

MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

HOUSE

NO. 312

House of Representatives, Feb. 14, 1917.

Referred to Committee on Temperance and one thousand copies ordered printed. Sent up for concurrence.

W. R. ROIX, Clerk.

Presented by Mr. Pattee of Harmony.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVENTEEN

AN ACT to Amend Chapter 127 of the Revised Statutes, to make plain the penalties imposed under certain sections thereof.

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

Section 1. Section nineteen of chapter one hundred and 2 twenty-seven Revised Statutes is hereby amended by striking 3 out the last sentence thereof and substituting therefor 4 the following: 'Any person violating the provisions of this 5 section shall be fined not less than one hundred nor more 6 than five hundred dollars and costs, and in addition thereto

7 be imprisoned not less than two nor more than six months,
8 and in default of payment of said fine and costs he shall
9 be imprisoned six months additional,' so that said section
10 as amended shall read as follows:

'Sect. 19. No person shall travel from town to town, or
2 from place to place, in any city, town or plantation, on foot
3 or by public or private conveyance, either by land or water,
4 carrying for sale or offering for sale intoxicating or fer-
5 mented liquors, and no person shall solicit, obtain or offer
6 to obtain orders for the sale or delivery of any intoxicating
7 or fermented liquors, in any quantity. Any person violating
8 the provisions of this section shall be fined not less than
9 one hundred nor more than five hundred dollars and costs,
10 and in addition thereto be imprisoned not less than two nor
11 more than six months, and in default of payment of said
12 fine and costs he shall be imprisoned six months additional.'

Sect. 2. Section twenty of chapter one hundred twenty-
2 seven of the Revised Statutes is hereby amended by strik-
3 ing out all of said section after the word "imprisonment"
4 in the sixth line thereof and inserting in the place thereof
5 the following: 'Any servant, agent or employee of any
6 transportation corporation or of any express company do-
7 ing business in this state, who shall remove any intoxi-
8 cating liquors from any railroad car, boat or other con-
9 veyance at any place other than the usual and established
10 stations or places of business of such transportation com-
11 pany, or who shall aid in or consent to such removal, shall

12 be subject to a penalty of fifty dollars and thirty days'
13 imprisonment for every such offense, provided that said
14 penalty shall not apply in cases where liquor in transit was
15 changed from car to car or boat to boat to facilitate trans-
16 portation. During the time intoxicating liquors are in pos-
17 session of transportation and express companies, they shall
18 allow free access and examination of the same to any offi-
19 cer charged with the enforcement of law, and shall fur-
20 nish him all information in their possession in regard to
21 said intoxicating liquors, including the privilege of exam-
22 ining any books and papers pertaining to the same. All
23 such liquors intended for unlawful sale in the state shall
24 be seized while in transit and proceeded against the same
25 as if they were unlawfully kept and deposited in any place,'
26 so that said section as amended shall read as follows:

'Sect. 20. No person shall knowingly transport from
2 place to place in the state, any intoxicating liquors, with
3 intent to sell the same in the state in violation of law, or
4 with intent that the same shall be sold by any person,
5 or to aid any person in such sale, under a penalty of not
6 less than one hundred nor more than five hundred dollars,
7 and sixty days' imprisonment. Any servant, agent or em-
8 ployee of any transportation corporation or of any express
9 company doing business in this state, who shall remove any
10 intoxicating liquors from any railroad car, boat or other
11 conveyance at any place other than the usual and estab-
12 lished stations or places of business of such transportation

13 company, to which said liquors are billed, or who shall aid
14 in or consent to such removal, shall be subject to a penalty
15 of one hundred dollars and thirty days' imprisonment for
16 every such offense, provided that said penalty shall not apply
17 in cases where liquor in transit was changed from car to
18 car, or boat to boat, to facilitate transportation. During
19 the time intoxicating liquors are in the possession of trans-
20 portation and express companies, they shall allow free ac-
21 cess to and examination of the same to any officer charged
22 with the enforcement of law, and shall furnish him all in-
23 formation in their possession in regard to said intoxicating
24 liquors, including the privilege of examining any books and
25 papers pertaining to the same. All such liquors intended
26 for unlawful sale in the state shall be seized while in transit
27 and proceeded against the same as if they were unlawfully
28 kept and deposited in any place.'

