

MAINE STATE LEGISLATURE

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SEVENTY-THIRD LEGISLATURE

SENATE.

No. 206

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVEN.

AN ACT to provide for a systematic enforcement of the laws
of the State prohibiting the sale of intoxicating liquors.

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

Section 1. County attorneys shall quarterly in the months
2 of January, April, July and September of each year cause
3 to be obtained the name, place of residence, business and
4 place of business of each person, firm or company, within
5 their respective counties, then registered with the collector of
6 internal revenue, under the laws of the United States, for the
7 collection district including this state, as having paid for the
8 time embraced within the quarterly periods then next pre-
9 ceding special taxes in said collection district under the laws
10 of the United States as retail dealers in liquors, wholesale
11 liquor dealers, retail dealers in malt liquors and wholesale

12 dealers in malt liquors; and such county attorneys shall also,
13 quarterly as aforesaid, cause to be made such examined
14 copies as shall be legally admissible as evidence in this state,
15 so far as they relate to their respective counties, of all alpha-
16 betical lists of the names of all persons who shall have paid
17 such special taxes with the time, place and business for
18 which such special taxes have been paid, as placed and kept
19 conspicuously in the office of such collector of internal rev-
20 enue, under regulations of the commissioner of internal
21 revenue, for public inspection as required by the laws of the
22 United States. Such lists so obtained and such examined
23 copies so to be made need not include the names of persons
24 authorized to sell intoxicating liquors by the laws of this
25 state. County attorneys shall in like manner cause to be
26 obtained copies, legally certified for use as evidence, of the
27 record of all convictions within such quarterly periods in the
28 courts of the United States held within this state of violations
29 of the laws of the United States relative to the special taxes
30 aforesaid by persons within their respective counties and such
31 certified copies shall be held to be prima facie evidence in
32 the courts of this state that the persons so convicted have
33 sold intoxicating liquors in this state at the times and places
34 by such records shown. All the expenses incurred and dis-
35 bursements made under this section shall be approved by the
36 county attorney, allowed by the county commissioners and
37 paid by the county treasurer.

Sect. 2. County attorneys, shall within ten days after so
2 obtaining such lists and examined copies cause duplicates
3 thereof to be filed with the sheriffs, deputy sheriffs and city

4 marshals within their respective counties and like duplicates
5 with the enforcement commission then in office under chapter
6 ninety-two of the Public Laws of nineteen hundred and five.
7 They shall in like manner so cause to be filed abstracts of
8 the certified copies of records of convictions aforesaid.

Sect. 3. County attorneys shall, within thirty days after
2 so obtaining such lists and examined copies as aforesaid,
3 examine the records at the registry of deeds, within their
4 respective counties, and ascertain as accurately as is prac-
5 ticable the ownership of record of all places so mentioned
6 in such lists and examined copies as aforesaid and there-
7 upon forthwith cause copies of such lists and examined
8 copies to be delivered in hand to each owner of such places
9 as so disclosed by such examination of such records at the
10 registry of deeds. The fees and expenses for so serving
11 such copies shall be audited by the county attorney, allowed
12 by the county commissioners and paid by the county treas-
13 urer. They shall in like manner cause to be delivered in
14 hand to such owners abstracts of the records of convictions
15 in the federal courts aforesaid so far as they relate to the
16 buildings by them so appearing to be owned.

Sect. 4. County attorneys shall, within forty-five days
2 after so obtaining such lists and examined copies, cause to
3 be published, at the expense of the county, in each news-
4 paper printed or published in each city or town the names of
5 all persons in such city or town appearing by such list and
6 examined copies as having paid the special taxes as afore-
7 said, with the time, place and business for which such specia
8 taxes have been paid, with an additional statement from such
9 county attorney showing the name of the owner of record

10 of the property so referred to in such lists and copies as
11 the place for which such special tax is or was so paid so far
12 as said county attorney is able to ascertain the same from an
13 examination of the records at the registry of deeds. The
14 expense of such publications shall be audited by the county
15 attorney, allowed by the county commissioners and paid by
16 the county treasurer.

