

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. 213.

STATE OF MAINE.

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

AN ACT to amend chapter twenty-seven of the Revised Statutes as amended by 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 ten per centum of the legal voters
6 of any town or city in the State, may designate some suit-
7 able person as agent of said town or city, who shall not
8 be one of the municipal officers of said town or city, to
9 sell intoxicating liquors at some convenient place therein,
10 to be used for medicinal, mechanical and manufacturing
11 purposes, and no other ; such agent shall receive such
12 compensation for his services and in the sale of such
13 liquors, shall conform to such regulations not inconsistent
14 with law as the selectmen of towns or the mayor and
15 aldermen of cities may prescribe, and shall hold his situa-
16 tion for one year. Vacancies occurring during the year,
17 shall be filled in the same manner as original appointments
18 are made. No such agent shall have any interest in such
19 liquors or in the profits of the sale thereof. He shall, at
20 the close of his service, sell such intoxicating liquors as

21 he may then have in his possession to the municipal offi-
 22 cers of said town or city to be disposed of in accordance
 23 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. In default of payment of said fine

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

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 in the same man-
29 ner and by the same process as is provided for and if
30 liquors are found the search of places upon his per-
31 son may be held to answer as though such liquors were

32 found upon the person in the premises described in
33 this section. If fluids are poured out or otherwise
34 destroyed by the tenant, assistant or other person,
35 when premises are about to be searched manifestly for
36 the purpose of preventing their seizure by officers
37 authorized to make such search and seizure, said fluids
38 may be held to have been intoxicating and intended for
39 unlawful sale, and the penalties shall be the same as if
40 said liquors had been seized. If the name of the person
41 keeping such liquors is unknown to the complainant, he
42 shall so allege in his complaint, and the magistrate shall
43 thereupon issue his warrant as provided in the first sen-
44 tence of this section. If upon trial, the court is of the
45 opinion that the liquor was so aforesaid kept and intended
46 for unlawful sale, by the person named in said complaint,
47 or by any other person with his knowledge or consent, he
48 shall be found guilty thereof, and sentenced to a fine of
49 five hundred dollars and costs and in addition thereto be
50 imprisoned one year. In default of payment of fine and
51 costs the party shall be imprisoned one year additional.
52 The payment of the United States special tax as a liquor
53 seller, or notice of any kind in any place of resort, indi-
54 cating that intoxicating liquors are there sold, kept or given
55 away unlawfully, shall be held to be prima facie evidence
56 that the person or persons paying said tax, and the party
57 or parties displaying said notices, are common sellers of
58 intoxicating liquors, and the premises so kept by them
59 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 and
9 concurrent with the supreme judicial and superior courts.
10 All prosecutions in the supreme judicial and superior courts
11 shall be by indictment. Said magistrates, in cases not
12 within their jurisdiction, may examine and hold to bail.
13 And in appeals from any judgment or sentence before such
14 magistrate, the penal sum in every recognizance shall be
15 two hundred dollars. No recognizance before such magis-
16 trate, shall be in a sum less than two hundred dollars ;
17 nor in the supreme judicial or superior court in less than
18 five hundred dollars.'

SECT. 13. 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 tipping 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. 14. 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. 15. 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.

STATE OF MAINE.

IN SENATE, March 18, 1891.

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

KENDALL M. DUNBAR, *Secretary.*