

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1856.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1839, February 26, 1840,  
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PUBLIC LAWS

OF THE

STATE OF MAINE.

1856.

CHAP. 254.

Chapter 254.

An act regulating the compensation of jailers for the support of prisoners in county jails.

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

Allowance for support of poor debtors.

SECT. 1. The keeper of any jail, shall be entitled to receive such sum, not exceeding two dollars and twenty-five cents a week, for the entire support of each debtor, being a pauper in close confinement, as the county commissioners shall adjudge to be a reasonable compensation therefor.

Allowance for support of prisoners.

SECT. 2. The jailer in each county shall be entitled to receive such sum, not exceeding two dollars and twenty-five cents a week for the expenses of supporting prisoners, committed by due process of law and unable to support themselves, in any jail upon charges or conviction of crimes and offenses committed against the state, as the county commissioners shall think reasonable, and shall order to be paid from the county treasury, and the same shall be refunded to the county treasurer by the state.

Inconsistent acts repealed.

SECT. 3. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

[Approved April 5, 1856.]

Chapter 255.

An act to restrain and regulate the sale of intoxicating liquors, and to prohibit and suppress drinking houses and tippling shops.

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

Intoxicating liquors, sale of prohibited.

SECT. 1. No person shall be allowed, at any time, to sell, by himself, his clerk, servant or agent, directly or indirectly, any intoxicating liquors, except as hereinafter provided.

No person allowed to manufacture intoxicating liquor, unless he shall give bond.

SECT. 2. No person shall be allowed to manufacture intoxicating liquors within this state, unless he shall first give a bond in the sum of one thousand dollars, with good and sufficient sureties, payable to, and to be filed with the treasurer of the city or town, within which such manufactory shall be established, and to be to the satisfaction and approval of the aldermen of such city, or the selectmen of such town, conditioned that he will in all things conform to the requirements of the thirty-seventh chapter of the revised statutes; that he will not

Conditions of bond.

sell any intoxicating liquors except of his own manufacture; that he will not by himself or another, in any mode adulterate such liquors, either by coloring matter, or any other drug or ingredient; that he will not sell any intoxicating liquors in quantities less than thirty gallons, delivered in a single vessel, and carried away at one time, and that he will not sell any intoxicating liquors to any person residing in this state, except to such persons as are authorized by this act to sell the same.

SECT. 3. Any person, who shall manufacture within this state, any intoxicating liquors, without first giving the bond provided in the foregoing section, shall forfeit the sum of one thousand dollars, to be recovered by indictment, to the use of the state. And if any person who has given such bond, shall commit any breach of the conditions thereof, it shall be the duty of the aldermen and selectmen, respectively, of the city or town within which such manufactory shall be established, to cause the same to be put in suit, and prosecuted to final judgment and satisfaction.

Penalty for the manufacture without given bond.

Duty of selectmen, &c., in case of the breach of conditions of bond.

SECT. 4. The provisions of this act respecting the sale of intoxicating liquors shall not extend to wine or spirituous liquors, which shall have been imported into the United States from any foreign port or place, when sold by the importers in quantities not less than are prescribed by the revenue laws of the United States for importation, and delivered and carried away at one time, in the packages in which the same were imported; nor to the manufacture and sale of cider, or of wine made from fruit grown within this state.

Provisions of this act not to extend to imported liquor.

—nor to cider or wine, in certain cases.

SECT. 5. Physicians, apothecaries and druggists, chemists, artists and manufacturers, may purchase alcoholic liquors from manufacturers within this State, and may sell the same, when combined with other ingredients in the necessary proportions to form such compounds as are sold in the proper exercise of their art, trade or profession, and which cannot be used for drink; all persons may sell in the ordinary course of trade such articles compounded in part of alcohol, as cannot be used for drink.

Purchase and sale by physicians, apothecaries, &c., regulated.

SECT. 6. The aldermen and city clerk in any city, the selectmen, treasurer and clerk in any town, and the assessors, treasurer and clerk in any plantation may authorize persons to sell intoxicating liquors within their respective cities, towns and plantations, not exceeding the numbers of such persons hereinafter prescribed, if application shall be made by suitable persons, in writing, therefor. In every city, town and planta-

Aldermen, selectmen, &c., may authorize certain number of persons to sell.