Sect. 5. County attorneys at the next session of the grand
2 jury, within their respective counties, after so obtaining such
3 lists and examined copies and records of convictions in the
4 federal courts as aforesaid shall present such lists and
5 examined copies and records of convictions to such grand
6 jury. In the finding of indictments such lists or examined
7 copies or records of convictions shall be held to be prima
8 facie evidence that the person or persons shown thereby to
9 have paid special taxes as aforesaid or to have so violated
10 the laws of the United States were common sellers of intoxi-
11 cating liquors and that the places named therein were com-
12 mon nuisances. The costs and expenses incurred under
13 section one, two, three and four of this act may be included
14 proportionally in the costs of prosecution in all appropriate
15 convictions under chapter twenty-nine of the Revised Stat-
16 utes, and under sections one, two, three or four of Chapter
17 twenty-two of said Statutes.

Sect. 6. County attorneys, within sixty days after so
2 obtaining such lists and examined copies and records of con-
3 victions as aforesaid shall, within their respective counties,
4 file informations in the Supreme Judicial Court in equity
5 under the provisions of section one of chapter twenty-two of
5 the Revised Statutes against all persons named in such lists

7 or examined copies or records of convictions in the federal
8 courts as aforesaid and also against the owners of record of
9 the places named therein, so far as disclosed by the examina-
10 tions at the registry of deeds hereinbefore required. In any
11 hearing upon any such information so filed such lists or
12 examined copies or records of convictions in the courts of
13 the United States as aforesaid, shall be held to be prima
14 facie evidence that the persons named therein have kept the
15 places named therein as common nuisances and intend to
16 keep the same as common nuisances during and for the time
17 named therein or for which the special taxes aforesaid have
18 been paid and proof of the service upon such defendant
19 owners of the copies of such lists or examined copies, under
20 section four of this act, shall be held to be prima facie evi-
21 dence that such owners have since the service aforesaid
22 aided in the maintenance of such common nuisance and
23 intend to aid in such maintenance for the time for which
24 the special taxes aforesaid have been paid. County attor-
25 neys shall prosecute such informations diligently. The Su-
26 preme Judicial Court shall have jurisdiction in equity thereon
27 to restrain, enjoin or abate such common nuisances, and
28 injunctions, both temporary and permanent, may be issued
29 by said court, or any justice thereof, and such appropriate
30 decrees made and entered as said court or any justice thereof
31 may order. Costs may be allowed as in equity causes. In
32 all such informations the owners aforesaid may be joined as
33 defendants or separate informations may be filed.

Sect. 7. Section four of chapter twenty-two of the
2 Revised Statutes is hereby amended by adding thereto the
3 following: "Whenever any person has actual notice that the

4 occupant of any building or tenement owned by him or under
5 his control has paid to the United States the special tax
6 required by the laws of the United States from dealers in
7 liquors or in malt liquors and that such tax has been so paid
8 upon such business in such building or tenement, such notice
9 shall be held to be prima facie evidence of knowledge by
10 such person that such occupant has used such building or
11 tenement or part thereof for the illegal sale or keeping of
12 intoxicating liquors during the time for which such special
13 tax was paid. Delivery in hand of a duplicate of an exam-
14 ined copy of lists of persons paying such taxes kept for pub-
15 lic inspection under the laws of the United States shall be
16 held to be prima facie evidence of the actual notice afore-
17 said," so that said section as amended shall read as follows:

‘Sect. 4. Whoever knowingly lets any building or tenement
19 owned by him, or under his control, for any purpose named
20 in section one, or knowingly permits the same or a part
21 thereof to be so used, is guilty of aiding in the maintenance
22 of a nuisance, and shall be fined not less than one hundred,
23 nor more than one thousand dollars or imprisonment not less
24 than thirty days nor more than six months. Whenever any
25 person has actual notice that the occupant of any building or
26 tenement owned by him or under his control has paid to the
27 United States the special tax required by the law of the
28 United States from dealers in liquors or malt liquors and that
29 such tax has been so paid upon such business in such building
30 or tenement, such notice shall be held to be prima facie evi-
31 dence of knowledge by such person that such occupant has
32 used such building or tenement or part thereof for the illegal

