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THE MICHIE COMPANY
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Port Wardens.

Sec. 12. Jurisdiction; performing duties of port wardens without authority.—In the cities and towns for which they are elected, port wardens shall have exclusive jurisdiction in all matters pertaining to their duties, as specified in this chapter. Any other person who performs or attempts to perform any such duties in any city or town wherein there is a port warden forfeits for each offense $100, to be recovered in a civil action by any prosecutor. (R. S. c. 87, § 12. 1961, c. 317, § 298.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted "a civil action" for "an action of debt" in the present second sentence.

Lighters and Harbors.

Sec. 14. Using lighters without marks and for falsely marking.—The master or owner who uses his craft without such marks prescribed in section 13 and any person who falsely marks any such boat or lighter forfeits $50 to be recovered by any prosecutor in a civil action. (R. S. c. 87, § 14. 1961, c. 317, § 299.)

Effect of amendment.—The 1961 amendment substituted "section 13" for "the preceding section" and "a civil action" for "an action of debt" in this section.

Sec. 16. Throwing ballast into roadstead, port or harbor; or taking stone from shore or island without consent.—No master of any vessel shall throw overboard ballast in any road, port or harbor, under penalty of $60, and no person shall take any stone or other ballast from any island, beach or other land, without consent of the owner, under a penalty of not more than $7 for each offense, to be recovered in a civil action by any prosecutor, ½ for himself and ½ for the town where the offense is committed. (R. S. c. 87, § 16. 1961, c. 317, § 300.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in this section.

Chapter 100.

Miscellaneous Provisions Relating to Towns.

Sections 7-A to 8. Public Dumping Grounds.
Sections 68-A to 68-J. Pin Ball Machines.
Sections 69-A to 69-F. Mechanical Rides.
Section 71-A. Drive-In Theaters.
Sections 79-A to 79-D. Closing-Out Sales.
Sections 84 to 92-A. Auctions and Auctioneers.
Sections 136-A to 136-F. Trading Stamp Companies.

Town Hospitals. Sanatoriums.

Sec. 7. Sanatorium or hospital for infectious diseases. — No person, firm or corporation shall establish or maintain within the populous districts of any city or town in this state any sanatorium or hospital designed for the treatment of persons suffering from tuberculosis or other infectious or contagious disease, unless approval has been obtained from the municipal officers of the city or town in question and from the department of health and welfare. Any person, firm or corporation found guilty of violating this section shall be punished by a fine of not more than $1,000 or by imprisonment for not more

than 11 months. Jurisdiction to enjoin threatened violations of this section is conferred upon the superior court. (R. S. c. 88, § 7. 1961, c. 317, § 301.)

Effect of amendment.—The 1961 amendment divided the former last sentence of this section into two sentences, deleted "the provisions of" preceding "this section" in the present second and third sentences, deleted "and jurisdiction in equity" formerly appearing at the end of the present second sentence, added "Jurisdiction" at the beginning of the present third sentence and substituted "superior court" for "supreme judicial and superior courts" at the end of the present third sentence.

Public Dumping Grounds.

Sec. 7-A. Public dumping grounds; acquisition.—Any municipality may by action of its legislative body direct its municipal officers to take suitable lands for public dumping grounds. When so directed, the municipal officers shall proceed in the same manner as used in laying out public ways, except that a fee simple title shall be acquired.

I. The public dumping ground is not established until it has been accepted, as laid out, by the legislative body of the municipality.

II. Any public dumping ground that ceases to be usable as such may be disposed of in the same manner as other lands owned by the municipality.

III. Public dumping grounds established under this section shall be subject to chapter 36, section 85. (1959, c. 130.)

Sec. 7-B. Public dumping ground; nuisances.—Whoever personally or through the agency of another leaves or deposits any offal, filth or other noisome substance in any public dumping ground, except in the manner prescribed by the local health officer, and in such manner as may be satisfactory to such health officer, shall be guilty of committing a nuisance. Such person shall be punished by a fine of not less than $10 nor more than $100, or by imprisonment for not more than 3 months. Any expenses incurred by a municipality in the abatement of such nuisances may be recovered in a civil action brought in the name of the municipality against the guilty party. If requested, and if the gravamen of the offense so indicates, the court in its discretion may award double damages in such actions. (1959, c. 130. 1961, c. 317, § 302.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in the third sentence of this section and substituted "actions" for "suits" at the end of the section.

Dogs.

Sec. 9. Lists of all dogs; returns.—Assessors of taxes shall include in their inventories lists of all dogs 4 months old or over owned or kept by any inhabitants on the first day of April, setting the number and sex thereof opposite the names of their respective owners or keepers, and shall make returns to the clerks of their respective municipalities and to the commissioner of agriculture or his authorized agent of such lists on or before the first day of June following.

The commissioner of agriculture or his authorized agent shall, on or before the first day of September of each year, report to the treasurer of state the number of dogs by sexes, the number of dogs reported killed, and the number of kennels found in each municipality, together with the amount due the state from each municipality for dog licenses.

The treasurer of state shall notify the municipal officers of each municipality before October 1st of each year of the amount due the state for dog licenses, on which amount he shall allow credit for all dogs reported killed, or assessed in error. Assessors of taxes shall make application to the commissioner of agriculture or his authorized agent for such credits before August 1st.

If any municipality fails to remit to the treasurer of state on or before October 15th of each year a sum of money equal to the licenses required by sections 9 to

28 on all dogs living on the first day of August preceding, such deficiency shall be collected in the manner provided by chapter 18, section 13. (R. S. c. 88, § 8. 1955, c. 135. 1961, c. 181, § 1. 1963, c. 146.)

Effect of amendments. — The 1955 amendment substituted in the last paragraph of the section the words "collected in the manner provided by section 13 of chapter 18" for the words "added to the state tax of such delinquent city or town for the following year."

The 1961 amendment substituted "first" for "15th" near the end of the first paragraph, added "or assessed in error" at the end of the first sentence of the third paragraph, added the second sentence of that paragraph and substituted "first day of August" for "15th day of June" in the last paragraph.

The 1963 amendment decreased the age in the first paragraph from 6 months to 4 months, substituted "municipalities" for "cities or towns" in that paragraph and substituted "municipality" for "city or town" in the second, third and fourth paragraphs.

Sec. 10. Dog licenses; fee; suitable tag; duties of animal husbandry expert; kennels.—On or before the 1st day of April of each year, the owner or keeper of any dog 6 months old or over shall apply to the city or town clerk either orally or in writing for a license for each such dog owned or kept by him. Such application shall state the breed, sex, color and markings of such dogs and the name and address of the last previous owner.

A fee of $1.15 shall be paid the city or town clerk for each license issued on male dogs, and a fee of $5.15 shall be paid for all female dogs capable of bearing young. All female dogs shall be considered capable of producing young unless a certificate issued by any licensed veterinarian, or any previous license record, is presented from a licensed veterinarian stating that such female was made incapable of bearing young by spaying by him. When such certificate accompanies the application, a fee of $1.15 shall then be paid on such spayed females. In addition to the amount paid for license and tag, each applicant shall pay the city or town clerk 25¢ for the recording and making a return to the commissioner of agriculture, except that a license and tag shall be issued by the city or town clerk, upon application, for any trained guide dog owned or kept by a blind person without payment of any fee required under this section. When any such dog has not been previously registered or licensed by the town or city clerk to whom such application is being made, such town or city clerk shall not register such dog nor issue to the owner or keeper a license and tag therefor unless written evidence shall be exhibited to him that the dog is trained and educated and intended in the fact to perform such guide service for such applicant.

Such licenses shall be made in triplicate, the original copy shall be mailed to the commissioner of agriculture, 1 copy given to the person applying for the license and 1 copy retained by the city or town clerk.

A suitable tag showing the year such license is issued and bearing such other data as the commissioner of agriculture may prescribe shall be given with each license and must be securely attached to a leather or metal collar which must be worn at all times by the dog for which the license was issued and it shall be unlawful for any person to remove such tag or to place either collar or tag on any dog not described or for which the license was not issued.

All license blanks and tags shall be furnished by the commissioner of agriculture. The representatives of the department of agriculture in charge of animal husbandry shall be known as the animal husbandry specialist and the assistant animal husbandry specialist, who shall carry out the provisions of the dog licensing laws and the adjustment of claims for damages to livestock and poultry by dogs and wild animals, and to the promotion of animal husbandry within the state. The expense of furnishing the above-mentioned blanks and tags, and the necessary clerk hire and travel, and the salary of the animal husbandry specialist and the assistant animal husbandry specialist shall be paid from the funds received from the licensing of dogs; provided, however, that money is hereby appropriated out of the dog license receipts for the purposes of this section.

Any person becoming the owner or keeper of a dog after the 1st day of April, not duly licensed as herein required, shall, within 10 days after he becomes the owner or keeper of said dog, cause said dog to be described and licensed as provided above.

Every owner or keeper of dogs, kept for breeding, hunting, show, field trials and exhibition purposes, may receive annually a special kennel license authorizing him to keep said dogs for said purpose, provided he keeps said dogs within a proper enclosure; and provided further, that such special kennel license shall permit such owner, keeper or authorized agent to transport under control and supervision said dogs to and from places of hunting or exhibition within or without the state. When the number of dogs so kept does not exceed 10, the fee for such license shall be $9.90, and in addition 25¢ for each such license as a fee for recording and making the return required by law; when the number of dogs so kept exceeds 10, the fee for such license shall be $19.90, and in addition 25¢ for each such license as a fee for recording and making the return required by law, and no fees shall be required for the dogs of such owner or keeper under the age of 6 months. Dogs covered by kennel license shall be furnished suitable kennel tags as prescribed by the commissioner of agriculture or his agent. (R. S. c. 88, § 9. 1945, c. 183, §§ 1, 2, 3; c. 209. 1949, c. 261. 1955, c. 433, § 2; c. 444. 1957, c. 187. 1959, c. 34. 1961, c. 181, § 2. 1963, c. 22.)

