

MAINE STATE LEGISLATURE

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N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 896

S. P. 484

In Senate, April 1, 1943.

Reported by Senator Townsend of Penobscot from Committee on Temperance and laid on the table to be printed under joint rules.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

**AN ACT to Provide Strict Enforcement Provisions Covering the Operation
of Retail Outlets of Malt Beverages.**

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

Sec. 1. P. L., 1937, c. 237, § 15, amended. Section 15 of chapter 237 of the public laws of 1937, as amended by chapter 216 of the public laws of 1941, is hereby further amended by adding at the end thereof the following:

‘(j) Knowingly permitting gambling or games of chance upon the licensed premises.’

‘(k) Knowingly permitting on the licensed premises any disorderly conduct, or any lewd, immoral, or improper entertainment, conduct, or practices.’

‘(l) Knowingly selling, offering for sale, possessing, or knowingly permitting the consumption on the licensed premises of any kind of alcoholic liquors, the sale or possession of which is not authorized under his license.’

Sec. 2. P. L., 1937, c. 237, amended. Chapter 237 of the public laws of 1937, as amended, is hereby further amended by adding at the end of sec-

tion 15 thereof a new section to be numbered 15-A and to read as follows:

Sec. 15-A. Additional proceedings for revocation or suspension of licenses. In addition to the powers granted the commission in section 15, proceedings for the revocation or suspension of any license authorizing the sale of ale or beer at retail for consumption on the premises may be brought in the superior court of the county in which the licensed premises are located. Such proceedings shall be entitled in the name of the state and against the licensee and shall be instituted by the filing with the clerk of said court a complaint setting forth the facts which constitute the alleged violation of any of the provisions of section 15. Said complaint may be filed by the county attorney in his county upon his own initiative, and it shall be mandatory upon said county attorney to file a complaint when requested to do so by the sheriff, deputy sheriff, or any local police officer, when a licensee within his jurisdiction has violated any of the provisions of section 15 aforesaid. Such officer shall file with the county attorney an affidavit specifying in detail the facts alleged to constitute said violation, and requesting that a complaint be filed against said licensee for the revocation or suspension of his license. A like affidavit may be filed with the county attorney by one or more persons, who reside and have for at least 6 months prior thereto resided within 2 miles of the licensed premises of the licensee, requesting that a complaint be filed for the revocation or suspension of said licensee's license. Promptly upon receiving any such affidavit the said county attorney shall prepare a complaint as aforesaid, which shall be signed and sworn to by the person or persons filing the affidavit with him, and the said county attorney shall file said complaint with the clerk of the said superior court.

Upon filing a complaint with the clerk of the said court, the county attorney shall in vacation or term time promptly move the court to set the complaint for hearing without the intervention of a jury, and the court shall set the complaint for hearing as soon as convenient. Upon a date for hearing being set by the court, the county attorney shall serve or cause to be served upon the licensee by personal service or by United States registered mail a notice of the filing of said complaint, together with a copy of said complaint, and shall set forth in said notice the time and place of the hearing thereon. Said notice shall be served upon the licensee at least 10 days prior to the date set for hearing if personal service be made. If service be made by mail, such notice shall be deposited in the United States mail not less than 12 days prior to the date set for hearing.

After hearing the said complaint the court shall adjudge and determine whether the facts alleged in the complaint and established by the evidence

constitute a ground or grounds for the revocation or suspension of the license, and if it be found that such grounds are established, the court shall further adjudge the revocation or suspension of the license. If the court finds that there has been no previous violations or any previous suspension of the license and finds that such violation is not likely to again occur and that to revoke the license would be unduly severe, then the court may suspend the license for such period of time as the court deems proper. Provided, however, that if the licensee has previously had his license suspended it shall be mandatory upon the court upon a finding of guilty to revoke the said license. The judgment of the court revoking or suspending such a license shall not be suspended or stayed during the pendency of an appeal therefrom.

After the filing of a complaint with the clerk of the superior court in the county where the violation occurred for the revocation or suspension of a license, as hereinbefore provided, the court shall retain jurisdiction to hear and determine such complaint and to enter judgment decree or order revoking or suspending such license. For the purpose of such hearing and as to the effect of the judgment of the court entered pursuant thereto, the license shall be in full force and effect even though the licensee, after the filing of such complaint, may have surrendered his license, or such license may have expired, or the right of the licensee thereunder may have otherwise terminated. It is the purpose of this section to preclude the licensee from avoiding the effect of a judgment of revocation or suspension by a court by reason of conditions arising subsequent to the filing of a complaint.

The jurisdiction herein conferred upon the superior court to hear and determine complaints for the revocation or suspension of licenses shall not be exclusive and any authority conferred on the state liquor commission to revoke or suspend licenses shall remain in full force and effect. Provided, however, that when a complaint is filed with the court any proceedings which may then be pending before the commission against the same licensee on the same charges shall abate, and no proceedings for the revocation or suspension of a license for a violation of the provisions of section 15 shall be filed with the commission when proceedings are pending before the court against the licensee on the same charges. The revocation or suspension of a licensee's license as herein provided shall be in addition to and not in lieu of or limitation of any other penalty imposed by law.'