33 sale or keeping of intoxicating liquors during the time for
34 which such special tax was paid. Delivery in hand of a
35 duplicate of an examined copy of lists of persons paying such
36 taxes kept for public inspection under the laws of the United
37 States shall be held to be prima facie evidence of the actual
38 notice aforesaid.'

Sect. 8. County attorneys, at the next session of the grand
2 jury, within their respective counties, after so obtaining the
3 lists and examined copies as aforesaid shall present to such
4 grand jury the evidence of the delivery of copies of such
5 lists and examined copies to the owners of the places men-
6 tioned in such examined copies and specifically call the
7 attention of such grand jury to the provisions of section four
8 of chapter twenty-two of the Revised Statutes as amended
9 by section seven of this act for the action of the grand jury
10 thereon.

Sect. 9. No complaint, libel, indictment or information,
2 brought, found or prosecuted under chapter twenty-nine or
3 under sections one, two, three or four of chapter twenty-two,
4 severally of the Revised Statutes, shall be dismissed or any
5 entry of nolle prosequi or other entry of discontinuance be
6 made except by special leave of the court and then only upon
7 the written motion of the county attorney by him signed,
8 stating therein the reasons therefor and the facts in detail
9 upon which such reasons are founded.

Sect. 10. When an appeal has been entered in the Su-
2 preme Judicial or Superior Court, under chapter twenty-nine
3 of the Revised Statutes, or an indictment found therein for
4 a violation of said chapter or of sections one, two, three or
5 four of chapter twenty-two of the Revised Statutes, the

6 county attorney shall cause trial thereof to be had at the
7 same term, unless for reasons satisfactory to the court con-
8 tinuance thereof is ordered and in such case, the cause of
9 continuance shall be minuted upon the docket. No special
10 docket shall be kept in any court. No such case shall be
11 dropped from the regular docket except by such entry as
12 shall show final disposition thereof.

Sect. 11. Section sixty-two of chapter twenty-nine of the
2 Revised Statutes is hereby amended by adding the words
3 'or of section one, two, three or four of chapter twenty-two'
4 after the word "chapter" in line two thereof, so that said
5 section as amended shall read as follows:

'Sect. 62. When a person has been convicted in the Su-
7 preme Judicial or Superior Court of a violation of this chap-
8 ter or of section one, two, three or four of chapter twenty-
9 two, the county attorney shall have him sentenced at the same
10 term, unless for reasons satisfactory to the court the case is
11 continued for sentence one term, but no longer.'

Sect. 12. County attorneys shall quarterly by the first day
2 of March, June, August and November of each year, make
3 and file with the enforcement commissioners a detailed
4 report, showing, for the three months then next preceding
5 the names of all persons within the county convicted during
6 said three months in the courts of the United States as
7 described in section one, the names of all persons within the
8 county then paying special taxes to the United States as
9 dealers in liquors or in malt liquors, except such as are
10 authorized to sell the same under the laws of this state, the
11 places of business of such persons, the time for which said