Effect of amendments. — The first 1955 amendment substituted "$1.15" for "90¢" in the first and third sentences of the second paragraph and "$5.15" for "$4.90" in the first sentence of the second paragraph. The second 1955 amendment inserted in the first sentence of the last paragraph the words "hunting, show, field trials and exhibition" and the words "hunting or." The second amendment also substituted in the last sentence of the last paragraph the words "furnished suitable kennel tags as prescribed by the commissioner of agriculture or his agent" for the words "exempted from the provisions of this section requiring registration, numbering and collaring."

The 1957 amendment substituted the words "who shall carry out" for the words "and shall devote their time to the carrying out of" and inserted the words "and poultry" in the second sentence of the sixth paragraph.

The 1959 amendment added the exception at the end of the fourth sentence of the second paragraph and added the last sentence therein.

The 1961 amendment deleted the former fifth paragraph of this section, relating to returns from clerks to the commissioner of agriculture.

The 1963 amendment substituted "any" for "the commissioner of agriculture and signed by a" preceding "licensed veterinarian" in the second sentence of the second paragraph and added "any" preceding "previous license record" in that sentence.

Sec. 11. Dog kennels. — The commissioner of agriculture, his authorized agent, or duly authorized and appointed state humane agents, may at any time, enter any kennel, shelters or buildings used for the purpose of housing dogs and excepting any domicile and excepting any building used for human habitation heretofore recognized as not subject to search without warrant, and make examination and conduct any recognized test of the existence of any contagious or infectious disease or condition, and may quarantine such place, kennel or shelter in person or by registered mail and maintain such quarantine as long as the commissioner, his authorized agent, or duly authorized and appointed state humane agents, may deem necessary. Any kennel, shelter or place where dogs are housed or confined shall be maintained in a sanitary and humane manner and any records required by law shall be properly kept and available to the commissioner, his authorized agent, or duly authorized and appointed state humane agents, upon request.

Any person, firm or corporation violating any quarantine or maintaining dogs in an insanitary or inhumane condition, or not keeping records required by law shall be punished by a fine of not more than $100 for each offense. (1949, c. 314. 1955, c. 234. 1957, c. 10.)

Effect of amendments. — The 1955 amendment rewrote this section.

The 1957 amendment made this section applicable to duly authorized and appointed state humane agents.

Sec. 13. Keeping unlicensed dog.—Whoever keeps a dog contrary to sections 9 to 28 shall be punished by a fine of not more than $25 to be recovered by complaint before any district court. (R. S. c. 88, § 11. 1963, c. 402, § 124.)

Effect of amendment.—The 1963 amendment deleted "the provisions of" preceding "sections" and substituted "district court" for "trial justice or municipal court in the county where such owner or keeper resides."

Application of amending act. — Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 14. Unlicensed dogs; warrants; disposal.—The municipal officers of each municipality shall annually within 10 days from the first day of June issue a warrant, returnable on July 15th following, to one or more police officers, constables or state humane agents, directing him or them to proceed forthwith to enter complaint and summons to court the owner or keeper of any unlicensed dog. The said police officer, constable or state humane agent shall, before entering such complaint and obtaining said summons, call on the owner or keeper of said dog and demand that he conform with the law and pay the license fees due, and if the owner pays such license fees, he shall pay in addition thereto the officer's fee of $3, which the officer shall retain and make return and pay over to the city or town clerk the license fees received by him.

On July 15th the municipal officers of municipalities shall issue to one or more police officers, constables or state humane agents a warrant returnable on the first Monday of the following January, directing him or them to seek out, catch and confine all dogs within such municipality which are not licensed, collared and tagged or enclosed, as required by sections 9 to 28, and to enter complaint and summons to court the owner or keeper of any such dog. Such court may order such police officers, constables or state humane agents to sell, give away, kill or cause to be killed each such dog which, after being detained by him or them for a period of 6 days, shall not have been licensed, collared or tagged. (R. S. c. 88, § 12. 1945, c. 343, § 1. 1953, cc. 240, 256. 1955, c. 274. 1957, c. 189. 1961, c. 94, § 1; c. 181, §§ 3, 4; c. 406, §§ 1, 2. 1963, c. 145, §§ 1, 2.)

Effect of amendments. — The 1955 amendment added the second sentence of the first paragraph; however, the 1957 amendment deleted the word "may" which formerly appeared as the seventh word of such sentence and inserted the word "shall" in lieu thereof.

This section was amended three times by Public Laws 1961. Chapter 94, P. L. 1961, substituted "municipality" for "city, town or plantation" throughout the section, inserted "or state humane agents" following "constables" in the first sentence and twice in the second paragraph and also inserted "or state humane agent" following "constable" in the second sentence of the first paragraph. Chapter 181, P. L. 1961, which did not refer or give effect to c. 94, amended the first sentence in the section and the first sentence in the second paragraph in such a manner that effect could not be given to both 1961 acts. Chapter 406, P. L. 1961, again amended these two sentences so as to resolve the conflict, changing "the first day of July" in such sentences as amended by c. 94 to "July 15th."

The 1963 amendment substituted "$3" for "$2" in the second sentence of the first paragraph and substituted "January" for "February" in the first sentence of the second paragraph.

Sec. 15. Officers to make returns.—Each police officer, constable or state humane agent to whom the warrants named in section 14 are issued shall return the same at the time specified. Such officers shall receive from the municipality the sum of $2 for each dog killed or otherwise disposed of, and for other services rendered under sections 9 to 28, they shall receive such compensation as the municipal officers may determine.

In no case shall such officer be entitled to more than $2 as a fee for disposing of any dog. (R. S. c. 88, § 13. 1945, c. 343, § 2. 1961, c. 94, § 2.)

Effect of amendment.—The 1961 amendment inserted "or state humane agent" near the beginning of this section, substituted "municipality" for "city, town or plantation" in the second sentence, substituted "section 14" for "the preceding section" in the first sentence and made other minor changes.

Sec. 17. Damage by dogs.—When a dog does damage to a person or his property, his owner or keeper, and the parent, guardian, master or mistress of any minor who owns such dog, forfeits to the person injured the amount of the damage done, provided the said damage was not occasioned through the fault of the person injured, to be recovered by a civil action. (R. S. c. 88, § 15. 1961, c. 317, § 303.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of trespass" at the end of the section and made other minor changes.

Sec. 18. Payment of damages done by dogs and wild animals; recovery from owner; keeping dogs that kill livestock and poultry.—Whenever any livestock, poultry or domestic rabbits, properly enclosed, owned by a resident of this state is killed or injured by dogs or wild animals, the owner, after locating such animal, animals or poultry or a sufficient part of each to identify the same, may make complaint thereof to the mayor of a city, or to one of the municipal officers of the town or plantation where such damage was done within 24 hours after he has knowledge of same. Thereupon, the municipal officers shall investigate the complaint and if satisfied such damage was committed by dogs or wild animals within the limit of their municipality, after viewing the evidence estimate the actual value of such animals or poultry according to the purposes for which they were kept, whether as breeders or other purposes, together with the damage to any other animals or poultry being bitten, torn or chased or exhausted, and make returns on blanks furnished by the department of agriculture. Such returns shall be made in triplicate, the original and duplicate copies together with a bill from the claimant shall be mailed to the commissioner of agriculture or his duly authorized agent within 15 days from the date of investigation, and the triplicate shall be kept by the municipal clerk as his record.

A full description of all evidence seen by the investigator shall be plainly printed or written in triplicate on all reports and recommendations giving the number of animals or poultry, properly enclosed, with the estimated value and the number of each giving their ages, average live weight and any other information that will assist in making a fair adjustment.

When livestock, poultry or domestic rabbits, properly enclosed, are kept in an unincorporated place, the owner may make complaint to the municipal officers of the nearest municipality adjoining, or the nearest municipality when there is none adjoining who shall investigate the complaint.

Each report and recommendation must be signed by the investigator in the place provided for his or her signature. Such signature shall be construed to mean that the investigator has seen evidence legally establishing the liability of the state. All reports and recommendations must be signed by a majority of the municipal officials.

The commissioner of agriculture or his duly authorized agent shall approve the bill or, if it seems advisable, investigate and adjust the claim.

When the claim is approved by the commissioner of agriculture or his duly authorized agent, the same shall be paid by the state to the person sustaining such damage.

All dogs doing such damage and found without leather or metal collar and tag as required by law shall be deemed to be unlicensed. If investigation shows such dog or dogs to have been legally licensed, the state shall accept liability and adjust the damage.

The state may maintain a civil action against the owner or keeper of the dogs to recover the amount paid unless, before the final disposition of the case, the said owner or keeper of the said dog produces satisfactory evidence that the dog has been killed.

Any person who keeps a dog that kills or injures any livestock, poultry or domestic rabbits shall be punished by a fine of not more than $100 and costs unless, before the final disposition of the case, the said owner or keeper of the dog produces satisfactory evidence that the dog has been killed. (R. S. c. 88, § 16. 1945, c. 378, § 72. 1949, c. 118, §§ 1, 2. 1957, c. 186, § 1. 1961, c. 317, § 304.)

Effect of amendments. — The 1957 amendment rewrote this section. Prior to the amendment the section applied to "sheep, lambs, domestic rabbits properly enclosed or other domestic animals".

The 1961 amendment substituted "a civil action" for "an action on the case" in the eighth paragraph of this section.

Sec. 19. Repealed by Public Laws 1957, c. 186, § 2; c. 429, § 84.

Cross reference.—See now § 18 of this chapter for provisions relative to damages to poultry by dogs or wild animals.

Effective date.—Chapter 429, P. L. 1957, became effective on its approval, October 31, 1957.

Sec. 23. Stealing or killing dog.—Whoever steals or confines and secretes any dog, or willfully or negligently injures or willfully or negligently kills any such dog, except as provided in section 24 and unless such killing be justifiable in the protection of persons, property or game, shall be liable to the owner in a civil action for the full value of the dog. (R. S. c. 88, § 21. 1953, c. 98. 1957, c. 5.)

Effect of amendment. — Prior to the 1957 amendment this section applied to registered dogs only. The amendment also cited § 24 in lieu of referring to "the following section."