CHAP. 255.

Number of persons that may be so authorized, limited and regulated.

Apothecaries may be authorized to sell in certain cases.

Expiration of authority to sell. Sale of liquors to be drank in the place where sold, prohibited.

Licensed innholders may be authorized to sell to certain persons.

Not allowed to keep a bar for sale of liquors.

Such authority limited to certain places and buildings.

Sale of liquors to certain persons prohibited.

tion, at least one person and not more than two shall be so authorized; in every city and town having more than three thousand and less than eight thousand inhabitants, such authority may be given to three additional persons; and in every city and town having more than eight thousand inhabitants, two persons additional may be so authorized for every additional three thousand inhabitants; the enumerations aforesaid, being ascertained, in all such cases, by the last preceding census. Whenever the city and town officers aforesaid, shall deem it proper, they may also authorize apothecaries in their respective cities and towns, to sell intoxicating liquors for medical purposes only, upon the written prescription of a physician, and upon their giving bond as provided in the tenth section of this act. All such authority shall be limited to, and shall expire on the first day of May next after the granting of the same. But no person authorized under this section, shall sell any such intoxicating liquors to be drank in the place where sold, or in any place in the vicinity thereof, which is under the control of the person so selling.

SECT. 7. Innholders, duly licensed as such, may also be authorized, in like manner, within their respective cities, towns and plantations, to sell intoxicating liquors only to travelers and strangers, who shall be the guests and lodgers of such innholders. But no such innholder shall be allowed to keep a bar for selling such liquors, or to sell the same in any other manner than is in this section provided. The authority granted under this and the preceding section shall be limited to such place or building as shall be specified in every case, for the sale of such liquors, and the person so authorized shall not be allowed to sell the same, directly or indirectly, in any other place or building.

SECT. 8. No person, authorized as aforesaid to sell intoxicating liquors, shall sell such liquors to any minor without the direction in writing of his parent, master or guardian, to any Indian, to any soldier in the army, to any drunkard, to any intoxicated person, or to any such persons as are described in the seventh section of the one hundred and tenth chapter of the revised statutes, as being liable to guardianship, knowing them respectively to be of the condition herein prescribed; nor to any intemperate person, of whose intemperate habits he has been notified by the relatives of such person, or by the aldermen, selectmen or assessors, respectively of any city, town or plantation. And proof of notice so given by aldermen, select-

men or assessors or by their authority, shall be conclusive of the fact of the intemperate habits of such person, in any prosecution or suit under this act; and notice so given by the relatives of such person shall be presumptive evidence of such habits.

SECT. 9. It shall be the duty of the aldermen, selectmen and assessors aforesaid, whenever they shall be informed by the relatives of any person that he is of intemperate habits, and shall be satisfied that such is the fact, forthwith to give notice thereof, to all persons authorized to sell intoxicating liquors within their respective cities, towns and plantations, and in such adjoining places as they may deem expedient.

Duty of selectmen, &c., to give notice, in relation to persons of intemperate habits.

SECT. 10. No person authorized to sell intoxicating liquors as aforesaid, shall make any sale under such authority, unless he shall first give bond in the sum of four hundred dollars, to the city, town or plantation, wherein he is so authorized, with two good and sufficient sureties, to be approved by the aldermen, selectmen and assessors thereof, respectively, conditioned that he will not violate any of the provisions of this act.

Bond, required of persons authorized to sell liquors

SECT. 11. Any person, authorized as aforesaid, who shall violate any of the provisions of the seventh or eighth sections of this act, shall be punished, on conviction therefor, by a fine not exceeding twenty dollars for every such offense; and shall also be liable, notwithstanding such conviction and punishment, to a suit upon his bond given as aforesaid; and it shall be the duty of the aldermen, selectmen or assessors, respectively, of the city, town or plantation to which such bond was given, to cause the same to be put in suit and prosecuted to judgment and satisfaction to the use of the city, town or plantation. The court by which judgment shall be rendered upon any such bond, or upon any bond required to be given by this act, shall have such chancery powers therein, as the supreme judicial court now has in cases of forfeiture of penalties to the state. And whenever any such conviction shall be obtained or judgment recovered as aforesaid, all the authority of such person to sell intoxicating liquors shall be absolutely vacated; and it shall be the duty of the aldermen, selectmen and assessors respectively, to revoke such authority whenever they shall be satisfied of any violation of the conditions of the same.

