

CHAPTER 66.

RELATING TO THE SALE OF INTOXICATING LIQUORS.

AN ACT Amendatory of Chapter 143 of the Acts of the Twentieth S. F. 263. General Assembly Relating to Intoxicating Liquors, and Providing for the more Effectual Suppression of the Illegal Sale and Transportation of Intoxicating Liquors and Abatement of Nuisances.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That actions to enjoin nuisances as authorized by section 12, of chapter 143, of the acts of the Twentieth General Assembly, may be brought in the name of the State of Iowa, by the district or county attorney of the proper county; and it shall be the duty of such district or county attorney where any such nuisance exists, to institute and prosecute such action for the abatement thereof; *provided*, however if after notice or information given him of such nuisance, said district or county attorney refuse or neglect to bring suit, and prosecute the same with reasonable diligence, then any citizen residing in the county may institute and prosecute such action in the name of the State for the abatement of such nuisance. But nothing in this section shall prevent any citizen of a county from instituting and maintaining in his own name an action under said section 12, of said chapter 143, and to all of such actions, whether brought under the provisions of said section 12 of said chapter 143 or of this act, the provisions contained in this act shall apply. All such actions shall be triable at the first term of court, after due and timely notice of the commencement thereof has been given. Evidence of the general reputation of the place designated in the petition shall be admissa[i]ble for the purpose of proving the existence of such nuisance, and if successful in the action the plaintiff shall be entitled to an attorney's fee of not less than twenty-five dollars, to be taxed and collected as costs against the defendant.

SEC. 2. In any such action the court, if in session, or the judge thereof in vacation shall upon the demand of the attorney or party charged with the management of the cause for the plaintiff, grant a temporary injunction without bond, if it be made to appear to the satisfaction of the court or judge, by evidence in the form of affidavits or otherwise as the court or judge may order, that such nuisance actually exists, or is being maintained, and when the cause is continued at the instance of the defendant, a temporary injunction shall be issued as a matter of course without bond.

SEC. 3. In case of the violation of any injunction granted in such action, the court, or in vacation the judge thereof shall

Chap. 143, acts: 20th G. A. amended.

Actions may be brought in name of State by district attorney.

Neglect to prosecute.

Any citizen may prosecute.

Triable at first term.

Attorney's fee.

Injunction shall be granted.

For violation of injunction.

Proviso.
Penalty.

Code sec. 3404 not to apply.

have power to try summarily and punish the party or parties guilty thereof, as required by section 12 of chapter 143, of the acts of the Twentieth General Assembly; provided, that if the penalty inflicted for such contempt, be imprisonment alone, it shall not be for less than three nor more than six months. The evidence in such proceeding or trial for contempt, may be in the form of affidavits, or on the demand of either party the witnesses shall be brought before the court for examination and the provisions of section 3404 of the Code shall not be held to apply to persons charged with violating injunctions issued under this act and the act to which this is amendatory.

Penalty upon conviction.

Chap. 47, title 25, Code, shall not apply.

SEC. 4. Whoever is convicted of keeping a nuisance as provided in section 12, of chapter 143, acts of the Twentieth General Assembly, shall pay a fine not exceeding one thousand dollars, nor less than three hundred dollars, and costs of prosecution, and the cost shall include a reasonable attorney fee to be assessed by the court, and stand committed until the fine and costs are paid, and the provisions of chapter 47, title 25, of the Code shall not be applicable to persons committed under this section.

Nuisance abated; how.

Proviso.

SEC. 5. If the existence of the nuisance be established either in criminal or equitable action, it shall be abated under the judgment and order of the court, by seizing and destroying the liquor therein, and removing from the building, erection or place, all fixtures, furniture, vessels, and all moveable property, used in or about the premises, in carrying on the unlawful business, and selling the same in a manner provided for sale of chattels under execution, and by securely closing the said building, erection, or place, as against the use or occupation of the same for saloon purposes, and keeping the same securely closed for the period of one year (unless sooner released as hereinafter provided) and any person breaking open said building, erection, or place, or using the premises so ordered to be closed, shall be punished as for contempt as above provided in case of the violation of injunctions, *provided*, however, that when lease hold premises are adjudged to be a nuisance, the owner thereof shall have the right to terminate the lease by giving three days' notice thereof, in writing, to the tenant, and when this is done the premises shall be turned over to the owner upon the order of the court or judge. But the release of the property shall be upon condition that the nuisances shall not be continued, and the return of the property shall not release any lien upon said property occasioned by any prosecution of the tenant.