Sec. 24. Killing dogs chasing game or livestock or poultry. — Any inland fish and game warden, sheriff, deputy sheriff or constable may at any time lawfully kill any dog he may find in the act of hunting or chasing moose, caribou or deer, or he may find worrying, wounding or killing any livestock or poultry, when said dog is outside of the enclosure or immediate care of its owner or keeper. Any owner of livestock or poultry or any member of his family or any person to whom is entrusted the custody of any livestock or poultry shall have a right to kill any dog attacking any of said livestock or poultry. Any person having any evidence of any dog hunting or chasing moose, caribou or deer, or of any dog kept and used for that purpose, or of any dog worrying, wounding or killing any livestock or poultry, when said dog is outside of the enclosure or immediate care of his owner or keeper, may present said evidence to the proper officer of the district court having jurisdiction, which said officer shall have power to issue a warrant against the owner of said dog, ordering him to appear before said court and show cause why said dog should not be killed. Upon hearing the evidence in said case said court may order said dog killed. Any person may lawfully kill a dog which suddenly assaults him or another person when peaceably walking or riding. (R. S. c. 88, § 22. 1953, c. 223. 1957, c. 220. 1963, c. 402, § 125.)

Effect of amendments. — The 1957 amendment substituted "livestock or poultry" for "domestic animal or fowl" in the first and third sentences, substituted "livestock or poultry" for "sheep or fowl" in three places in the second sentence, and made the last clause of the third sentence into a separate sentence.

The 1963 amendment substituted "the proper officer of the district court having jurisdiction" for "any trial justice or judge or recorder of any municipal court," substituted "said officer" for "said trial justice, judge or recorder" and substituted "said court" for "him" in the third sentence.

Application of amending act.—See note to § 13.

Sec. 25. Written complaint of dangerous dogs at large; treble damages and costs.—Whoever is assaulted by a dog when peaceably walking or rid-

ing or finds a dog strolling outside of the premises of its keeper and the said dog is not safely muzzled, may, within 48 hours thereafter, make written complaint before the district court having jurisdiction that he really believes and has reason to believe that said dog is dangerous and vicious. Whereupon said court shall order said owner or keeper to appear and answer to said complaint by serving said owner or keeper of said dog with a copy of said complaint and order a reasonable time before the day set for the hearing thereon. If, upon hearing, the court is satisfied that the complaint is true, he shall order the dog to be killed or order said owner or keeper of said dog to muzzle the same, restrain the same, or confine said dog to the premises of said owner or keeper and the owner or keeper shall pay the costs. If the order of said court is not complied with within the time fixed by such order, the court making said order may, upon application by the complainant or other person, issue his warrant directed to the sheriff of the county or any of his deputies, or to any police officer or constable in the town where the dog is found, commanding such officer forthwith to kill said dog and to make return of his doings on said warrant to the court issuing the same within 14 days from date thereof. The officer shall receive from the county treasurer $2 for executing said warrant, together with his legal fees for travel, and the owner or keeper shall be ordered to pay the costs of such supplementary proceedings.

If a dog whose owner or keeper refuses or neglects to comply with said order wounds any person by a sudden assault, or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs, to be recovered by a civil action. (R. S. c. 88, § 23, 1961, c. 317, § 305. 1963, c. 402, § 126.)

Effect of amendments. — The 1961 amendment deleted "as aforesaid" following "assault" near the middle of the last paragraph of this section and substituted "a civil action" for "an action on the case" at the end of such paragraph.

The 1963 amendment divided the former first sentence of the first paragraph into three sentences, substituted "district court" for "municipal court" in the present first sentence, deleted "in the city or town where the owner or keeper resides or, in case there is no court, before a trial justice in said town" following "jurisdiction" in such sentence, deleted "or trial justice" following "court" in the present second and third sentences, deleted "or magistrate" following "court" at three places in the present fourth sentence and deleted "aforesaid" following "keeper" in the last sentence of the first paragraph.

Application of amending act. — See note to § 13.

Sec. 26. Dogs in unorganized territories. — The commissioner of agriculture is authorized to appoint a dog recorder or recorders in unorganized territories. Said recorders shall list all dogs 4 months old or over, owned or kept by any inhabitants on April 1st, setting the number and sex thereof opposite the names of their respective owners and keepers. Said returns shall be made to the commissioner of agriculture on or before the first day of June following.

The dog recorder shall issue licenses, receive the money therefor and pay the same to the treasurer of state who shall credit the same to the general fund. Such recorders shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed and the sex, registered numbers and description of all such dogs. The sex, registered number and description shall not be required of dogs covered by a kennel license.

Fee for the recorder's service shall be determined by the commissioner of agriculture. (R. S. c. 88, § 24. 1963, c. 160.)

Effect of amendment.—The 1963 amendment rewrote the section.

Sec. 27 Persons buying or selling dogs to keep record.—All persons or kennels engaged in buying or selling dogs must keep record of from whom bought and to whom sold, which record shall be open to inspection by local police

officers, humane agents, or the commissioner of agriculture or his agent. (1949, c. 279. 1955. c. 235.)

Effect of amendment.—The 1955 amendment made this section applicable to the commissioner of agriculture or his agent.

Sec. 28. Jurisdiction of courts; fines. — The district court shall have original and concurrent jurisdiction with the superior court of all violations of sections 9 to 27. All fines imposed shall be paid into the treasury of the county where the offense is committed and shall accrue to and be used for the benefit of the town where the offense is committed unless otherwise provided. (R. S. c. 88, § 25. 1951, c. 266, § 107. 1963, c. 402, § 127.)

Effect of amendment.—The 1963 amendment substituted "The district court" for "Trial justices," deleted "municipal courts and" preceding "the superior court" and substituted "sections 9 to 27" for "the 19 preceding sections" in the first sentence.

Application of amending act.—See note § 13.

Innkeepers, Victualers and Lodginghouses.

Sec. 29. Licenses to innkeepers and victualers; revocation.

Nature and authority of licensing board.—The licensing board of a municipality is an administrative body, statutorily created, and with such power and authority as the legislature has legally and properly endowed it. Its authority is no less nor more than the legislative body has given it. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Sufficient standards provided.—The legislature in the enactment of this section and §§ 33 to 35, and 51 of this chapter, provided sufficient standards to guide the licensing board in its discretionary functions. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

The innholder has no natural right to, etc.

The permission to conduct an inn is not granted to all who may apply for a license; it is not a right to be exercised by one at will, but a privilege to be exercised when granted by municipal officers. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

A victualer has no natural right to operate his business, as by statute it is a privilege which may or may not be conferred by public authority. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Such business, etc.

The business of a victualer is regulated for the benefit of the public and must be maintained under supervision. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Sec. 33. Duties of victualers.

Sufficient standards provided.—The legislature in the enactment of this section and §§ 29, 34, 35, and 51 of this chapter provided sufficient standards to guide the licensing board in its discretionary functions. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Sec. 34. Innkeepers and victualers to allow no gambling.

Sufficient standards provided.—See same catchline in note to § 33 of this chapter.

Sec. 35. No reveling, drunkenness, etc.

Sufficient standards provided.—See same catchline in note to § 33 of this chapter.

Sec. 37. Prosecutions.—The licensing board shall prosecute for any violation of sections 29 to 36 that comes to its knowledge, by complaint, indictment or civil action. All penalties recovered shall inure to the town where the offense is committed. Any citizen of the state may prosecute for any violation

of the said sections in the same manner as the licensing board may prosecute. (R. S. c. 88, § 34. 1961, c. 317, § 306.)

Effect of amendment.—The 1961 amendment divided the former first sentence of this section into two sentences and substituted "civil action" for "action of debt" at the end of the present first sentence.

Sec. 42. Lien on baggage or other property deposited for safekeeping.

Cited in Sawyer v. Congress Square Hotel Co., 157 Me. 111, 170 A. (2d) 645.

Sec. 43. Enforcement of lien; notice of sale; proceeds.

Cited in Sawyer v. Congress Square Hotel Co., 157 Me. 111, 170 A. (2d) 645.

Sec. 46. Copies of law posted.—Every hotel keeper, innkeeper or boardinghouse keeper within this state shall keep a copy of sections 44, 45 and 46, printed in distinct type, posted in not less than 10 conspicuous places in his hotel, inn, boardinghouse or eating house. (R. S. c. 88, § 43. 1963, c. 402, § 128.)

Effect of amendment.—The 1963 amendment deleted the former last sentence of the section.

Application of amending act.—See note to § 13.

Sec. 49. Register; true names of guests; contents; open to inspection.—Every person conducting any hotel or lodginghouse shall at all times keep and maintain or cause to be kept and maintained therein a register in which shall be inscribed the true name of each and every guest or person renting or occupying a room or rooms therein. Such register shall be signed by the person renting such room or rooms, or by someone under his direction; and the proprietor of such hotel or lodginghouse or his agent, shall thereupon write opposite such name or names so registered the number of each room assigned to and occupied by each such guest, together with the date such room is rented. The proprietor of such hotel or lodginghouse, or his agent, shall also keep and preserve a record showing the date when the occupant of each room so rented shall quit and surrender the same. Such record may be made a part of the register, and both shall be kept available for a period of 2 years at all reasonable times to the inspection of any lawful agent of the licensing authority or the sheriff and his deputies or any state police officer. Any person who willfully violates any provision of this section shall be punished by a fine of not less than $100 nor more than $500, or by imprisonment for not more than 90 days for each offense, or by both such fine and imprisonment. (R. S. c. 88, § 46. 1959, c. 92.)

Effect of amendment.—The 1959 amendment added the words "or the sheriff and his deputies or any state police officer" at the end of the fourth sentence of this section.

Sec. 51. License revoked or suspended; hearing; appeal.—A license issued under the provisions of sections 29 to 54, inclusive, may be revoked if at any time the licensing authority shall be satisfied that the licensee is unfit to hold the license. It shall also have the right to suspend and make inoperative for such period of time as it may deem proper all the aforesaid licenses mentioned herein for any cause deemed satisfactory to it. The revocation and suspension shall not be made until after investigation and hearing, nor until the licensee shall have been given opportunity to hear the evidence in support of the charge against him and to cross-examine, by himself or through counsel, the witnesses, nor until the licensee shall have been given an opportunity to be heard. Notice of hearing shall be served on the licensee or left at the premises of the licensee not less than 3 days before the time set for the hearing. The licensing authority, as designated in sections 29 to 54, inclusive, is specifically charged with the duty of enforcing the provisions therein and of prosecuting all offenders against the same.

