CHAPTER 91

ENFORCEMENT AND JURISDICTION

SUBCHAPTER 1

GENERAL

§2201. Jurisdiction of courts

In prosecutions under this Title, except when otherwise expressly provided, the District Court shall have, by complaint, jurisdiction concurrent with the Superior Court. [PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2202. Bail after failure to comply with terms of bond

In any prosecution for violation of the laws relating to manufacture or sale of liquor, a defendant who has failed to comply with the term of any bond entered into by the defendant in that case may not again be admitted to bail in that case or upon arrest on any warrant issued in that case, except by a judge or justice of the court in which that prosecution is pending. [PL 2021, c. 658, §278 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §160 (AMD). PL 2021, c. 658, §278 (AMD).

§2203. Evidence of illegal sale; allegation of prior conviction

1. Evidence of illegal sale. Whenever an illegal sale is alleged and a delivery proved, the delivery is sufficient evidence of sale and it is not necessary to prove a payment.
[PL 2015, c. 342, §125 (RPR).]

2. Former conviction. In actions, complaints, indictments or other proceedings for a violation of this Title, other than for a first offense, it is not necessary to set forth particularly the record of a former conviction, but it is sufficient to allege briefly that the person has been convicted of a violation of a particular provision.
[PL 1987, c. 342, §125 (RPR).]

3. Prosecution of bond when municipality interested.

[PL 1987, c. 342, §125 (RP).]

4. Enforcement by municipality.

[PL 1987, c. 342, §125 (RP).]

5. Former conviction.

[PL 1987, c. 342, §125 (RP).]

6. Amendment of allegation and process.

[PL 1987, c. 342, §125 (RP).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §125 (RPR). PL 2021, c. 658, §279 (AMD).

§2204. Persons in illegal liquor traffic disqualified from jury

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §126 (RP).

§2205. Appeals; discharge of sureties

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §126 (RP).

§2206. Continuance for sentence

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §126 (RP).

SUBCHAPTER 2

OFFICIALS AND THEIR DUTIES

§2211. Power of law enforcement officers to stop vehicles; restrictions

If a law enforcement officer has probable cause to believe that a violation of the liquor laws has taken or is taking place, the officer may, at any time, stop any motor vehicle or other conveyance to arrest or question its operator or occupant or to search the motor vehicle or conveyance. [PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2212. State liquor enforcement officers' vehicles

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 644, §1 (AMD). PL 1995, c. 65, §A82 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1999, c. 29, §1 (RP).

SUBCHAPTER 3

SEARCH AND SEIZURE

§2221. Seizure and forfeiture of vehicles containing liquor

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §127 (RP).

§2221-A. Forfeiture of liquor and property used in illegal manufacture, transportation and sale of liquor

1. Property forfeited. The following property shall be subject to forfeiture to the State and all property rights in the property shall be in the State:

A. All materials, products and equipment of any kind which are used, or intended for use, in manufacturing, transporting or selling liquor in violation of this Title; and [PL 1987, c. 342, §128 (NEW).]

B. All conveyances, including aircraft, watercraft, vehicles and vessels, which are used, or are intended for use, to transport, conceal or otherwise to facilitate the manufacturing, transporting or selling of liquor in violation of this Title. [PL 1987, c. 342, §128 (NEW).]

[PL 1987, c. 342, §128 (NEW).]

2. Jurisdiction. Property subject to forfeiture under subsection 1, paragraph A, shall be declared forfeited by any court having jurisdiction over the property or having final jurisdiction over any related criminal proceeding brought under this chapter.

[PL 1987, c. 342, §128 (NEW).]

3. Exceptions. The court shall order forfeiture of all conveyances subject to forfeiture under subsection 1, paragraph B, except as follows.

A. No conveyance used by any person as a for-hire carrier in the transaction of business as a for-hire carrier shall be forfeited unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of this Title. [PL 1987, c. 342, §128 (NEW).]