Sect. 3. Section twenty-two of chapter one hundred
2 twenty-seven Revised Statutes, is hereby amended by strik-
3 ing out all of said section after the word "law" in the third
4 line thereof and substituting therefor the following: 'shall
5 be punished by a fine of not less than one hundred nor
6 more than five hundred dollars and costs and in addition
7 thereto be imprisoned for not less than two nor more than
8 six months and in default of payment of said fine and
9 costs he shall be imprisoned not less than two nor more
10 than six months additional, and on each subsequent con-
11 viction he shall be punished by a fine of five hundred

12 dollars and costs and in addition thereto be imprisoned six
13 months, and in default of payment of said fine and costs
14 he shall be imprisoned six months additional. Any clerk,
15 servant, agent or other person in the employment or on the
16 premises of another, who violates or in any manner aids
17 or assists in violating any provisions of law relating to
18 intoxicating liquors, is equally guilty with the principal and
19 shall suffer like penalties,' so that said section as amended
20 shall read as follows:

'Sect. 22. Whoever by himself, clerk, servant or agent,
2 sells any intoxicating liquors in this state, in violation of
3 law, shall be punished by a fine of not less than one hun-
4 dred nor more than five hundred dollars and costs and in
5 addition thereto be imprisoned for not less than two nor
6 more than six months and in default of payment of said
7 fine and costs he shall be imprisoned not less than two nor
8 more than six months additional, and on each subsequent
9 conviction he shall be punished by a fine of five hundred
10 dollars and costs and in addition thereto be imprisoned six
11 months, and in default of payment of said fine and costs
12 he shall be imprisoned six months additional. Any clerk,
13 servant, agent or other person in the employment or on the
14 premises of another, who violates or in any manner aids
15 or assists in violating any provision of law relating to in-
16 toxicating liquors, is equally guilty with the principal and
17 shall suffer like penalties.'

Sect. 4. Section twenty-three of chapter one hundred

2 and twenty-seven Revised Statutes is hereby amended by
3 striking out all of said section after the words "this sec-
4 tion" in the second line thereof, and by substituting there-
5 for the words, 'shall be punished by a fine of not less than
6 one hundred nor more than five hundred dollars and costs,
7 and in addition thereto be imprisoned not less than two
8 nor more than six months, and in default of payment of
9 said fine and costs he shall be imprisoned six months ad-
10 ditional,' so that said section as amended shall read as fol-
11 lows:

'Sect. 23. No person shall be a common seller of intoxi-
2 cating liquors. Whoever violates this section shall be pun-
3 ished by a fine of not less than one hundred nor more than
4 five hundred dollars and costs, and in addition thereto be
5 imprisoned not less than two nor more than six months,
6 and in default of payment of said fine and costs he shall
7 be imprisoned six months additional.'

Sect. 5. Section twenty-four of chapter one hundred
2 and twenty-seven Revised Statutes is hereby amended by
3 striking out all of said section after the words "conviction
4 thereof" in the fifth line thereof and substituting therefor
5 the following, 'shall be fined not less than one hundred nor
6 more than five hundred dollars and costs and in addition
7 thereto be imprisoned not less than two nor more than six
8 months, and in default of payment of said fine and costs
9 he shall be imprisoned six months additional,' so that said
10 section as amended shall read as follows:

‘Sect. 24. No person shall keep a drinking house and
2 tippling shop. Whoever sells intoxicating liquors in any
3 building, vessel, or boat, contrary to law, and the same are
4 there drank, is guilty of keeping a drinking house and tip-
5 pling shop, and upon conviction thereof shall be fined not
6 less than one hundred nor more than five hundred dollars
7 and costs and in addition thereto be imprisoned not less
8 than two nor more than six months, and in default of pay-
9 ment of said fine and costs he shall be imprisoned six
10 months additional.’

Sect. 6. Section twenty-seven of chapter one hundred
2 and twenty-seven Revised Statutes is hereby amended by
3 striking out the last sentence thereof and substituting there-
4 for the following: ‘shall be fined not less than one hundred
5 nor more than five hundred dollars and costs and in ad-
6 dition thereto be imprisoned not less than two nor more
7 than six months, and in default of payment of said fine
8 and costs he shall be imprisoned six months additional,’ so
9 that said section as amended shall read as follows:

‘Sect. 27. No person shall deposit or have in his pos-
2 session intoxicating liquors with intent to sell the same in
3 the state in violation of law, or with intent that the same
4 shall be so sold by any person or to aid or assist any person
5 in such sale. Whoever violates this section shall be fined
6 not less than one hundred nor more than five hundred dol-
7 lars and costs, and in addition thereto be imprisoned not
8 less than two nor more than six months, and in default of

9 payment of said fine and costs he shall be imprisoned six
10 months additional.'

