

Article - Alcoholic Beverages

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§16-414.

(a) All places where intoxicating liquor is sold in violation of any provision of this article, shall be taken and held and are declared to be public nuisances, and may be abated as such; and it shall be part of the judgment of the court, upon conviction of the keeper, that the place where liquor is found to have been sold contrary to this article be shut up and abated until the keeper shall give bond, with sufficient security to be approved by the court, in the penal sum of two thousand dollars (\$2,000.00), payable to the State of Maryland conditioned that he will not sell intoxicating liquor contrary to law, and will pay all fines, costs and damages assessed against him for any violation thereof, and in case of a violation of the condition of such bond, suit may be brought and recovery had thereon for the use of the county, for any fine or fines, costs and damages that may be assessed against him under this article; and in the event a jury trial shall be prayed when the case is brought before the District Court, or any appeal shall be taken, the place where the liquor is alleged to have been sold contrary to this article, shall be shut up and abated until the alleged offender shall give bond, with sufficient security to be approved by the court in the penal sum of two thousand dollars (\$2,000.00), payable to the State of Maryland, conditioned that pending said appeal and/or final disposition of the case he will not sell intoxicating liquor contrary to law, and will pay all fines, costs and damages assessed against him for any violation thereof, and in case of a violation of the condition of such bond, suit may be brought and recovery had thereon for the use of the county for any fine or fines, costs and damages that may be assessed against him under this article.

(b) (1) If any person or any officer of the law make a sworn complaint or an affidavit before a District Court judge in the county, particularly describing the house, store, boat, motor vehicle, aeroplane, premises or any other place or thing to be searched, and the things to be searched for, that he has reason to believe and does believe that intoxicating liquor is sold, or is kept for the purpose of being sold or otherwise disposed of in violation of the provisions of this article, or contrary to law, the judge shall forthwith issue his warrant to serve criminal process, directed to the sheriff, deputy sheriff of the county, or to any proper officer, commanding him to search the premises or house described and designated in such complaint and warrant and the appurtenances thereof, and if any such shall there be found to take into his possession and safely keep all intoxicating liquor and the vessels in which it is contained if the same shall be found in quantities and under such conditions as to suggest that it is kept for sale, and all the means used for the sale of the same, all the paraphernalia or part of the paraphernalia of a barroom or drinking saloon, and any United States Internal Revenue tax receipt for the sale of intoxicating liquor effective for the period of time covering the alleged offense, and forthwith report in writing the facts and make immediate return on said warrant.

(2) The warrant for search shall be directed to any proper officer, and shall show by a copy of the affidavit inserted therein, or annexed and referred to, or recite

all of the material facts alleged in the affidavit, and particularly describe the thing to be searched for and the place, house or thing to be searched. A complaint or affidavit, a warrant for search and a return and report substantially in the following forms shall be sufficient:

State of Maryland, County, to wit:

To:, of County:

Greetings: Whereas, there has been filed with the undersigned an affidavit, of which the following is a copy, to wit: "Whereas on this day of, 20.., before the Subscriber, in and for said County, personally appeared, and made complaint and oath that he has just and reasonable cause to suspect and believe and does suspect and believe that intoxicating liquor is sold, or except for the purpose of being sold or otherwise disposed of in violation of the law in the of at, in of said County, and that in and upon said premises and at said place and house will be found upon search thereof, the following:

Intoxicating liquors, and the vessels and bottles in which the same are contained, and barroom, and drinking saloon paraphernalia, and the United States Internal Revenue tax receipt for sale of intoxicating liquor at this time effective (and any other facts material):

These Are Therefore, in the name of the State of Maryland, to command you, together with the necessary and proper assistance, to enter into the said of the said at, in in the County aforesaid, and there diligently search for the said intoxicating liquor and means used for the sale of same, or any part thereof as described in the foregoing affidavit of complaint, and that you bring the same, or any part thereof, found in such search, and the person or persons in whose custody they are found forthwith before me to be disposed of and dealt with according to law; and have you there this warrant.

Given under my hand this day of, 20...

.....

Judge of the District Court

REPORT AND RETURN

To Hon., Judge of the District Court in County.