12 taxes were paid, the names of the owners of such places of
13 business so far as disclosed by an examination of the records
14 at the registry of deeds, the dates when the lists and exam-
15 ined copies and abstracts, hereinbefore referred to were filed
16 with the sheriffs, deputy sheriffs and city marshals as
17 required by section two of this act, the publication of such
18 lists and examined copies as required by section three here-
19 of, the service of duplicates of such lists and examined copies
20 upon the owners aforesaid as required by section four hereof,
21 the presentment of such lists and abstracts to the grand
22 jury as required by section five hereof, what informations in
23 equity, if any, have been filed for injunctions under section
24 six hereof, with a report as to the status of each pending
25 information and the reasons why final decree has not been
26 entered therein, a detailed list of all cases pending in the
27 supreme judicial or superior court for violations of chapter
28 twenty-nine or of sections one, two, three and four of chapter
29 twenty-two of the Revised Statutes on the first day of the
30 quarter for which such report is made, a list of all such
31 cases entered in such court during such quarter, the disposi-
32 tion of all such cases finally disposed of during said quarter
33 and where dismissed, continued or in any manner discon-
34 tinued, the reasons therefor, with such other facts and infor-
35 mation as will enable said enforcement commissioners to
36 determine whether said county attorneys have during the
37 quarter for which report is so made diligently and faithfully
38 performed the duties required of them under sections sixty-
39 nine and seventy of chapter twenty-nine of the Revised
40 Statutes, and particularly whether they have as required by

41 section eighteen of chapter eighty-one of the Revised Stat-
42 utes, enforced the faithful performance of their duties by
43 sheriffs and given information to the court of their defaults
44 in that respect. If any county attorney fails to make such
45 report, as so required, he forfeits one-half his salary for the
46 current quarter, to be deducted by the governor and council
47 in drawing his salary warrant, unless they are satisfied there
48 was reasonable cause therefor.

Sect. 13. Whenever the enforcement commissioners are
2 satisfied that any county attorney is not faithfully and dili-
3 gently performing the duties required of him by chapter
4 twenty-nine of the Revised Statutes, by sections one, two,
5 three and four of chapter twenty-two of said Statutes and by
6 this act, they shall forthwith so certify to the governor and
7 council with their reasons therefor, who, after notice and
8 hearing, may remove from office any such county attorney
9 so found guilty of not faithfully and diligently performing
10 the duties aforesaid in which event the governor, with the
11 advice and consent of the council, may appoint a successor to
12 fill the unexpired term of the county attorney so removed.
13 In all such hearings the enforcement commission may employ
14 special counsel and all the expense of such hearing shall be
15 audited and approved by the governor and council.

Sect. 14. Sheriffs and their deputies, in addition to the
2 duties imposed upon them by section sixty-nine of chapter
3 twenty-nine of the Revised Statutes, shall faithfully and dili-
4 gently make complaints and execute warrants under section
5 forty-nine of chapter twenty-nine of the Revised Statutes
6 against all persons and places named in the lists and exam-

7 ined copies and abstracts delivered to them under section
8 two hereof. They shall obey and execute all lawful orders,
9 general or specific, received from the governor or from the
10 enforcement commission relative to the execution of the laws
11 of the state appertaining to the manufacture or sale of intoxi-
12 cating liquors. When so ordered to make complaints and
13 execute warrants under said section forty-nine of chapter
14 twenty-nine of the Revised Statutes against any person or
15 place named in such order they shall do so promptly, but this
16 duty shall in no way limit their duties hereinbefore referred
17 to. At each session of the grand jury the sheriff shall fur-
18 nish the county attorney with the names and present resi-
19 dence, so far as known to him, of all persons convicted of
20 drunkenness within the county since the last preceding ses-
21 sion of the grand jury; he shall in like manner on the first
22 day of each criminal term of the supreme judicial or superior
23 court furnish the county attorney with an abstract of the
24 records of all convictions under chapter twenty-nine of the
25 Revised Statutes before trial justices and municipal and
26 police courts within the county with the names and present
27 residence of all witnesses in each such case. Sheriffs shall
28 make detailed reports of their doings hereunder to the
29 enforcement commission quarterly by the first day of March,
30 June, August and November of each year of all such com-
31 plaints and warrants for the three months then next preced-
32 ing, with such information touching the same and of all their
33 doings hereunder as will enable said enforcement commis-
34 sion to determine in what manner and to what extent the
35 requirements of this section and of law have been observed.