Penalty for violation of the 7th and 8th sects., of this act.

Duty of selectmen to prosecute for breach of the conditions of such bond.

Chancery powers of court, in the rendition of judgment upon such bond.

Authority to sell liquors vacated by a conviction or judgment.

Duty of selectmen, &c., to revoke such authority in certain cases.

SECT. 12. No person shall procure and furnish any intoxicating liquors for the use of any of the persons to whom the sale of such liquors is forbidden by law; and for a violation of the provisions of this section, the offender shall be punished by fine not exceeding twenty dollars.

No persons allowed to procure liquors for certain persons.

Penalty.

CHAP. 255.

Penalty for sale
by persons not
authorized.

SECT. 13. If any person not duly authorized as aforesaid, shall sell, by himself or his agent, any intoxicating liquors, he shall be punished for every such offense by a fine not exceeding twenty dollars.

Evidence, suffi-
cient to convict a
person of being a
common seller.

SECT. 14. Any person against whom three several unlawful sales of intoxicating liquors, within the time laid in the indictment therefor, shall be proved under such indictment, shall be held to be a common seller of intoxicating liquors, and may be convicted thereof upon indictment. If any person, who has been twice convicted of unlawful sales of intoxicating liquors against the provisions of this act, shall commit a third offense against the same, within six months subsequent to the last of such convictions, he shall be liable to be indicted as a common seller of intoxicating liquors; and proof of such third offense, and of such two former convictions, shall be sufficient evidence to sustain such indictment. Any person convicted of being a common seller, as aforesaid, shall be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding six months.

Penalty.

Drinking houses
and tippling
shops prohibited.

SECT. 15. No person shall keep a drinking house or tippling shop within this state.

The offense of
keeping such
described.

SECT. 16. The offense of keeping a drinking house or tippling shop consists in selling intoxicating liquors in any place, except an inn, the keeper of which is duly licensed as an innholder, and authorized under the seventh section of this act, and allowing the same to be drank in the place where sold, or in any place in the vicinity thereof, which is under the control of the person so selling.

Penalty.

SECT. 17. Any person convicted of keeping a drinking house or tippling shop shall be punished by fine not exceeding two hundred dollars, or by imprisonment not more than one year.

Actions upon
demands for
liquors unlaw-
fully sold, not
maintainable.

SECT. 18. No action shall be maintained upon any claim or demand, promissory note, or other security given for intoxicating liquors, sold in violation of the provisions of this act; but the provisions of this section shall not extend to negotiable paper in the hands of any holder for a valuable consideration and without notice of the illegality of the contract.

Duty of select-
men, &c.,
to prosecute for
violations of this
act.

SECT. 19. It shall be the duty of the aldermen, selectmen and assessors, respectively in every city, town and plantation, to prosecute for all violations of this act.

Persons author-
ized to sell
liquors liable for
injuries commit-
ted by intoxica-
ted persons, in
certain cases.

SECT. 20. If any person authorized under this act as aforesaid, to sell intoxicating liquors, shall sell the same to a drunkard, or to any one while intoxicated, knowing them to be such, or shall sell any such liquors to any person to whom by the

eighth section of this act he is forbidden to sell the same, he shall be liable for all the injuries, which such drunkard, or intoxicated person, or person to whom liquors are forbidden to be sold as aforesaid, shall commit, while in a state of intoxication, arising from drinking the liquors sold as aforesaid, in an action on the case, in favor of the person injured.

SECT. 21. If any person, not authorized as aforesaid, shall sell any intoxicating liquors to any person, he shall be liable for all the injuries which such person may commit while in a state of intoxication arising from drinking the liquors aforesaid, in an action on the case in favor of the person injured.