Sect. 7. Section twenty-nine of chapter one hundred and
2 twenty-seven of the Revised Statutes is hereby amended
3 by striking out all of said section after the word "thereof"
4 in the thirty-first line thereof and substituting therefor the
5 following: 'and sentenced to a fine not less than one hun-
6 dred nor more than five hundred dollars and costs and in
7 addition thereto be imprisoned not less than two nor more
8 than six months, and in default of payment of said fine
9 and costs he shall be imprisoned six months additional,' so
10 that said section as amended shall read as follows:

'Sect. 29. If any person competent to be a witness in
2 civil suits, makes sworn complaint before any judge of a
3 municipal or police court or trial justice, that he believes
4 that intoxicating liquors are unlawfully kept or deposited
5 in any place in the state by any person, and that the same
6 are intended for sale within the state in violation of law,
7 such magistrate shall issue his warrant directed to any offi-
8 cer having power to serve criminal process, commanding
9 him to search the premises described and specially desig-
10 nated in such complaint and warrant, and if said liquors
11 are there found, to seize the same, with the vessels in which
12 they are contained, and then safely keep until final action
13 thereon, and make immediate return of said warrant. The
14 name of the person so keeping said liquors as aforesaid, if
15 known to the complainant, shall be stated in such com-

16 complaint, and the officer shall be commanded by said war-
17 rant, if he finds said liquors to arrest said person and hold
18 him to answer as keeping said liquors intended for un-
19 lawful sale. Any person who may be suspected of selling
20 from, or keeping for illegal sale in his pockets, intoxicating
21 liquors, may be searched in the same manner and by the
22 same process as is provided for the search of places and if
23 liquors are found upon his person, may be held to answer
24 as though such liquors were kept and deposited by him in
25 any place. If fluids are poured out or otherwise destroyed
26 by the tenant, assistant or other person, when premises
27 are about to be searched, manifestly for the purpose of
28 preventing their seizure by officers authorized to make such
29 search and seizure, such fluids may be held to have been
30 intoxicating and intended for unlawful sale, and the pen-
31 alties shall be the same as if said liquors had been seized.
32 If the name of the person keeping such liquors is unknown
33 to the complainant, he shall so allege in his complaint, and
34 the magistrate shall thereupon issue his warrant as pro-
35 vided in the first sentence of this section. If upon trial,
36 the court is of the opinion that the liquor was so afore-
37 said kept and intended for unlawful sale, by the person
38 named in said complaint, or by any other person with his
39 knowledge or consent, he shall be found guilty thereof,
40 and sentenced to a fine of not less than one hundred nor
41 more than five hundred dollars and costs and in addition
42 thereto be imprisoned not less than two nor more than six

43 months, and in default of payment of said fine and costs
44 he shall be imprisoned six months additional. The pay-
45 ment of the United States special tax as a liquor seller,
46 or notice of any kind in any place of resort, indicating
47 that intoxicating liquors are there sold, kept or given away
48 unlawfully shall be held to be prima facie evidence that
49 the person or persons paying said tax, and the party or
50 parties displaying said notices, are common sellers of in-
51 toxicating liquors, and the premises so kept by them com-
52 mon nuisances.'

Sect. 8. Section forty-five of chapter one hundred
2 twenty-seven of the Revised Statutes is hereby amended
3 by striking out all the words after the word "costs" in
4 the twelfth line thereof and substituting therefor the fol-
5 lowing, 'The mayor, aldermen, selectmen, assessors and
6 constables, in every city, town and plantation, shall make
7 complaint and prosecute all violations and promptly en-
8 force the laws of this chapter; and the wilful or corrupt
9 neglect or refusal of any of the said officials to enforce
10 the said laws shall be punished by a fine not exceeding
11 one thousand dollars or by imprisonment not exceeding
12 one year. If a municipal officer, after being furnished with
13 a written notice of a violation of this chapter, signed by
14 two persons competent to be witnesses in civil suits, and
15 containing the names and residences of the witnesses to
16 prove such offense, wilfully neglects or refuses to institute
17 proceedings therefor, he shall be fined not less than twenty,