B. No conveyance shall be forfeited by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while the conveyance was illegally in the possession of a person other than the owner in violation of the criminal laws of the United States, the State or of any State. [PL 1987, c. 342, §128 (NEW).]

C. No conveyance shall be subject to forfeiture unless the owner knew or should have known that the conveyance was used in and for the illegal manufacturing, transporting or selling of liquor in violation of this Title. [PL 1987, c. 342, §128 (NEW).]

[PL 1987, c. 342, §128 (NEW).]

4. Forfeiture procedure. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of property subject to forfeiture under subsection 1, paragraph B. The petition must be filed in the court having jurisdiction over the property. [PL 1987, c. 342, §128 (NEW).]

B. The proceeding shall be deemed a civil suit, in which the State shall have the burden of proving all material facts by a preponderance of the evidence. The owner of the property, or other person claiming under the owner, shall have the burden of proving all the exceptions set forth in subsection 3 by a preponderance of the evidence. [PL 1987, c. 342, §128 (NEW).]

C. The court shall order the State to give notice by certified or registered mail or hand delivered by a deputy sheriff to the owner of the property and to any other person who appears to have an interest in the property. [PL 1987, c. 342, §128 (NEW).]

D. The court shall hold a hearing on the petition. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law. [PL 2011, c. 559, Pt. A, §33 (AMD).]

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order shall provide for disposition of the property by the State or

any subdivision of the State in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, sale at public auction or by competitive bidding.

(1) The proceeds of any sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice and to pay any bona fide mortgage on the property. The balance, if any, shall be deposited in the State Treasury, or the treasury of the county or municipality making the seizure. [PL 1987, c. 342, §128 (NEW).]

[PL 2011, c. 559, Pt. A, §33 (AMD).]

5. Records. Any officer, department or agency having custody of property subject to forfeiture under subsection 1, or having disposed of the property, shall keep and maintain full and complete records concerning the property.

A. The records must show:

(1) From whom it received the property;

(2) Under what authority it held, received or disposed of the property;

(3) To whom it delivered the property;

(4) The date and manner of destruction or disposition of the property; and

(5) The exact kinds, quantities and forms of the property. [PL 1987, c. 342, §128 (NEW).]

B. The records shall be open to inspection by all federal and state officers charged with enforcement of federal and state liquor laws. [PL 1987, c. 342, §128 (NEW).]

C. Persons making final disposition or destruction of the property under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition. [PL 1987, c. 342, §128 (NEW).]

D. The bureau shall maintain a centralized record of property seized, held by an order to the bureau. If requested, the bureau shall provide a report of the disposition of property previously held by the bureau as required by this section to any governmental entity to the commissioner or to the Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized. [PL 2013, c. 368, Pt. V, §53 (AMD).]

[PL 2013, c. 588, Pt. A, §36 (AMD).]

6. Preliminary order. At the request of the State ex parte, the court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property shall issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process shall be subject to the provisions of applicable Maine law. [PL 1987, c. 342, §128 (NEW).]

B. Any property subject to forfeiture under this section may be seized upon process, except that seizure without process may be made when:

(1) The seizure is incident to:

(a) An arrest with probable cause;

(b) A search under a valid search warrant; or

(c) An inspection under a valid administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a forfeiture proceeding under this section;

(3) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) There is probable cause to believe the property has been used or is intended to be used in violation of this Title. [PL 1987, c. 342, §128 (NEW).]

[PL 1987, c. 342, §128 (NEW).]

SECTION HISTORY

PL 1987, c. 342, §128 (NEW). PL 1997, c. 373, §161 (AMD). PL 2011, c. 559, Pt. A, §33 (AMD). PL 2013, c. 368, Pt. V, §53 (AMD). PL 2013, c. 588, Pt. A, §36 (AMD).

§2222. Claim of owner that illegal use of vehicle or boat was without knowledge or consent

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §129 (RP).