Appeal from the decision of the licensing authority may be had to the superior court in and for the county in which the licensing authority is located, in the usual manner provided for appeals from the district court. Courts of competent jurisdiction, for due cause shown, may issue temporary orders restraining the enforcement of such revocations and suspensions, and after full hearing may vacate such temporary orders or make the same permanent. (R. S. c. 88, § 48. 1963, c. 402, § 129.)

Effect of amendment.—The 1963 amendment divided the former last sentence into two sentences and substituted "the district court" for "municipal courts" at the end of the present next to the last sentence.

Application of amending act.—See note to § 13.

Constitutionality.—This section is constitutional; it does not constitute an improper delegation of legislative power. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Nature and purpose of section. — This section is procedural in its nature and was enacted for the purpose of administering the laws pertaining to the licensing of innkeepers, victualers and the operators of lodginghouses. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Revocation or suspension procedure naturally follows license privilege.—Where the legislature accords the privilege of license, it naturally follows that it provides procedure for revocation or suspension of the license when the licensee fails to conduct his business in accordance with legislative standards or administrative rules and regulations. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Standards.—The legislature, in the enactment of §§ 29, 33 to 35 of this chapter, and particularly of this section, provided sufficient standards to guide the licensing board in its discretionary functions. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Sufficiency of notice.—In giving notice of the hearing under this section, it is not necessary that the charges be pleaded with the niceties required by criminal pleadings. It will suffice if they are described with reasonable certainty in order that he may prepare his defense and not be taken by surprise at the hearing. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Appearance waives defective notice. — Licensee, by appearing at a hearing and participating therein, submitted himself to the jurisdiction of the licensing board and thereby cured an inadequate and legally insufficient notice. His appearance constituted a waiver of any imperfection in the notice. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Notice of hearing was inadequate where it did not advise the licensee of the charges against him. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Facts showed licensee unfit. — On the basis of facts that a licensee did permit gambling on his premises, did serve intoxicating liquor (beer) to a minor, and did allow intoxicated and disorderly persons to remain upon his premises, satisfaction on the part of the licensing authority that the licensee was unfit to hold the license was warranted. Kovack v. Licensing Bd. of Waterville, 157 Me. 411, 173 A. (2d) 554.

Public Exhibitions.

Sec. 56. Licenses; fees; prosecutions; traveling circuses or traveling amusement shows. — The municipal officers of towns may grant licenses for any of the exhibitions or performances described in the preceding section, on receiving for their town such sum as they deem proper, 24 hours or more being allowed for such exhibitions or performances as they may determine; and they shall prosecute, by complaint for the use of their town, all violations of the preceding section. No traveling circus or traveling amusement show shall exhibit any parade, show or entertainment in this state without first paying a state license of $500 in the case of a circus and $250 in the case of amusement shows for each calendar year. Application for such license shall be made to the insurance commissioner and shall contain the name of the person or corporation owning or operating said traveling circus or said traveling amusement show and a statement of the proposed territory within the limits of said state and the names of the cities and towns in which said traveling circus or said traveling amuse-

ment show is to exhibit. No traveling circus or traveling amusement show shall exhibit any parade, show or entertainment in this state without first furnishing the insurance commissioner in an amount to be determined by him a certificate of public liability insurance. Upon receipt of such application and accompanied by such certificate of public liability insurance and upon the payment of $500 or $250, as the case may be, a license shall issue, conditioned that no traveling amusement show shall operate, within 30 miles of the fairgrounds of any agricultural society which has received a state of Maine stipend under chapter 32, section 17 for at least 2 consecutive years next prior to the date of the license authorized in this section, during the 2 weeks immediately preceding or during the time of any annual exhibition thereof.

Such fees shall be credited to the division of state fire prevention to defray expenses of the division. Any balance of said fees shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

The license shall be further conditioned that there shall be no display of advertising of licensee's circus or traveling amusement show contrary to the provisions of sections 137, 138 and 150 of chapter 23, and section 34 of chapter 131, relating to outdoor advertising; that the licensee shall at all times and at least once each week keep the commissioner informed of proposed changes in itinerary or location; and that the licensee shall conform to all lawful rules and regulations promulgated by the insurance commissioner relating to circuses and traveling amusement shows. The license shall be further conditioned that such licensee shall remove all displays of advertising within 4 days after leaving any towns where such exhibitions or performance have been exhibited. Breach of any condition in the license shall be a cause for immediate suspension or revocation of the license, in the discretion of the commissioner.

The exhibiting of any parade, show or entertainment of any traveling circus or traveling amusement show without first taking out such license shall be deemed a misdemeanor, and the person, persons, firm or corporation owning or controlling such traveling circus or traveling amusement show, or the manager or officer in charge thereof within the state, shall be punished by a fine of not more than $1,000.

The district court and superior courts in the counties where such traveling circus or traveling amusement show exhibits or parades shall have jurisdiction over said offense. (R. S. c. 88, § 53. 1945, c. 249. 1947, c. 133. 1953, c. 189. 1959, c. 182, § 2. 1963, c. 151; c. 402, § 130.)

Effect of amendments. — The 1959 amendment added the present second paragraph.

Chapter 151, P. L. 1963, added "which has received a state of Maine stipend under chapter 32, section 17 for at least 2 consecutive years next prior to the date of the license authorized in this section" in the last sentence of the first paragraph. Chapter 402, P. L. 1963, substituted "The district court" for "Municipal" at the beginning of the last paragraph.

Application of amending act.—See note to § 13.

Public Dances.

Sec. 58. Violations.—Whoever, being an owner, lessee, tenant or licensee of a pavilion, hall or other building, in which a dance is held in violation of any restriction imposed by section 57, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $100 or by imprisonment for not more than 90 days, or by both. (1947, c. 272. 1963, c. 402, § 131.)

Effect of amendment.—The 1963 amendment substituted "section 57" for "the previous section" and deleted "such fine and imprisonment trial justices shall have concurrent jurisdiction with municipal courts of such offenses" at the end of the section.

Application of amending act.—See note to § 13.

Motor Vehicle Racing Structures.

Sec. 60. Motor vehicle racing structures. — The insurance commissioner shall make, amend or rescind, after public hearing thereon, notice of which has been duly advertised in the state paper, reasonable rules and regulations with respect to the location, erection, construction and maintenance of grandstands, bleachers, stadiums, arenas, fences, safety barriers or other like structures intended primarily to support or protect spectators during any type of motor vehicle racing.

Such rules and regulations shall become effective when approved in writing by the governor and council and when a certified copy thereof has been filed with the secretary of state. Any person aggrieved by any such rule or regulation or the reasonableness of same, or any act or order of the insurance commissioner in enforcing any such rule or regulation, may appeal to the superior court by filing a complaint therefor, and the court shall fix a time and place of hearing, and cause notice thereof to be given to the commissioner. After the hearing, the court may affirm or reverse the rule, regulation, act or order of the commissioner, and the decision of the court shall be final.

Said commissioner may waive the requirements of any such rules or regulations to cover any special circumstances, conditions or localities.

No person shall locate, erect, construct or maintain any such structure except as prescribed in such rules and regulations, unless waived by the commissioner as hereinbefore provided. Any violation of such rules and regulations shall be punished by a fine of not less than $20 nor more than $100 for each offense.

The fee for the initial inspection of all structures at motor vehicle raceways shall be $15. The fee for a license to operate any type of motor vehicle racing shall be $15. Such fee shall be credited to the division of state fire prevention to defray the expenses of the division. Any balance of said fees shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

The provisions of this section shall not apply to motorcycle racing. (1951, c. 322. 1953, c. 228. 1959, c. 182, § 3. 1961, c. 317, § 307.)

Effect of amendments. — The 1959 amendment added the next to the last paragraph of this section.

The 1961 amendment divided the former second sentence of the second paragraph of this section into two sentences. Prior to the amendment, the appeal provided for therein was "to a justice of the superior court by presenting to him a petition therefor in term time or vacation" and the hearing was set by and held before the justice.

Bowling Alleys and Billiard Rooms.

Sec. 62-A. Minors on premises.—A licensee, maintaining and operating a bowling alley, shooting gallery, pool, bagatelle or billiard room, who permits a minor to remain in or on his premises after having been forbidden to do so in writing by the minor's parent or guardian shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $100 or by imprisonment for not more than 11 months. (1963, c. 238, § 1.)

Secs. 63-66. Repealed by Public Laws 1963, c. 238, § 2.

Pin Ball Machines.

Sec. 68-A. Unlawful without license.—It shall be unlawful for any person, firm, corporation or association to keep for public patronage, or to permit or allow the operation of, any pin ball machine, in or on any premises or location under his or its charge, control or custody without having first obtained a license therefor from the clerk of the municipality where located. (1957, c. 230.)

Sec. 68-B. Definition.—The term "pin ball machine" shall be only those

machines nominally denominated as such which, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as game, entertainment or amusement, whether or not registering a score, and which is operated for amusement only and does not dispense any form of pay off, prize or reward except free replays. (1957, c. 230.)

Sec. 68-C. License requirements. — The license required shall be obtained from said clerk upon the payment of an annual fee of $5 for each premise on which such machine or machines shall be located and shall expire on June 30th of each year. The application for such license shall be made to the clerk upon a form supplied by him for that purpose and shall contain such information as he may require. No such license shall be granted to any person under the age of 21 nor to any firm, corporation or association whose officers are under said age. (1957, c. 230.)

Sec. 68-D. License posted. — The license required shall be posted securely and conspicuously on the premises for which it is granted. (1957, c. 230.)

Sec. 68-E. Nontransferable. — The license required shall not be transferable to any other person, firm, corporation or association, or from location to location, and shall be valid only at the location and for the person, firm, corporation or association designated therein. (1957, c. 230.)