This Return and Report, made this day of, 20.., is to certify, That pursuant and in obedience to the commands of the annexed warrant to me directed, I did on the day of, 20.., enter and search the place, house and premises described in said warrant and found and seized the following, to wit: (here set forth what was found and seized), and do forthwith bring the same, and one the person in whose custody the same were found before you.

.....
(Person serving warrant)

(c) (1) Such liquor and means used for the sale of the same shall be held subject to the order of the court to be used as evidence in the prosecution of any case before the court for the violation of this article, and any such or the possession of any such liquor or the means, materials and instrumentalities for manufacturing, transporting, dispensing, handling or otherwise disposing of the same or the paraphernalia or part of the paraphernalia of a barroom or drinking saloon shall constitute prima facie evidence of the violation of the provisions of this subtitle as charged or presented. If fluids be poured out or otherwise destroyed when the premises, place or thing are searched or about to be searched, said fluids shall be held prima facie to be intoxicating liquor and intended for sale in violation of this article.

(2) In all prosecutions under this article, by charge, indictment or otherwise, it shall not be necessary to state the kind of liquor sold, handled or involved, nor to describe the place where sold, handled or involved, nor to show the knowledge of the principal to convict for the acts of an agent or servant, nor to state the name of any person to whom the liquor is sold, but it shall be sufficient to state in that regard that the act complained of took place in the county. The issuance of an internal revenue special tax stamp, or receipt by the United States, to any person as a wholesale or retail dealer in liquors or in malt liquors at any place within the county shall be prima facie evidence of the sale of alcoholic beverages of the class authorized to be sold under such stamp or receipt by such person at such place, or at any place of business of such person, within such territory where such stamp or receipt is posted, and at the time charged in any suit or prosecution under this article; provided, such time is within the life of such stamp or receipt. This paragraph shall apply only in Queen Anne's County.

(d) If upon final judgment of the court, the accused shall be found guilty, the intoxicating liquor seized from him shall, after the time for appeal has expired and if no appeal is taken, be ordered to be destroyed, and the other property shall be held as the property of the accused or owner. If the accused shall be found not guilty, the whole of the property seized shall be returned to the person from which it was taken. When any liquor shall have been seized by virtue of such warrant, the same shall not be discharged or returned to any person claiming the same by reason of any alleged insufficiency in the description in the complaint or warrant of the liquor or place, but the claimant shall be entitled to a hearing when the case is tried.

(e) If no one is found in possession of the premises, place, or thing where intoxicating liquor may be found, the officer taking the same shall post in a conspicuous place on said premises or at or near the location of the place or thing searched a copy of his warrant, and take possession of such liquor and means used for the sale of the same, and hold them subject to the order of the court and make return of his doing thereto. Whereupon it shall be the duty of the court to fix a time for the hearing and determine the purpose for which such liquor is kept, and issue a notice thereof to the officer, who shall post a copy thereof on the premises or at or near the location of the

place or thing searched where the liquors were found. If no one appears at the time fixed for said hearing, nor within thirty days thereafter to claim such liquor and means used for the sale of the same, the court shall order the same destroyed or disposed of.

(f) No warrant shall be issued to search any residence accepted as such, unless it or some part of it is used as a store or shop, hotel, restaurant or boardinghouse, or unless such residence is a place of public resort, or unless such residence is utilized as a place for keeping, storing, hiding, secreting or furnishing or handling any intoxicating liquor, in any quantity intended or for the purpose of sale or disposition otherwise contrary to this subtitle or contrary to law; provided, nevertheless, if the judge of the District Court shall, after an examination of the party making the oath or taking such other proof as may be produced, deem it proper to issue such warrant then the judge of the District Court, may, in his discretion, issue the warrant as hereinabove provided, for the searching of such a residence.

(g) The person making affidavit for the warrant to search any place or thing where intoxicating liquor is believed to be disposed of, kept, stored, deposited, hidden, secreted, handled or furnished contrary to this section, may personally or by agent accompany the officer who serves the warrant and point out and enter the place or thing with such officer and give information and assistance to such officer in searching such place, house or thing for such intoxicating liquor.

