

MAINE STATE LEGISLATURE

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

Legislative Document

No. 385

S. P. 164

In Senate, February 4, 1959.

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Lessard of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT Relating to the Suspension and Revocation of Liquor Licenses.

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

R. S., c. 61, § 56, repealed and replaced. Section 56 of chapter 61 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

‘Sec. 56. Revocation of licenses.

I. The Office of Hearing Examiner for the State Liquor Commission, as heretofore established, shall be under the supervision of a Hearing Examiner. The Hearing Examiner, as heretofore appointed, shall be appointed by the Governor by and with the advice of the Council, for a term of 4 years. The Hearing Examiner shall be an attorney-at-law duly admitted to practice before the courts of Maine. He may be removed from office by the Governor for misfeasance, malfeasance and nonfeasance in office. He shall receive an annual compensation of \$6,000 and shall be entitled to actual and necessary expenses in the performance of his duties. The Hearing Examiner shall conduct hearings on all matters concerning violations by licensees of any federal or state law or regulation relating to intoxicating liquor or infractions of any rule or regulation issued by the State Liquor Commission after notice of such violation or infraction has been reported to him on a signed complaint by a duly designated enforcement officer of said commission. The Hearing Examiner shall thereupon notify the licensee by serving on him a copy of the complaint and a notice stating the time and place of hearing and that he may appear in person or by counsel at the hearing. Service of such complaint and notice shall be sufficient if sent by registered mail or certified mail to the address given by the licensee at the time of his application for a license, 7 days at least before the date of hearing. The Hearing Examiner shall thereupon con-

duct a hearing limited to the facts and law, and rules and regulations of the State Liquor Commission, as specified in said complaint. The Hearing Examiner is authorized to subpoena and examine witnesses and administer oaths. In the conducting of hearings, no hearsay testimony shall be admissible and the licensees named in the complaint shall have the right to have all witnesses testify in person at the hearing. The Hearing Examiner shall state in writing his findings and decision in each case, based upon the facts and the law, and the rules and regulations of the State Liquor Commission. Said findings shall specify the facts found and the law, rules or regulations found to be violated. The Hearing Examiner shall conduct hearings in such designated place or places as may be most convenient and economical for all parties concerned in said hearing.

The Hearing Examiner may suspend or revoke licenses except as provided by subsection II, paragraph C, and suspensions must be for a definite period of time. If the Hearing Examiner revokes a license, he shall specify that no license shall issue to the person whose license is revoked for a period of not less than one nor more than 5 years from the date of such revocation.

II. Licenses may be revoked or suspended by the Hearing Examiner for the following causes:

A. Violation of any federal or state law or regulation relating to intoxicating liquor or substantial infraction of any rule or regulation issued by the commission; except that licensees selling to minors furnishing fraudulent proof of age may be held not administratively liable by the Hearing Examiner;

B. Knowingly making a false material statement of fact in the application for the license;

C. Failure to have and maintain throughout the entire license period all of the requirements of definitions, laws, rules and regulations, necessary to qualify for a license. For this particular offense the Hearing Examiner shall be authorized to suspend licenses for an indefinite period of time until he is satisfied that the licensee has conformed to all qualifications required for licensing.

III. Whenever violations by licensees occur in one year's license period and remain undiscovered or carry over into the next license year pending investigation of final disposition either in criminal courts or before the Hearing Examiner, any license issued subsequent to violation for a new license year may be suspended or revoked by the Hearing Examiner.

IV. After hearing, the Hearing Examiner may suspend the operation of a penalty or in lieu of imposing any penalty at all he may place a case on file. Upon the written recommendation of the duly designated enforcement officer of the commission the Hearing Examiner, in lieu of notifying a licensee against whom a complaint is pending to appear for hearing, may send such licensee a warning. Warnings shall be sent by registered or certified mail and contain a copy of the complaint. A licensee to whom a warning is sent may demand a

hearing by so notifying the Hearing Examiner by registered or certified mail within 10 days from the date the warning was mailed.

In cases of ownership, direct or indirect, in more than one license, suspensions shall apply only to the premise where the violation occurs. The Hearing Examiner may order that a revocation shall apply to any premises in which the licensee is, directly or indirectly, interested.

In cases of corporations the officers, directors and substantial stockholders shall be treated in the same manner as though they were partners in a partnership.'