Sec. 68-F. Minors under 16.—No person, firm, corporation or association holding a license under sections 68-A to 68-J, inclusive, shall permit or allow any person under the age of 16 to play or operate any such machine in or on the licensed premises except when accompanied by parent or guardian. (1957, c. 230.)

Sec. 68-G. Application.—Nothing in sections 68-A to 68-J, inclusive, shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism that has been by the courts determined to be a gambling device or in any way contrary to law. (1957, c. 230.)

Sec. 68-H. Copy of license.—A copy of this license shall be forwarded to the local police department. (1957, c. 230.)

Sec. 68-I. Revocation; appeal.—Any such license may be revoked by the clerk:

I. When it has been made to appear to the clerk that there has been a violation of the terms of sections 68-A to 68-H, inclusive, or

II. When it has been made to appear to the clerk that the licensee himself or any of the officers of the firm, corporation or association are not proper persons to hold such a license, or

III. When it has been made to appear to the clerk that the premises for which the license was granted is not a proper location.

The licensee shall have the right to appeal in writing such revocation to the municipal officers within 10 days. Said municipal officers may, after hearing, affirm, modify or repeal the decision of said clerk, and failure of the licensee to appeal within the time designated shall be deemed to constitute a waiver of the right of appeal and shall constitute an affirmation of the revocation. (1957, c. 230.)

Sec. 68-J. Violation.—Any person, firm, or, in the case of a corporation or association, any official thereof, violating any of the provisions of 68-A to 68-I, inclusive, shall upon conviction be punished by a fine not exceeding $25 for each offense, and each day such violation exists shall constitute a separate offense. (1957, c. 230.)

Steam-riding Galleries.

Sec. 69. Repealed by Public Laws 1961, c. 327, § 2.

Mechanical Rides.

Sec. 69-A. Definition of mechanical ride. — "Mechanical ride" means a power-operated device by which a person is conveyed, where control by the rider over the speed or direction of travel is incomplete. It does not include a vehicle or device the operation of which is regulated as to safety by any other provision of law except a municipal ordinance under chapter 90-A, section 3. (1961, c. 327, § 1.)

Sec. 69-B. License required.—A person or organization may not operate a mechanical ride which is open to the public without first obtaining a license from the insurance commissioner.

I. Inspection and license fee. On receipt of an application for a license and a license fee of $15 for each mechanical ride, the commissioner shall have it inspected.

A. Exception. A traveling amusement show or other organization which pays a license fee under section 56 need not pay this license fee.

II. License issued. On inspection, if the mechanical ride appears to be in a safe operating condition, the commissioner shall issue the license. The license is valid for a period of one year from date of issue. A license issued under this section does not exempt the holder from the nuisance provisions of chapter 141, section 8. (1961, c. 327, § 1.)

Sec. 69-C. Use of fees.—The license fees must be credited to the division of state fire prevention to defray its expenses. Any balance of the fees remaining at the end of any fiscal period is carried forward as a continuing account to be spent for the same purposes. (1961, c. 327, § 1.)

Sec. 69-D. Regulations. — The insurance commissioner may adopt and amend reasonable regulations for the proper operation of mechanical rides. (1961, c. 327, § 1.)

Sec. 69-E. Dangerous operation. — The insurance commissioner or any person designated by him may order that a mechanical ride being operated in a manner which is dangerous to the safety of the public be stopped until the condition is remedied. (1961, c. 327, § 1.)

Sec. 69-F. Violation and penalty provisions. — A person or organization which operates a mechanical ride without first being licensed as provided in section 69-B, or which operates a mechanical ride in violation of a regulation adopted by the insurance commissioner or in violation of section 69-E shall be punished by a fine of not more than $500 or by imprisonment for not more than 30 days, or by both. (1961, c. 327, § 1.)

Sec. 70. Repealed by Public Laws 1961, c. 327, § 2.

Sec. 71. Penalty.—All penalties provided in sections 55 to 79, except that specified in said section 56, shall be recovered by complaint for the use of the town where incurred. (R. S. c. 88, § 64. 1963, c. 402, § 132.)

Effect of amendment.—The 1963 amendment deleted the first portion of the section, which gave to trial justices jurisdiction of all offenses arising under sections 55 to 79, except as provided in section 56.

Application of amending act.—See note to § 13.

Drive-In Theaters.

Sec. 71-A. Traffic officer at drive-in theaters.—Anyone operating a

drive-in theater, being an owner, lessee or tenant, shall employ a uniformed police officer or constable to direct traffic to any main highway from the theater. Said police officer or constable shall be stationed at the point where the theater exit or driveway connects with the main highway at the time the theater program shall be concluded and shall remain at that point for such time as motor vehicles are leaving the theater. Any person violating the provisions of this section shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. (1955, c. 388.)

Cinematograph and Moving Pictures.

Sec. 73. Application for license; enclosure and machine inspected; fees.—Whoever desires to keep, exhibit or use any cinematograph or similar apparatus in any place or building described in section 72 shall make application to the insurance commissioner for a license to keep, exhibit or use such cinematograph or similar apparatus, and upon receipt of said application the insurance commissioner shall inspect or cause to be inspected the enclosure or housing provided for such cinematograph or similar apparatus and shall also inspect or cause to be inspected the entrances, exits and fire escapes. If, as a result of such inspection, he is convinced that the specifications hereinafter provided are fully complied with and such cinematograph or similar apparatus is found to be in a safe and suitable condition to be stored, exhibited or used and that the entrances, exits, fire escapes and structural condition of such public buildings, place of public assemblage or place or building are in accordance with law, he may issue a license to the person desiring to keep, use or exhibit such cinematograph or similar apparatus, which license shall state the name of the makers, trade name and number and the serial number of such cinematograph and the place in which it is to be kept, used or exhibited. The fee for the initial inspection of a theater shall be $15 and the fee for a license of a theater shall be $10. Such fees shall be credited to the division of state fire prevention to defray the expenses of the division. Any balance of said fees shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. No license shall be granted under the provisions of this section for any cinematograph or similar apparatus operated by oxyhydrogen gas so called or by lime light. (R. S. c. 88, § 66. 1947, c. 54. 1959, c. 182, § 4.)

Effect of amendment.—The 1959 amendment substituted the present third, fourth and fifth sentences for the former third and fourth sentences, which provided for an inspection fee and a license fee, respectively.

Sec. 74. Operate without a license; operator to be 18 years of age and thoroughly skilled; fee. — No person shall operate any cinematograph or similar apparatus in any city or town until he has received a license or permit to do so from the insurance commissioner; no such license to operate a cinematograph or similar apparatus shall be granted to any person under 18 years of age nor until the applicant shall have satisfied the insurance commissioner that he is thoroughly skilled in the mechanical and electrical apparatus or devices used in the operation of a cinematograph or similar apparatus. The fee for such examination shall be $10 and the fee for such license shall be $10. All licenses issued as aforesaid shall expire one year from date of issue and they may be renewed thereafter for periods of one year without further examination on payment of a fee of $5, commencing January 1, 1964. Such fees shall be credited to the division of state fire prevention to defray the expenses of the division. Any balance of said fees shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. Provided, however, that any person desiring to learn to be an operator may, with the consent of the theatre owner and under supervision of a licensed operator, be in a booth for the purpose of receiving instruction, upon payment to the commis-

sioner of a fee of $2 for an apprentice's license, and such license shall be valid for 1 year. (R. S. c. 88, § 67. 1947, c. 51. 1953, c. 229. 1959, c. 182, § 5. 1963, c. 133.)

Effect of amendments. — The 1959 amendment substituted the present second, fourth and fifth sentences for the former second sentence, which provided for examination and license fees to be fixed by the insurance commissioner.

The 1963 amendment added the present third sentence.

Closing-Out Sales.

Sec. 79-A. License required to conduct closing-out sales, and requirements for obtaining.—No person or persons shall offer for sale a stock of goods, wares or merchandise under the designation of "closing-out sale," "going out of business sale," "discontinuance of business sale," "entire stock must go," "must sell to the bare walls," or other designation which states, directly or by implication, an intent by such person or persons to dispose of the entire stock of goods with a view to permanently terminating further business after such disposal is complete, unless such person or persons shall have first complied with the following requirements:

I. Inventory; license. That such person or persons shall, before the beginning of such disposal sale, obtain, from the municipal officers of the city or town in which such sale shall be conducted, a license to conduct such sale. To obtain such license such person or persons shall make application therefor under oath and shall pay to the said municipal officers a fee of $25 and shall file with said municipal officers, in writing and under oath, a complete inventory of all items to be included in such sale. Such license shall be valid and effective for a period of 60 days from date of issuance, unless revoked as provided, and the validity of such license may be extended for a period of 60 additional days if the licensee shall furnish to the said municipal officers an affidavit to the effect that all goods, wares or merchandise listed in the inventory have not been disposed of within the original 60-day period.

II. No additional merchandise. That such person or persons shall affirm, in writing and under oath, to the said municipal officers that no merchandise shall be included in the stock offered for sale unless said merchandise shall have been in or at the place of business wherein or whereat such sale is to be conducted at the time of the opening of the sale, but if such person or persons shall have been in the same business for which said sale is being conducted for less than 2 years of continuous operation in said community, such person or persons shall affirm, in writing and under oath as aforesaid, that none of said merchandise was purchased prior to the time of the opening of said sale for the purpose of selling and disposing of the same at said sale, and any unusual purchases and additions to the stock of such goods, wares or merchandise made within 60 days prior to the filing of the application for said license shall be prima facie evidence that such purchases and additions were made in contemplation of such sale.

III. License issued. Upon compliance with the requirements of this section, the municipal officers shall issue the license forthwith. The municipal officers shall preserve all applications for license and other papers filed in connection therewith as a permanent record in their office, and shall endorse thereon the dates of filing, and the granting or denial of said license, and shall make an abstract of any other proceedings taken in connection therewith.

IV. False statements. Any person who willfully makes a false statement in the application or any other papers required to be filed under oath shall, upon conviction, be deemed guilty of perjury.