Proceeds, how applied.

SEC. 6. The proceeds of the sale of the personal property as provided in the preceding section, shall be applied, first: in payment of the costs of the action and abatement, secondly: to the satisfaction of any fine and costs adjudged against the proprietor of the premises and keepers of said nuisance, and the balance if any shall be paid to the defendant.

SEC. 7. If the owner appear and pay all costs of the proceeding and file a bond with sureties to be approved by the

clerk, in the full value of the property to be ascertained by the court or in vacation by the clerk, auditor and treasurer of the county, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within the period of one year thereafter, the court, or in vacation the judge may, if satisfied of his good faith, order the premises taken and closed under the order of abatement, to be delivered to said owner, and said order of abatement cancelled so far as the same may relate to said property, and if the proceeding be an action in equity, and said bond be given and costs therein paid before judgment and order of abatement, the action shall be thereby abated; *provided*, however, that the release of the property under the provisions of this section shall not release it from any judgment lien or penalty, or liability to which it may be subject under any other statute or law.

Owner may pay costs, etc., and abate nuisance.

Proviso.

SEC. 8. In all actions, prosecutions and proceedings under the laws of this state prohibiting the illegal manufacture and sale of intoxicating liquors, the finding of such liquors, except in the possession of one legally authorized to sell the same or except in a private dwelling house, which does not include, or is not used in connection with a tavern, public eating house, restaurant, grocery or other place of public resort shall be presumptive evidence that such liquors were kept for illegal sale; and proof of actual sale shall be presumptive evidence of illegal sale.

Presumption of possession.

SEC. 9. Any person who shall have been convicted of keeping a nuisance under the laws prohibiting the illegal sale of intoxicating liquors, or who shall have been enjoined under the provisions of this act or the act to which this is amendatory, and shall again directly or indirectly engage in such unlawful business, of keeping a nuisance or selling such liquors in violation of law, in the same or any other county in this state, shall upon conviction thereof be punished by imprisonment in the county jail not less than three months or more than one year. But no equitable proceeding, order or judgment shall be construed as a conviction under the provisions of this section.

Penalty for re-engaging in keeping nuisance.

SEC. 10. That section 1553 of the Code, as amended and substituted by chapter 143, of the acts of the Twentieth General Assembly be and the same is hereby repealed and the following enacted in lieu thereof:

Sec. 1553 Code, as amended by Chap. 143, Acts 20th G. A. Repealed.

Sec. 1553. If any express company, railway company, or any agent or person in the employ of any express company, or of any common carrier, or any person in the employ of any common carrier, or if any other person knowingly bring within this state for any other person or persons, or corporation, or shall knowingly transport or convey between points, or from one place to another within this state, for any other person or persons or corporation, any intoxicating liquors, without first having been furnished with a certificate from and under the seal of the county auditor of the county to which said liquor is to be transported or is con-

Substitute.

Penalty for transporting intoxicating liquors.

Costs and attorney's fee.

The offense defined.

Penalty for false statements to procure shipments.

signed for transportation, or within which it is to be conveyed from place to place, certifying that the consignee or person to whom said liquor is to be transported, conveyed or delivered, is authorized to sell such intoxicating liquors in such county. Such company, corporation, or person so offending, and each of them, and any agent of such company, corporation, or person so offending, shall, upon conviction thereof, be fined in the sum of one hundred dollars for each offense and pay costs of prosecution and the cost shall include a reasonable attorney fee to be assessed by the court, which shall be paid into the county fund, and stand committed to the county jail until such fine and costs of prosecution are paid. The offense herein defined shall be held to be complete and shall be held to have been committed in any county of the state, through or to which said intoxicating liquors are transported, or in which the same is unloaded for transportation or in which said liquors are conveyed from place to place or delivered. It shall be the duty of the several county auditors of this state; to issue the certificate herein contemplated, to any person having such permit and the certificate so issued shall be truly dated when issued, and shall specify the date at which the permit expires as shown by the county records.