18 nor more than fifty dollars, to be recovered by indictment.
19 The oath required of any such officer to the complaint may
20 be, in substance, that from a written notice signed by two
21 persons competent to be witnesses in civil suits, he believes
22 the complaint signed by him to be true. If an execution
23 or other final process, issued in any civil or criminal suit
24 instituted under this chapter is placed in the hands of
25 any proper officer to be by him executed, and he unreason-
26 ably neglects or refuses so to do, an action may be com-
27 menced against him by any voter in the county, and prose-
28 cuted to final judgment which shall be for the full amount
29 of the judgment and interest on such execution; and if it
30 is a process that requires him to take and commit an
31 offender to prison, the damages shall not be less than fifty,
32 nor more than five hundred dollars. Selectmen of towns
33 herein mentioned include assessors of plantations. In suits,
34 complaints, indictments or other proceedings for a violation
35 of any provision of this chapter relating to intoxicating
36 liquors, other than for the first offense, it is not requisite
37 to set forth particularly the record of a former conviction,
38 but it is sufficient to allege briefly, that such person has been
39 convicted of a violation of any particular provision, or as
40 a common seller, as the case may be, and such allegation
41 in any criminal process, legally amendable in any stage of
42 the proceedings before final judgment, may be amended,
43 without terms, and as a matter of right. Any process civil
44 or criminal, legally amendable, may, in any stage of the

45 proceedings, be amended in any matter of form, without
46 costs, on motion at any time before final judgment,' so
47 that said section as amended shall read as follows:

'Sect. 45. Whenever an unlawful sale is alleged, and a
2 delivery proved, it is not necessary to prove a payment,
3 but such delivery is sufficient evidence of sale. A partner
4 in business is liable for the unlawful keeping or selling of
5 his copartner, done in the copartnership business, or by
6 any other person, in any shop, store or other place of busi-
7 ness, of such copartnership, with his knowledge or assent.
8 A principal and his agent, clerk and servant, may all be
9 included in the same complaint and process. The mayor
10 or aldermen, selectmen or assessors, may cause a suit to
11 be commenced on any bond or recognizance given under
12 this chapter in which his city, town or plantation is inter-
13 ested, and the same shall be prosecuted to final judgment
14 unless paid in full with costs. The mayor, aldermen, se-
15 lectmen, assessors and constables, in every city, town and
16 plantation, shall make complaint and prosecute all viola-
17 tions and promptly enforce the laws of this chapter; and
18 the wilful or corrupt neglect or refusal of any of the said
19 officials to enforce the said laws shall be punished by a
20 fine not exceeding one thousand dollars or by imprisonment
21 not exceeding one year. If a municipal officer, after being
22 furnished with a written notice of a violation of this chap-
23 ter, signed by two persons competent to be witnesses in
24 civil suits, and containing the names and residences of the

25 witnesses to prove such offense, wilfully neglects or refuses
26 to institute proceedings therefor, he shall be fined not less
27 than twenty, nor more than fifty dollars, to be recovered
28 by indictment. The oath required of any such officer to
29 the complaint may be, in substance, that from a written
30 notice signed by two persons competent to be witnesses
31 in civil suits, he believes the complaint signed by him to
32 be true. If an execution or other final process, issued in
33 any civil or criminal suit instituted under this chapter is
34 placed in the hands of any proper officer to be by him
35 executed, and he unreasonably neglects or refuses so to do,
36 an action may be commenced against him by any voter in
37 the county, and prosecuted to final judgment which shall
38 be for the full amount of the judgment and interest on such
39 execution; and if it is a process that requires him to take
40 and commit an offender to prison, the damages shall not
41 be less than fifty, nor more than five hundred dollars.
42 Selectmen of towns herein mentioned include assessors of
43 plantations. In suits, complaints, indictments or other pro-
44 ceedings for a violation of any provision of this chapter
45 relating to intoxicating liquors, other than for the first
46 offense, it is not requisite to set forth particularly the rec-
47 ord of a former conviction, but it is sufficient to allege
48 briefly, that such person has been convicted of a violation
49 of any particular provision, or as a common seller, as the
50 case may be, and such allegation in any criminal process,
51 legally amendable in any stage of the proceedings before

52 final judgment, may be amended, without terms, and as a
53 matter of right. Any process civil or criminal, legally
54 amendable, may, in any stage of the proceedings, be
55 amended in any matter of form, without costs, on motion
56 at any time before final judgment.'