§2223. Dumping of evidence; prima facie evidence

1. Destruction of liquor is prima facie evidence that liquor was intended for illegal sale. The pouring out or other destruction of fluids by any person on or about the premises which are about to be or are being searched, for the purpose of preventing the seizure of those fluids by officers authorized to make the search and seizure, is prima facie evidence that the fluids poured out or destroyed were liquor intended for illegal sale.

[PL 1987, c. 342, §130 (RPR).]

2. Penalties. Any person who violates this section commits a Class E crime.

[PL 1987, c. 342, §130 (RPR).]

3. Destruction of liquor is prima facie evidence that liquor was intended for illegal sale.

[PL 1987, c. 342, §130 (RP).]

4. Penalties.

[PL 1987, c. 342, §130 (RP).]

5. Notice is prima facie evidence that person is a common seller and premises are a common nuisance.

[PL 1987, c. 342, §130 (RP).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §130 (RPR).

§2224. Duty of officer on seizure; proceedings

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §131 (RP).

§2225. Warrant for claimant

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §131 (RP).

§2226. Destruction to prevent seizure; arrest of owner; appliances and evidences seized

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §131 (RP).

§2227. Replevy pending proceeding prohibited

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §131 (RP).

§2228. Recovery of liquor and damages upon final judgment

Final judgment in proceedings under this chapter shall be in all cases a bar to any civil action for the recovery of any liquors seized or of their value, or for damages alleged to have been sustained by reason of the seizure and detention. [PL 1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW).

§2229. Disposal of forfeited liquors

1. Court or judge to order forfeited liquor to be turned over to the bureau. All spirits declared forfeited by a court under this Title must, by order of the court rendering the final judgment, be turned over to the bureau. All malt liquor or wine declared forfeited by a court under this Title must, by order of the court rendering final judgment, be turned over to the bureau. Liquor forfeited under this section must be disposed of in the same manner as abandoned liquor under section 2230.
[PL 1997, c. 373, §162 (AMD); PL 2013, c. 368, Pt. V, §61 (REV).]

2. Sale or destruction of forfeited spirits by bureau. The bureau or the wholesale spirits provider may restock and resell forfeited spirits at agency liquor stores throughout the State or may destroy forfeited spirits by pouring the spirits upon the ground or into a public sewer.

A. [PL 2021, c. 658, §280 (RP).]
[PL 2021, c. 658, §280 (RPR).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §162 (AMD). PL 2013, c. 368, Pt. V, §54 (AMD). PL 2013, c. 368, Pt. V, §61 (REV). PL 2013, c. 476, Pt. B, §5 (AMD). PL 2013, c. 476, Pt. B, §6 (AFF). PL 2021, c. 658, §280 (AMD).

§2230. Abandonment of liquor

The following provisions govern the procedures for handling abandoned liquor. [PL 1993, c. 730, §51 (NEW).]

1. Bureau as repository. Notwithstanding any other provisions of law, the bureau acts as a repository for all liquor found abandoned in this State.
[PL 1993, c. 730, §51 (NEW).]

2. Procedure. A law enforcement agency that takes custody of abandoned liquor shall:

A. Notify the bureau that the agency has taken custody of the abandoned liquor and forward to the bureau the reason for taking custody and a complete list of the quantities and types of liquor in the agency's custody the day the law enforcement agency takes custody or the next regular business day; and [PL 1993, c. 730, §51 (NEW).]

B. Secure the liquor for a period of 30 days, after which time the agency shall transfer the liquor to the bureau for disposal. [PL 2013, c. 368, Pt. V, §55 (AMD).]

[PL 2013, c. 368, Pt. V, §55 (AMD).]

3. Filing a claim. A person who wishes to file a claim for abandoned liquor must notify the bureau in writing within the 30-day period prescribed in subsection 2, paragraph B and identify the abandoned liquor. If a claim is not made within the 30-day period, the abandoned liquor becomes the property of the State.

[PL 1993, c. 730, §51 (NEW).]

SECTION HISTORY

PL 1993, c. 730, §51 (NEW). PL 1997, c. 373, §163 (AMD). PL 2013, c. 368, Pt. V, §55 (AMD).

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