Persons not authorized, liable in like manner, in certain cases.

SECT. 22. No person shall sell within this State, any intoxicating liquors which are impure, or adulterated. If any person shall violate the provisions of this section, he shall be punished by fine not exceeding one hundred dollars.

Sale of impure liquors prohibited.

Penalty.

SECT. 23. If any person shall appeal from a judgment of a justice of the peace or judge of a municipal or police court, upon complaint for any unlawful sale of intoxicating liquors, and shall be convicted at the same term of the appellate court upon three such complaints, he shall be deemed a common seller of intoxicating liquors, and shall be punished by fine or imprisonment, as provided in the fourteenth section of this act.

Persons convicted on three complaints on appealed cases, deemed common sellers.

Penalty.

SECT. 24. Any person who shall lease or let any building to another, or make any contract for the use and occupation of any building by another, knowing that intoxicating liquors are to be sold therein, by such tenant or occupant, contrary to law, shall be punished by fine therefor, not exceeding five dollars, for every day that such liquors may be sold therein, to be recovered by complaint or indictment.

Penalty for leasing buildings to be used for the unlawful sale of liquors.

SECT. 25. If the tenant or occupant of any building, under any lease, or contract for use and occupation, made subsequently to the time this act shall take effect, shall sell any intoxicating liquors therein, contrary to law, his estate in the premises shall thereby be determined, and the owner of the building may recover possession thereof, according to law, without any notice to quit.

The effect of unlawful sale of liquors upon tenants' estate in buildings.

SECT. 26. Justices of the peace, and judges of municipal and police courts, shall have jurisdiction by complaint, of all prosecutions under this act, where the penalty provided for the offense cannot exceed twenty dollars, and may try the same and pass sentence thereon. But where the punishment may be by fine exceeding twenty dollars, or by imprisonment, the prosecution shall be by indictment, and the magistrates aforesaid,

Jurisdiction of justices of the peace, and judges of municipal and police courts.

CHAP. 256. shall have power upon complaint, in such cases, to examine and bind over, as in other cases of offenses which are subject to indictment.

Intoxicating
liquors belong-
ing to cities,
towns, &c., how
disposed of.

SECT. 27. Any intoxicating liquors belonging to cities, towns and plantations, at the time this act shall take effect, and then remaining in the hands of their agents, may be disposed of under the direction of the aldermen, selectmen and assessors, respectively, for such purposes as were before that time authorized by law; or the same may be sold to persons who shall be authorized under this act to sell intoxicating liquors. But all such agencies shall be closed, and the said liquors remaining in the hands of agents, disposed of within sixty days after this act shall take effect. All such agents shall be held to adjust and settle their accounts with their respective cities, towns and plantations.

Act of March 16,
1855, unrepealed
sections of act of
Aug. 7, 1846, and
inconsistent
acts, repealed.

SECT. 28. The act approved March sixteenth, one thousand eight hundred and fifty-five, entitled "an act for the suppression of drinking houses and tipping shops," and all the sections hitherto unrepealed, of an act approved August seventh, one thousand eight hundred and forty-six, entitled "an act to restrict the sale of intoxicating drinks," and all other acts and parts of acts inconsistent with this act, are hereby repealed. And this repeal shall not be held to revive any acts or parts of acts, which were before repealed.

SECT. 29. This act shall take effect from and after the fifteenth day of April, eighteen hundred and fifty-six.

[Approved April 7, 1856.]

Chapter 256.

An act additional to chapter one hundred and forty-eight of the revised statutes.

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

Disclosure on
arrest upon
execution.

Whenever judgment shall be recovered against any debtor, if he shall be arrested upon the execution issued thereon, he may, on request to the officer having him in custody, be taken before two disinterested justices of the peace and quorum, to disclose the actual state of his affairs; the said justices shall be selected in the manner provided by law, in cases of arrest and disclosure upon other executions; and the proceedings before them in making such disclosure and determining the result thereof, shall be subject to the provisions and regulations con-

Selection of
justices.