36 Any sheriff neglecting or refusing to make such report for-
37 feits two hundred dollars to be recovered by action of debt to
38 be prosecuted by such enforcement commission in the name
39 of and to the use of the state in any county and such com-
40 mission may employ special counsel therefor at the expense
41 of the state.

Sect. 15. Any sheriff neglecting or refusing or failing to
2 faithfully and diligently perform any of the duties required
3 of him by section sixty-nine of chapter twenty-nine of the
4 Revised Statutes or by section fourteen of this act forfeits
5 one thousand dollars to be recovered by action of debt to be
6 prosecuted by the enforcement commission in the name of
7 and to the use of the state in any county and such commis-
8 sion may employ special counsel therefor. All expenses so
9 incurred by the enforcement commission shall be audited and
10 approved by the governor and council.

Sect. 16. Trial justices and judges of municipal or police
2 courts, or during their absence or legal disability, the clerks
3 or recorders of such courts, shall quarterly on the first days
4 of March, June, August and November of each year make
5 report to the enforcement commission in detail of all pro-
6 ceedings in their respective courts under chapter twenty-nine
7 of the Revised Statutes for the three months next preceding
8 such report. Any such trial justice, judge, clerk or recorder
9 neglecting or refusing to make any such report forfeits two
10 hundred dollars to be recovered by such enforcement com-
11 mission in the name of and to the use of the state in any
12 county and such commission may employ special counsel
13 therefor at the expense of the state.

Sect. 17. Section sixty-one of chapter twenty-nine of the
2 Revised Statutes is hereby amended by striking therefrom
3 the words “to be brought by the attorney general in behalf of
4 the state” and inserting in place thereof the words ‘to be
5 prosecuted by the enforcement commission in office under
6 the public laws of nineteen hundred and five, in the name and
7 behalf of the state in any county and such commission may
8 employ special counsel therefor at the expense of the state’
9 so that said section as amended shall read as follows:

‘Sect. 61. Every trial justice, recorder, clerk and judge of
11 a municipal or police court, and every county attorney having
12 knowledge of a previous conviction of any person accused of
13 violating this chapter, in preparing complaints, warrants or
14 indictments, shall allege such previous conviction thereon;
15 and, after such indictment is entered in court, no county
16 attorney shall dismiss or fail to prosecute it except by special
17 order of said court. If any trial justice, recorder, clerk or
18 judge of a municipal or police court, or county attorney neg-
19 lects or refuses to allege such previous conviction or if any
20 county attorney fails so to prosecute, he forfeits one hundred
21 dollars in each case, to be recovered in an action of debt, to
22 be prosecuted by the enforcement commission in office under
23 the public laws of nineteen hundred and five, in the name
24 and behalf of the state in any county, and such commission
25 may employ special counsel therefor at the expense of the
26 state.’

Sect. 18. Section seventy-one of chapter twenty-nine of the
2 Revised Statutes is hereby amended by adding thereto these
3 words ‘and within thirty days after such publication shall

4 forward a copy of each such newspaper to the enforcement
5 commission in office under the public laws of nineteen hun-
6 dred and five' so that said section as amended shall read as
7 follows:

'Sect. 71. The clerk of courts shall within thirty days after
9 the adjournment of any supreme judicial or superior court
10 publish in some newspaper of the county the disposition of
11 each appealed case and indictment for violation of the laws
12 regulating the use and the sale of intoxicating liquors and
13 within thirty days after such publication shall forward a copy
14 of each such newspaper to the enforcement commission in
15 office under the public laws of nineteen hundred and five.'

Sect. 19. Section one of chapter one hundred and thirty-
2 six of the Revised Statutes is hereby amended by striking
3 therefrom the words "by imprisonment and fine or" and also
4 the words "or by fine and in addition thereto imprisonment"
5 so that said section as amended shall read as follows:

'Sect. 1. No person shall be punished for an offense until
7 convicted thereof in a court having jurisdiction of the per-
8 son and case. When no punishment is provided by statute,
9 a person convicted of an offense shall be imprisoned for less
10 than one year or fined not exceeding five hundred dollars.
11 When it is provided that he shall be punished by imprison-
12 ment or fine, he may be sentenced to either or both. In all
13 cases where a fine is imposed he may be sentenced to pay
14 the costs of prosecution; and for violation of sections forty-
15 one, forty-two, forty-four, forty-nine and fifty-four of chap-
16 ter twenty-nine, he shall be sentenced to pay such costs.'