V. Continuation of business. After the termination date of said sale and any extension thereof, granted as provided, the person or persons to whom the

license was granted shall not continue the business under the same or a different name, at the same location or elsewhere in the same municipality, contrary to the designation of such sale. (1955, c. 207, § 1. 1963, c. 225, § 1.)

Effect of amendment.—The 1963 amendment, effective on its approval, April 19, 1963, substituted "such person or persons shall make application therefor under oath and" for "the applicant" in the second sentence of subsection I, made two other minor changes in that subsection, added all that portion of subsection II which begins with the words "but if such person or persons shall have been in the same business," added the second sentence in subsection III and added subsections IV and V.

Sec. 79-B. Violations and penalties.—Any licensee under the conditions of section 79-A, who shall in any way fail to comply with those conditions, or any person or persons who shall conduct such a disposal sale without first having obtained such license, shall be punished by a fine of not more than $100 or by imprisonment for not more than 30 days, or by both, and each day on which a sale is conducted in violation of any of these provisions shall constitute a separate offense. In addition to the penalties set forth, the superior court shall have jurisdiction, upon the complaint of any person, to enjoin any sale, or other acts, being performed in violation of section 79-A. (1955, c. 207, § 1. 1963, c. 225, § 2.)

Effect of amendment.—The 1963 amendment, effective on its approval, April 19, 1963, added the second sentence and made two minor changes in the first sentence.

Sec. 79-C. Powers of municipal officers to revoke license.—The aforesaid municipal officers shall revoke any license issued in accordance with these regulations if the licensee shall be convicted of violating any of the foregoing provisions, and the municipal officers shall have the right to refuse to issue another license to any applicant who has, prior to application therefore, been convicted of violating any of the foregoing provisions. If any person convicted of any violation of the provisions of section 79-A shall appeal from the decision or sentence of the trial court, his license issued in accordance with these regulations shall be suspended during the time his appeal is pending in the appellate court. (1955, c. 207, § 1.)

Sec. 79-D. Limitations.—The foregoing provisions shall not apply to liquidation sales by public auction of not more than 3 days duration conducted by a licensed auctioneer, or sales conducted or made by sheriffs, deputy sheriffs, constables, collectors of taxes executors, administrators, guardians, conservators, receivers, assignees under voluntary assignments for the benefit of creditors or insurers, or by any other person required by law to sell personal property. (1955, c. 207, § 1.)

Secs. 80-83. Repealed by Public Laws 1955, c. 207, § 2.

Auctions and Auctioneers

Sec. 84. Resident auctioneers' licenses.—Every resident person in the state desiring to do business as an auctioneer in the state who is over 21 years of age, submits evidence of good moral character and satisfies the secretary of state, or an agent designated by him, that he has knowledge of the laws of this state pertaining to auctions and sales, the ethics and practices of auctioneers and such other related subject as the secretary of state may select, upon application in form designated by the secretary of state and by payment of $15, shall receive a one-year license to conduct auctions. Said license shall be renewed annually upon payment of a fee of $10. In addition, any municipality may require a local license to hold auctions therein of more than 3 days duration upon payment of a local license fee not to exceed $10. (R. S. c. 88, § 73. 1953, c. 239. 1955, c. 378, § 1. 1961, c. 339, § 1.)

Effect of amendments. — The 1961 amendment rewrote this section. The 1955 amendment had added at the end of the section a proviso that "any municipality may require a local license to hold auctions therein."

Sec. 85. Nonresident auctioneers; deposit; fees.—Every nonresident person desiring to do business as an auctioneer in this state must obtain an auctioneer's license. The secretary of state may issue a license to any nonresident auctioneer duly licensed as an auctioneer in the state in which he resides without an examination; provided such other state permits an auctioneer's license to be issued to a licensed resident auctioneer of this state without examination, upon compliance with the following requirements:

I. Proof. The applicant shall furnish proof to the secretary of state that he is licensed to conduct auctions in the state in which he resides.

II. Bond. The applicant shall file with the secretary of state an approved surety company bond conditioned upon satisfying any judgment for damages sustained by any person arising out of any auction to be conducted by him. The penal sum of such bond shall be at least $2,000. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the penal sum of such bond. The surety on any such bond may cancel such bond upon giving 30 days' notice to the secretary of state and thereafter shall be relieved of liability for any breach of conditions occurring after the effective date of said cancellation. This bond provision may be waived if the applicant deposits with the secretary of state cash security in a like amount.

III. Fee. The applicant shall pay an initial license fee of $50.

Such license shall be for a term of 1 year from the date of its issuance and may be renewed from year to year by the payment of the state license fee of $10 for each renewal. Every license shall set forth a copy of the application upon which it is granted, including renewals thereof. Such license shall not be transferable nor give authority to more than 1 person, firm or corporation to conduct an auction sale, but each licensee may have the assistance of one or more persons in conducting any auction sale, who may aid that principal, but shall not act for or without that principal.

If such licensee is a firm or corporation, only one person of any firm or one agent of any corporation may conduct any auction sale, and all acts of any such person acting in behalf of such firm or corporation shall be the acts of the principal, so that in the event of a civil action against the principal for any acts of omission or commission, proof of such agency shall not be required as a requisite to the maintenance of such action. (R. S. c. 88, § 74. 1953, c. 239. 1961, c. 317, § 308; c. 339, § 2; c. 417, § 179.)

Effect of amendments.—Chapter 339, P. L. 1961, substituted the present first paragraph and subsections I to III for the former first paragraph of this section. Chapter 317, P. L. 1961, substituted "a civil action" for "suit" in the last paragraph of the section and made changes in the former first paragraph. Chapter 417, P. L. 1961, re-enacted the first paragraph and subsections I to III, adding "license" in subsection III.

Sec. 86-A. Revocation or suspension; appeal.—The hearing officer under chapter 20-A upon complaint, notice and hearing may revoke or suspend any license after proof that the licensee has been convicted of a crime involving moral turpitude; has failed, within a reasonable time, to account for or remit any moneys coming into his possession which belong to others, or committed any other act of a dishonest or fraudulent nature.

Any person who is aggrieved by any act of the secretary of state or the hearing officer under this chapter shall have the right to appeal as set forth in chapter 20-A. (1961, c. 339, § 3; c. 417, § 180.)

Effect of amendment.—Chapter 417, P. L. 1961, substituted "hearing officer under chapter 20-A" for "secretary of state" at the beginning of the section, added "or

the hearing officer" in the last paragraph and substituted "as set forth in chapter 20-A" for "to the superior court in Kennebec county" in that paragraph.

Sec. 87. Application for local license; fee.

If such auction sale is to be conducted in an unorganized township or in a plantation the application to conduct such sale shall be directed to the secretary of state, and the same information required to be furnished to the clerk of a city or town for a local license shall be furnished the secretary of state, together with the same fee of $5, who thereupon may issue such license for such auction sale; provided, however any municipality requiring a local license of resident auctioneers under section 84 may require the same local license of nonresident auctioneers. (R. S. c. 88, § 76. 1953, c. 239. 1955, c. 378, § 2.)

Effect of amendment.—The 1955 amendment added the proviso at the end of the second paragraph. As the first paragraph was not changed, it is not set out.

Sec. 89. Action against and service on nonresident licensee; revocations.—If action is brought against any nonresident licensee by any resident of the state aggrieved by such licensee, service of any legal process may be made upon the secretary of state as agent for such licensee, and the courts of the state shall have original jurisdiction over any civil action, as also the parties, to the same effect as if said licensee were a resident of the state. If action is brought in the district court, such licensee shall be considered to be a resident of the county in which the plaintiff resides. Upon service of any process upon the secretary of state, he shall forthwith forward a certified copy thereof to such licensee, by registered mail, to the last known address of such licensee, which shall constitute service on such licensee; and the secretary of state shall deduct from the deposit on file with him the sum of $10 to the use of the state. The licensee shall, within 30 days thereafter, deposit with the secretary of state $10, otherwise the license shall be revoked and the balance of said deposit shall be forfeited to the use of the state. (R. S. c. 88, § 78. 1953, c. 239. 1961, c. 317, § 309; c. 339, § 4. 1963, c. 402, § 133.)

Effect of amendments.—Chapter 317, P. L. 1961, substituted "action" for "suit" in the first and second sentences of this section and also substituted "civil action" for "action at law or in equity" in the first sentence. Chapter 339, P. L. 1961, repealed the former second paragraph of this section.

The 1963 amendment substituted "the district court" for "a municipal court or a trial justice court" in the second sentence.

Application of amending act.—See note to § 13.

Sec. 90. Return of bond or cash security; limitation of action.—If any licensee shall desire to surrender his license or shall desire not to renew the same, he may so notify the secretary of state, who, at the end of one year from the date thereof, shall return to such licensee his surety company bond or cash security, and the right to make service of any legal process upon the secretary of state, as provided, shall then terminate. (R. S. c. 88, § 79. 1953, c. 239. 1961, c. 339, § 5.)

Effect of amendment.—The 1961 amendment substituted "surety company bond or cash security" for "deposit of $100".

Sec. 92-A. Penalty.—Whoever, without an auctioneer's license, represents himself to be a licensed auctioneer or conducts any auction sale in this state, shall be punished by a fine of not more than $200. (1961, c. 339, § 6.)

Itinerant Vendors.

Sec. 111. Lien for license fee.—Every town in which is kept, exposed or offered for sale an intinerant vendor's stock or goods has a lien on such goods for

the amount due such town for local license fee on such stock, to be enforced by civil action and attachment within 10 days from the time such goods were first publicly offered or exposed for sale in such town. When any person liable therefor neglects or refuses to pay the local license fee provided in section 109, the tax collector of the town to which such license fee is due may maintain a civil action by writ of attachment or trustee process therefor in the name of such town or in his own name for the benefit of such town. Tax collectors, police officers and constables shall prosecute for violations of the provisions relating to itinerant vendors, in their respective towns, and shall report such violations promptly to the assessors for the purpose of computing and certifying such local license. (R. S. c. 88, § 91. 1961, c. 317, § 310.)