(h) Liquor seized as hereinbefore provided, and the means used for the sale of the same, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment of conviction in such proceedings shall be in all cases a bar to all suits for the recovery of any liquor seized or the value of the same, or for damages alleged to arise by reason of the seizing and detention thereof.

(i) When any prosecution is commenced for a violation of this article, and the liquor seized under this section is to be used as evidence in such trial, the hearing must take place in not more than thirty days if the court is then in session, and if it be not in session, within thirty days from the date when it is next in session. If at the time appointed for trial the returns have not been properly made, or for other sufficient cause, the trial may be postponed to a further date not more than fifteen days beyond said thirty days.

(j) The word "liquor", when used in this subtitle, unless the same be inconsistent with the context, shall be construed to include the vessels containing the same; the phrase "means used for the sale of the same", shall include all furniture, implements, equipment, instrumentalities, or paraphernalia of a barroom or drinking saloon or any part of same, and any United States Internal Revenue tax receipts effective for the period of time covering the alleged offense, and to include also any conveyance or vehicle; the word "place" shall be construed to include any edifice, apartment, room, tent, boat, wagon, conveyance, motor vehicle, aeroplane, or any open air location.

(k) Any private residence or any part thereof which is a place of public resort, or is used as a store or shop, or is utilized as a place for keeping, depositing, storing, hiding, secreting, handling, exchanging, distributing, furnishing or delivering any intoxicating liquor in any quantity whatever intended for sale or disposition otherwise contrary to this article or contrary to law, shall not be accepted or held as a private residence for the purpose of this article.

(l) Repealed.

(m) The giving away, furnishing, delivering, handling, distributing or exchanging of any intoxicating liquor by any storekeeper or at any private residences not accepted or held as such, or the taking or soliciting of orders, or the making of agreements by any person at or within the county for the sale or delivery or future giving away of any intoxicating liquors, or any other shift or device to evade any provision of this article, shall be held to be an unlawful selling.

(n) The County Commissioners of the county are hereby authorized to use any part of the fines imposed by a circuit court and collected for the violation of this article for hiring detectives or secret service officers (who shall be deputized proper officers). And when there are no funds available from fines collected for the violation of this article, such County Commissioners are hereby authorized to appropriate not more than two hundred dollars annually in Queen Anne's and Wicomico counties from the general revenue fund for the purpose of enforcing the provisions of this article.

(o) The intention of this section is to effectually prevent and suppress the evasions and violations of the liquor laws in the county, and for that purpose all the provisions of this section shall be liberally construed and interpreted; provided, however, that nothing contained in this section shall apply to shipments by means of common carriers operating under the Interstate Commerce Act where such carriers have no knowledge that said shipments contain intoxicating liquors.

(p) Every person convicted of violating any provision of this section shall be fined not less than two hundred dollars (\$200.00) in Queen Anne's County, nor more than five hundred dollars (\$500.00), or imprisoned in the county jail or House of Correction for not less than six months nor more than one year, or be both so fined and imprisoned, in the discretion of the court. If any person shall be convicted of violating any provision of this subtitle and shall subsequently violate any provisions of this subtitle, he shall, upon conviction thereof, be fined not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000.00), and imprisoned in the county jail or the House of Correction for not less than one year nor more than two years. One half of the fines imposed by a circuit court shall be paid to the clerk of the court for use as provided in § 7-507 of the Courts Article, and the other half to the County Commissioners for general county purposes. A certified transcript from the docket of the District Court or a certified copy of the record, under seal, of the clerk of any court shall be sufficient evidence of a previous conviction or convictions under any section of this subtitle.

In Crisfield the penalty shall be a fine of not less than fifty dollars nor more than one hundred dollars, or confinement in the House of Correction for not less than six months nor more than two years, or both, for each and every offense. In Wicomico County the penalty shall be a fine of not less than fifty dollars nor more than two hundred dollars, or imprisonment in the county jail for not less than three months nor more than six months, or both, for each offense.

(q) This section shall only apply to and be effective in Queen Anne's County, except that subsections (a), (b), (d), (e), (f), (g), and (h) hereof, shall also be effective in the Town of Crisfield, Somerset County, and except that subsections (a), (b), (c), (d), (e), (f), (g), (h), and (n) shall also be effective in Wicomico County.

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