Sect. 20. Section two of chapter twenty-two of the Revised
2 Statutes is hereby amended so that the same shall read as
3 follows:

‘Sect. 2. Whoever keeps or maintains such nuisance shall
5 be fined not exceeding one thousand dollars and in addition
6 thereto shall be imprisoned in jail not less than thirty days
7 nor more than one year.’

Sect. 21. Section two of chapter ninety-two of the public
2 laws of nineteen hundred and five is hereby amended by
3 striking therefrom the words “and with and advice and under
4 the direction of the governor shall have and are hereby
5 authorized to exercise in any part of the state all the common
6 law and statutory powers of sheriffs in their respective coun-
7 ties in the enforcement of the law against the manufacture
8 and sale of intoxicating liquors” so that said section as
9 amended shall read as follows:

‘Sect. 2. Said commissioners shall be known as enforce-
11 ment commissioners.’

Sect. 22. Section three of chapter ninety-two of the public
2 laws of nineteen hundred and five, authorizing said enforce-
3 ment commissioners to appoint deputy enforcement com-
4 missioners is hereby repealed.

Sect. 23. Sections five, six, seven, eight and nine of said
2 chapter ninety-two of the public laws of nineteen hundred
3 and five are hereby repealed.

Sect. 24. The said enforcement commissioners shall from
2 time to time present their accounts for all reasonable and
3 proper expense by them incurred under section one of chap-
4 ter ninety-two of the public laws of nineteen hundred and

5 five and under this act, and for their salaries and actual
6 expenses, and after approval thereof the governor and coun-
7 cil shall draw their warrant against any moneys in the treas-
8 ury not otherwise appropriated in payment therefor.

Sect. 25. Said enforcement commissioners shall from time
2 to time, and at least quarterly, report to the governor as to
3 their doings under this act so far as may be necessary to
4 inform him as to the status of the enforcement of the laws
5 against the sale of intoxicating liquors throughout the state.
6 They shall obey all lawful directions of the governor, look-
7 ing to the faithful execution of this act and of all such laws.

Sect. 26. Whenever said enforcement commissioners are
2 satisfied from reports made under this act or from other
3 evidence that the public good requires that any sheriff, trial
4 justice, or judge of a municipal or police court should be
5 removed from office they shall so report to the legislature,
6 with their facts, evidence and reasons, if the legislature is
7 in session, and if not in session, then to the governor in order
8 that he may exercise his constitutional prerogative of con-
9 vening the legislature to receive such report and to take such
10 action thereon as the Constitution permits and as in the
11 judgment of the legislature the public good requires.

Sect. 27. Said enforcement commissioners shall biennially
2 on the first Wednesday of each January make detailed report
3 to the legislature of the doings of all county attorneys,
4 sheriffs, deputy sheriffs, trial justices, judges of municipal
5 and police courts, and clerks or recorders of such courts,
6 under this act and under chapters twenty-two and twenty-
7 nine of the Revised Statutes, with such information as will

8 enable the legislature to determine whether such officers and
9 magistrates have faithfully and diligently performed their
10 lawful duties touching the laws relating to the sale of intox-
11 icating liquors, together with such findings and recom-
12 mendations as said enforcement commissioners deem neces-
13 sary and proper in the premises and for the public good.

STATE OF MAINE.

IN SENATE, March 7, 1907.

Presented by Mr. BROWN of Kennebec, and on motion of same Senator tabled for printing, pending reference to Committee on Temperance.

F. G. FARRINGTON, *Secretary.*