Effect of amendment.—The 1961 amendment substituted "civil action" for "suit" in the first sentence of this section, substituted "a civil action" for "an action of debt" in the second sentence and deleted "hereof" preceding "relating" in the third sentence.

Sec. 116. Deposits subject to claims; satisfied in order of receipt. —Each deposit made with the secretary of state shall be subject, so long as it remains in his hands, to attachment and execution in behalf of the creditors whose claims arise in connection with business done in the state, and the secretary of state may be held to answer as trustee, under the trustee process, in any civil action brought against any licensee, and the secretary of state shall pay over, under order of court or upon execution, such sum of money as he may be chargeable with upon his answer or otherwise. Said deposit shall be subject to the payment of any and all fines and penalties incurred by the licensee through violation of any of the provisions of sections 103 to 115, and the clerk of the court in which such fine or penalty is imposed shall thereupon notify the secretary of state of the name of the licensee against whom such fine or penalty is adjudged and of the amount of such fine or penalty. The secretary of state, if he has in his hands a sufficient sum deposited by such licensee, shall pay the sum so specified to said clerk. If the secretary of state shall not have a sufficient sum so deposited, he shall make payment of so much as he has in his hands. All claims upon the deposit shall be satisfied after judgment, fine or penalty, in the order in which notice of the claim is received by the secretary of state, until all such claims are satisfied or the deposit exhausted, but no notice filed after the expiration of the 60 days' limit aforesaid shall be valid. No deposits shall be paid over by the secretary of state to the licensees so long as there are any outstanding claims or notices of claims against them, respectively, unless he is satisfied that such claims will not be prosecuted to final judgment or that no fine or penalty will be imposed. (R. S. c. 88, § 96. 1961, c. 317, § 311. 1963, c. 402, § 134.)

Effect of amendments.—The 1961 amendment deleted "in debt or case" following "civil action" in the first sentence of this section.

The 1963 amendment divided the former second sentence into three sentences, deleted "also" preceding "be subject" near the beginning of the present second sentence, substituted "sections 103 to 115" for "the 13 preceding sections" in that sentence, deleted "or recorder" following "the clerk" in such sentence, deleted "or the trial justice by whom" preceding "such fine" therein, deleted "recorder or trial justice" following "said clerk" in the present third sentence and deleted "as aforesaid" following "payment" in the present fourth sentence.

Application of amending act.—See note to § 13.

Sec. 119. Repealed by Public Laws 1963, c. 402, § 135.

Application of repealing act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Trading Stamp Companies.

Sec. 136-A. Definitions.—As used in sections 136-A to 136-F:

The term "person" means any individual, partnership, corporation, association or other organization.

The term "trading stamp" means any stamp or similar device issued in connection with the retail sale of merchandise or service, as a cash discount or for any other marketing purpose, which entitles the rightful holder, on its due presentation for redemption, to receive merchandise, service or cash. This term shall not mean any redeemable device used by the manufacturer or packer of an article, in advertising or selling it, or any redeemable device issued and redeemed by a newspaper, magazine or other publication.

The term "trading stamp company" means any person engaged in distributing trading stamps for retail issuance by others, or in redeeming trading stamps for retailers, in any way or under any guise. (1959, c. 367.)

Sec. 136-B. Prohibition.—No trading stamp company shall commit any fraud or shall make any false representation or shall resort to any lottery, in distributing or redeeming trading stamps in this state. (1959, c. 367.)

Sec. 136-C. Cash value. — No trading stamp company shall distribute trading stamps in this state or shall redeem trading stamps hereafter issued therein unless each stamp has legibly printed upon its face in cents or any fraction thereof a cash value determined by the company, and the rightful holders may, at their option, redeem the stamps in cash when duly presented to the company for redemption in a number having an aggregate cash value of not less than 25c. (1959, c. 367.)

Sec. 136-D. Statement of registration; fee.—No trading stamp company shall distribute trading stamps in this state or shall redeem trading stamps hereafter issued therein until it has filed with the secretary of state:

I. A statement of registration accompanied by representative samples of its stamps, stamp collection books, stamp redemption catalogues, and stamp distribution and redemption agreement forms currently used in this state. Each such statement shall provide the following information:

A. The name and principal address of the company;

B. The state of its incorporation or origin;

C. The names and addresses of its principal officers, partners or proprietors;

D. The address of its principal office in this state;

E. The name and address of its principal officer, employee or agent therein, and the person designated for service of process therein;

F. The addresses of the places where its stamps are redeemable therein;

G. A short form of its balance sheet, as at the end of its last fiscal year prior to such filing, certified by an independent public accountant.

II. The statement of registration shall be filed with the secretary of state on or before the effective date of sections 136-A to 136-F and annually thereafter on or before July 1st of each year.

III. If the company has not previously done business as a trading stamp company in this state, or if its gross income from such business in this state during its last fiscal year was less than $100,000, it shall pay a registration fee of $100 to the secretary of state at the time of filing each such registration statement; if such gross income exceeded $100,000 but was not in excess of $250,000, such registration fee shall be $250; if such gross income exceeded $250,000 but was not in excess of $500,000, such registration fee shall be $500; if such gross income exceeded $500,000 but was not in excess of $750,000, such registration fee shall be $750; and if such gross income exceeded $750,000, such registration fee shall be $1,000. (1959, c. 367.)

Sec. 136-E. Filing notice to suspend redemption.—No trading stamp company shall cease or suspend the redemption of trading stamps in this state

without filing with the secretary of state at least 90 days prior written notice of its intentions to do so and concurrently mailing a copy of such notice to each retailer within the state which has at any time theretofore within one year issued trading stamps which the company is obligated to redeem. (1959, c. 367.)

Sec. 136-F. Penalty. — Any person violating any provision of sections 136-A to 136-F shall be punished by a fine of not more than $1,000, and the superior court shall have jurisdiction on the complaint of any interested person to restrain and enjoin the violation of any of said provisions. (1959, c. 367. 1961, c. 317, § 312.)

Effect of amendment.—The 1961 amendment substituted "the superior court shall have jurisdiction" for "the supreme judicial court or the superior court shall have jurisdiction in equity" in this section.

Automobile Junk Yards.

Sec. 137. Purpose. — Automobile junk yards or so-called "auto graveyards" have been steadily expanding and frequently encroach upon highways. These graveyards have become a nuisance and a menace to safe travel on public ways, often detracting the attention of drivers of motor vehicles because it appears cars are parked on the highway or that an accident has occurred. It is declared that such automobile graveyards are a nuisance and are properly subject to regulation and control. (R. S. c. 88, § 106. 1963, c. 178, § 1.)

Effect of amendment.—The 1963 amendment added "are a nuisance and" in the last sentence and deleted "police" preceding "regulation" in that sentence.

Sec. 138. Establishment and maintenance of automobile junk yards. —No automobile junk yard or "automobile graveyard" so called, where 3 or more unserviceable, discarded, worn-out or junked automobiles or bodies or engines thereof are gathered together, shall be established, operated or maintained, or permitted by the owner of any land to be established, operated or maintained, without first obtaining a nontransferable permit to do so from the municipal officers of the municipality wherein said yard is to be established, operated or maintained, or from the county commissioners of the county in which said yard is to be established, operated or maintained in an unorganized township, which permit shall be valid only until the first day of the year following. (R. S. c. 88, § 107. 1963, c. 178, § 2.)

Effect of amendment.—The 1963 amendment substituted "municipality" for "city or town."

Sec. 139. Hearings.—Municipal officers or county commissioners as provided for in section 138 shall, before granting a permit to establish, operate or maintain such automobile junk yard, hold a public hearing, notice of which shall be posted at least 7 days prior to and not more than 14 days prior to said hearing, in not less than 2 public places in said municipality or unorganized territory, and in one newspaper of general circulation in said municipality or unorganized territory wherein such yard is to be established, operated or maintained. Before the municipal authorities or county commissioners, as provided for in section 138, shall post or publish notice of a hearing, they shall collect from the applicant for said permit a fee of $10 plus the costs of posting and publishing said notice. (R. S. c. 88, § 108. 1963, c. 178, § 3.)

Effect of amendment.—The 1963 amendment substituted "2" for "3" preceding "public places" in the first sentence and substituted "municipality" for "city or town" at two places in that sentence.

Sec. 140. Limitations on granting permits for initial establishment. —No permit shall be granted for such automobile junk yard to be established

within an unreasonable distance, and in no case less than 600 feet, from any state or state aid highway now or hereafter designated as such highway by the state highway commission, or county road, if within view from said highway, except upon condition that the area to be occupied by said automobiles or parts thereof be kept entirely screened to ordinary view by those passing upon said highway, by natural objects or well constructed and properly maintained fences at least 6 feet high, acceptable to said municipal officers or county commissioners and so specified in said permit. No permit shall be granted if said area is within a radius of 300 feet of any public park, public playground, public bathing beach, school, church or cemetery, and which is within ordinary view thereof. This section and section 141 shall not be mandatory when such junk yard is located in the built-up portions of any municipality. The municipal officers may in their discretion insert more stringent restrictions, limitations and conditions in a permit to establish an automobile junk yard adjacent to any public way, road or street in the built-up portion of the municipality. The municipal officers may stipulate reasonable conditions to be attached to the permit covering operation, use and other matters. Violation of any of the conditions, restrictions or limitations shall be cause for revoking said permit. (R. S. c. 88, § 109. 1951, c. 237. 1963, c. 178, § 4.)

Effect of amendment.—The 1963 amendment so changed this section that a detailed comparison is not here practical. Among other changes, the amendment increased the minimum distance from a highway, permitted municipal officers to impose more stringent limitations and added the last two sentences.

Sec. 141. If within 100 feet of a highway.—Notwithstanding section 139, no permit shall be granted for such automobile junk yard to be established within 100 feet of any state or state aid highway, or county road, except upon compliance with section 140 and upon payment of an annual fee of $500 to the municipality, or to the county treasurer for the use of the county in the case of an unorganized territory, within which limits the automobile junk yard is to be established, operated or maintained. (R. S. c. 88, § 110. 1963, c. 178, § 5.)