SEC. 11. If any person for the purpose of procuring the shipment, transportation, or conveyance of any intoxicating liquors from point to point or from one place to another within this state, shall make to any company, corporation or common carrier, or to any agent of such company, corporation or common carrier, or other person, any false statements as to the character or contents of any box, barrel or other vessel or package containing such liquors or shall refuse to give correct and truthful information as to the contents of any such box, barrel, or other vessel or package so sought to be transported or conveyed; or shall falsely mark, brand or label such box, barrel, or other vessel or package, in order to conceal the fact that the same contains intoxicating liquors for the purpose aforesaid; or shall by any device or concealment procure or attempt to procure the conveyance or transportation of such liquors as herein prohibited, he shall upon conviction, be fined for each offense one hundred dollars, and costs of prosecution, and the costs shall include a reasonable attorney fee to be assessed by the court, which shall be paid into the county fund, and be committed to the county jail until such fine and costs are paid. Any peace officer of the county under process or warrant to him directed shall have the right to open any box, barrel, or other vessel or package, for examination if he has reasonable ground for believing that it contains intoxicating liquors, either before or while the same is being so transported or conveyed.

SEC. 12. That section 1558 of the Code, be, and the same is hereby repealed, and the following enacted in lieu thereof, viz: Code, Sec. 1558 repealed.

Section 1558. For all fines and costs assessed, or judgments rendered, of any kind, against any person for any violation of the provisions of this chapter, or costs paid by the county on account of such violations, the personal and real property, except the homestead and the personal property of such person which is exempt from execution, as well as the premises and property, personal or real, occupied and used for the purpose, with the knowledge of the owner thereof or his agent, by the person manufacturing or selling or keeping, with intent to sell intoxicating liquors contrary to law, shall be liable; and all such fines, costs and judgments shall be a lien on such real estate until paid. And where any person is required by section fifteen hundred and twenty-eight (1528) and fifteen hundred and twenty-nine (1529) of this chapter to give bond with sureties, the principal and sureties on such bond, shall be jointly and severally liable for all civil damages, costs and judgments that may be adjudged against the principal in any civil action authorized to be brought against him for any violation of the provisions of this chapter; costs paid by any county for the prosecution or on account of any violation of the law prohibiting the illegal sale of intoxicating liquors, that would be a lien on the property under the foregoing provisions and including costs paid in seizure and condemnation proceedings, may be covered by such county, by the enforcement of such lien by execution, or by action against the owner to subject the property to sale for the payment thereof. And evidence of the general reputation of the place shall be admissa[i]ble on the question of knowledge and written notice given him or his agent by any citizen of the county shall be sufficient to charge the owner with knowledge under the provisions of this section.

Substitute.

Personal and real property subject to costs and fines.

Bondsmen liable for civil damages.

Evidence.

SEC. 13. All acts and parts of acts, inconsistent with this act, are hereby repealed; *provided*, however, that this repeal shall not effect any act done, or right accruing or accrued, or which has been established, nor any action or proceeding commenced before the time this repeal takes effect, nor any offense committed or penalty or forfeiture incurred; and any suit or proceeding pending when the repeal takes effect, or thereafter brought, for any offense committed, or for recovery of a forfeiture or penalty incurred, prior thereto shall be maintained and prosecuted under the law, as in force prior to the taking effect of this act. Acts inconsistent, repealed.

SEC. 14. This act being deemed of immediate importance, shall take effect and be in force, from and after its publication. Publication.

in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 5, 1886.

I hereby certify that the foregoing act was published in the *Iowa State Register and Des Moines Leader* April 8, 1886.

FRANK D. JACKSON, *Secretary of State.*

CHAPTER 67.

APPROPRIATION FOR AGRICULTURAL COLLEGE.

S. F. 123. AN ACT making appropriation for repairs and improvements on the Iowa State Agricultural College and Farm.

Be it enacted by the General Assembly of the State of Iowa:

\$5,300 appropriated.

SECTION 1. That there is hereby appropriated for the purposes hereafter named out of any money not otherwise appropriated sums as follows:

Electric light, \$2,300.

1. For engine for electric light system and improvement thereof, \$2,300.

Gas and laboratory, \$500.

2. For renewing gas supply and for laboratory extension, \$500.

Repairs and contingent, \$2,500.
Proviso.

3. For general repairs and contingent fund, \$2,500: *Provided*, not more than one half of the amount so appropriated shall be drawn during the year 1886.

Approved April 5, 1886.

CHAPTER 68.

APPROPRIATION FOR STATE UNIVERSITY.

S. F. 126. AN ACT for an Appropriation for the Support of the State University of Iowa.

Be it enacted by the General Assembly of the State of Iowa:

Total appropriation, \$52,000.

SECTION 1. That there be and is hereby appropriated out of any money in the State treasury not otherwise appropriated, for the aid and support of the State University of Iowa, the sums herein specified for the following purposes, to-wit:

For deficit, \$20,000.

To supply deficiency or the immediate wants of the University for the current year, \$20,000.