do business, to be approved by said county commis-
12 sioners, which bond shall be renewed at least once in
13 every five years, and as much oftener as said county

14 commissioners may require, conditioned that he will not
15 sell intoxicating liquors. The county attorney shall pros-
16 ecute all violations of this section, and shall be entitled to
17 one-half of the amount recovered upon such action. And
18 any person convicted of violating this section shall be
19 forever debarred from again engaging in the business of
20 apothecary in this State, either for himself or in the
21 employ of any other person, under a penalty of imprison-
22 ment for one year for each offence.'

SECT. 23. All acts or parts of acts inconsistent here-
2 with are hereby repealed so far as they relate to violations
3 of chapters 17, 27 and 28 of the Revised Statutes, and
4 all existing amendments thereto.

SECT. 24. Any building, place, or tenement in any
2 town or city that is resorted to for prostitution, lewdness,
3 or illegal gambling, or that is used for the illegal sale
4 or keeping for sale of spirituous or malt liquors, wine or
5 cider, is a common nuisance. The supreme court shall have
6 jurisdiction in equity, upon information filed by the county
7 attorney or upon petition of not less than twenty legal
8 voters of such town or city, setting forth any of the facts
9 contained herein, to restrain, enjoin or abate the same,
10 and an injunction for such purpose may be issued by said
11 court or any justice thereof.

SECT. 25. Amend section three of chapter one hundred
2 and six so that said section as amended shall read as fol-
3 lows :

'Section 3. The following persons are exempt from
5 serving as jurors, and their names shall not be placed on
6 the lists : the governor, councilors, judges and clerks of
7 common law courts, secretary and treasurer of the State,

8 all officers of the United States, judges and registers of
9 probate, registers of deeds, settled ministers of the gos-
10 pel, officers of colleges, preceptors of incorporated acad-
11 emies, physicians and surgeons, cashiers of incorporated
12 banks, sheriffs and their deputies, coroners, counselors
13 and attorneys at law, county commissioners, constables,
14 all persons engaged in the unlawful traffic in intoxicating
15 liquors, or who are habitually addicted to the use of
16 intoxicating liquors as a beverage and constant ferryman.

STATE OF MAINE.

IN SENATE, March 4, 1891.

Reported by Mr. STEWART, from Committee on Temperance and
laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*.