Effect of amendment.—The 1963 amendment deleted "the provisions of" preceding "section 139" and "section 140," added "or county road" and substituted "municipality" for "city or town."

Sec. 143. Penalty.—Whoever violates any provision of sections 137 to 144 shall be guilty of a misdemeanor and shall be punished by a fine of not less than $100 nor more than $500, or by imprisonment for not more than 90 days, or by both, and it shall be the duty of the state police as well as local and county officers of the law to enforce said sections. Each day that the violation continues shall constitute a separate offense. (R. S. c. 88, § 112. 1963, c. 178, § 6.)

Effect of amendment.—The 1963 amendment added "or by imprisonment for not more than 90 days, or by both," in the first sentence, deleted "the provisions of" preceding "said sections" near the end of that sentence, deleted the former second sentence, providing for imprisonment in case of default in payment of the fine, and added the present second sentence.

Employment Offices.

Sec. 145. Employment agencies; license.—No person shall open, keep or carry on any employment agency in the state, unless such person shall first procure a license therefor from the municipal officers of the city or town where such employment agency is to be located. Such license shall be granted upon the payment to the city or town treasurer, annually, of a fee of $100 for the use of said city or town. The license shall be signed by a majority of the municipal officers, and shall continue in force from May 1st to May 1st of the succeeding year. Every license so granted shall contain the name of the person licensed, a designation of the city, street and number of the house or building in

which the licensee is authorized to carry on the employment agency, and the number and date of such license, and shall be exhibited in a public and conspicuous place in the office or place of business of the licensee. Such license shall not be valid to protect any other place than that designated therein, unless consent is first obtained from the municipal officers, nor until the written consent to such transfer of the surety or sureties on the bond required by the following section is filed with the original bond. No such agency shall be located in a building or upon premises where intoxicating liquors are sold or dispensed contrary to law, or which or part of which is used as an inn, lodging house or boardinghouse; nor shall any license be issued to any person directly or indirectly interested in the sale of intoxicating liquors. The application for such license shall be filed with the municipal officers at least 1 week prior to the date of hearing thereon, and the municipal officers shall act upon any application within 30 days after the filing thereof. Each application shall be accompanied by the affidavits of 2 persons who have known the applicant, or the chief officers thereof if a corporation, for 2 years at least, stating that the applicant is or said officers are of good moral character and a resident or residents of the state and has or have been such for at least 5 years prior to the date of such application. (R. S. c. 88, § 114. 1957, c. 139, § 1.)

Effect of amendment. — The 1957 amendment deleted the former second sentence relative to fine and imprisonment and increased the fee in the present second sentence from $25 to $100.

Sec. 148. Receipt given to applicants for employment.—Every licensee shall give to each applicant for employment from whom a fee or other valuable thing shall be received for procuring such employment, or to whom a charge is made therefor, which fee or other valuable thing shall in no case exceed the equivalent of the first week's wages, a receipt, in which shall be stated the name of the applicant, the amount of the fee or other valuable thing, the date, the name or nature of the employment or situation to be procured, and the name and address of the person, firm or corporation to whom the applicant is referred or sent for work or employment. Such fee shall be in full compensation for all service of said licensee. Should employment terminate in less than one month from time of placement, the fee shall not be over 10% of wages earned. The person to be employed must be furnished with a duplicate card showing name, last residence and name and residence of nearest relative or friend. No licensee shall by himself, agent or otherwise induce or attempt to induce any employee to leave his employment with a view to obtaining other employment through such agency. (R. S. c. 88, § 117. 1957, c. 139, § 2. 1959, c. 121, § 1.)

Effect of amendments. — The 1957 amendment changed the maximum fee from "$1.00 if paid in advance, or $1.25 if charged" to "50% of the first full week's wages" in the first sentence, and deleted the former third sentence which provided for the return of the fee if no employment was obtained.

The 1959 amendment, effective March 27, 1959, substituted the words "the equivalent" for "50%" in the phrase which was changed by the 1957 amendment and added the present third sentence.

Sec. 148-A. Method of payment of fee for placement.—If placement fee is paid weekly, ⅛ of such fee shall be paid each week for the first 8 weeks of employment; if paid semi-monthly, ¼ of the fee shall be paid for the first 4 paydays; if paid monthly, ½ of the fee shall be paid for the first 2 paydays. (1957, c. 139, § 2-A. 1959, c. 121, § 2.)

Effect of amendment.—The 1959 amendment, effective March 27, 1959, substituted "⅛" for "1/6" and "8" for "6" in the first clause and "¼" for "1/3" and "4" for "3" in the second clause.

Sec. 149. No person sent to place of bad repute; questionable characters not permitted to frequent agency.—No licensee under the provisions of section 145 shall send, or cause any applicant to be sent to any questionable

place or place of bad repute, house of ill fame or assignation house, or to any house or place of amusement kept for immoral purposes, or place resorted to for the purpose of prostitution, vice or gambling, the character of which such licensee knows, either actually or by reputation. No licensee shall knowingly permit questionable characters, prostitutes, gamblers, intoxicated persons or procurers to frequent such agency. No licensee shall accept any application made by or on behalf of any child for, or shall place or assist in placing any child in, any employment in violation of law. (R. S. c. 88, § 118. 1957, c. 139, § 3.)

Effect of amendment. — The 1957 amendment deleted the words "female help or servant, or inmate or performer" and substituted the word "applicant" in lieu thereof in the first sentence of this section.

Sec. 151. Penalty.—Whoever violates any provision of sections 145 to 152, inclusive, shall be punished by a fine of not more than $500, or by imprisonment for not more than 11 months, or by both. Any municipal officer may institute criminal proceedings to enforce the provisions of said sections. (R. S. c. 88, § 120. 1957, c. 139, § 4. 1963, c. 402, § 136.)

Effect of amendments. — The 1957 amendment deleted from the first sentence a former clause which read "except as otherwise provided", and substituted "$500, or by imprisonment for not more than 11 months, or by both" in lieu of "$25 with costs of prosecution" in such sentence.

The 1963 amendment deleted the former second sentence, giving trial justices jurisdiction and authority to commit to jail in default of payment of the fine.

Application of amending act.—See note to § 13.

Dairy Products.

Secs. 153-156. Repealed by Public Laws 1961, c. 163, § 3.

Flour.

Sec. 160. Fraudulent marks. — If an inspector falsely and fraudulently marks any package of flour, he shall be punished by a fine of $5 for every such package and forfeits to any person injured thereby 3 times the amount of damage, in a civil action. (R. S. c. 88, § 129. 1961, c. 317, § 313.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" at the end of this section.

Wood and Bark.

Secs. 165-171. Repealed by Public Laws 1957, c. 260, § 4.

Cross reference. — For Maine weights and measures law, see c. 32-A. As to sale of wood by the load, see c. 32-A, § 37.

Coal and Coke.

Secs. 172, 173. Repealed by Public Laws 1957, c. 260, § 4.

Cross reference.—For Maine weights and measures law, see c. 32-A. See in particular c. 32-A, § 36 re coal, coke and charcoal.

Boards, Plank and Lumber. Logs. Fees.

Sec. 187. Surveyor or culler neglects duties or practices fraud in office.—If any person, duly elected a surveyor, measurer, viewer or culler of any of said articles under sections 174 to 188 and duly qualified, unnecessarily refuses or neglects to attend to the duties of his office when requested, he forfeits $3. If he connives at or willingly allows any breach of sections 174 to 188, or practices

any other fraud or deceit in his official duties, he forfeits $30 to the use of the town. (R. S. c. 88, § 162. 1959, c. 363, § 45.)

Effect of amendment.—The 1959 amendment divided the section into two sentences and in each deleted "the provisions of" preceding "sections" and substituted "174" for "165."

Sec. 188. Penalties.—All pecuniary penalties in sections 174 to 188 may be recovered by civil action, indictment or complaint, and all other forfeitures by a libel filed by the treasurer or any inhabitant of the town interested. (R. S. c. 88, § 163. 1959, c. 363, § 46. 1961, c. 317, § 314. 1963, c. 402, § 137.)

Effect of amendments. — The 1961 amendment substituted "civil action" for "action of debt" in this section. The 1963 amendment deleted the former last sentence in the section, giving trial justices concurrent jurisdiction of violations of §§ 174-188. The 1959 amendment had changed the section numbers in that sentence.

Application of amending act. — See note to § 13.

Oils.

Sec. 192. Pure sperm oil defined; adulteration.—All oils sold under the names of sperm, summer, fall and winter oils are deemed to be sold for pure sperm oil, the test of which is Southworth's oleometer. Whoever sells under said names any oils which are adulterated by the mixture of an inferior article, without disclosing the full extent of adulteration to the purchaser, forfeits to the prosecutor $15 for each offense. The oil so sold shall be deemed whale oil, and the seller is liable to the purchaser for the difference between pure sperm oil and whale oil, to be recovered in a civil action. (R. S. c. 88, § 167. 1961, c. 317, § 315.)

Effect of amendment.—The 1961 amendment divided the former second sentence of this section into two sentences and substituted "a civil action" for "an action on the case" at the end of the present third sentence.

Sec. 200. Deception as to price prohibited.

Retail sale of gasoline not per se affected with public interest.—The retail sale of gasoline per se is not a business so affected with the public interest that it warrants exercise of police power without evidence of particular evil. State v. Union Oil Co., 151 Me. 438, 120 A. (2d) 708, holding former section 200-A of this chapter, which pertained to signs stating price of motor fuel unconstitutional.

Sec. 200-A. Repealed by Public Laws 1957, c. 43.

Local Sealers of Weights and Measures.

Secs. 202-224. Repealed by Public Laws 1957, c. 260, § 5.

Cross reference.—For present provisions as to local sealers of weights and measures, see c. 32-A.

Measurers of Salt, Corn and Grain.

Sec. 225. Repealed by Public Laws 1957, c. 260, § 5.

Standard Weights and Measures.

Secs. 226, 227. Repealed by Public Laws 1957, c. 260, § 5.

Ice.

Sec. 228. Repealed by Public Laws 1957, c. 260, § 5.