

# SENATE . . . . . No. 279.

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[Senate, No. 204, as amended.]

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## Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Sixty-Nine.

### AN ACT

Repealing Chapter one hundred and forty-one of the Acts of eighteen hundred and sixty-eight, and Acts in addition thereto.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:—*

1    SECT. 1. The one hundred and forty-first chapter  
2 of the acts of the year one thousand eight hundred  
3 and sixty-eight, entitled “An Act to regulate the sale  
4 of intoxicating liquors,” and the several acts in addi-  
5 tion thereto, are hereby repealed; and the eighty-

6 sixth chapter of the General Statutes, together with  
7 all acts and parts of acts repealed by the acts herein  
8 repealed, are hereby expressly revived and re-enacted:  
9 *provided*, that nothing herein contained shall affect  
10 any prosecution now pending, or any penalty or for-  
11 feiture already incurred.

1     SECT. 2. Any person may sell or keep for sale  
2 cider and lager beer, to contain not more than three  
3 and one-half per centum of alcohol, where the same  
4 is not sold, or kept with intent to be sold, at a public  
5 bar or to be drank on the premises; and any person  
6 may manufacture cider or lager beer, to contain not  
7 more than three and one-half per centum of alcohol,  
8 anything in the acts hereby revived to the contrary  
9 notwithstanding: *provided, however*, that the form of  
10 complaints and indictments for the sale or the keep-  
11 ing for sale of intoxicating liquors, heretofore used  
12 under chapter eighty-six of the General Statutes,  
13 shall not be required to be changed.

1     SECT. 3. The commissioner appointed under the  
2 provisions of section one, chapter eighty-six, of the  
3 General Statutes, shall, instead of the compensation  
4 provided for in said chapter, receive an annual salary  
5 of four thousand dollars, payable quarterly, on the  
6 first days of January, April, July and October.

7     He shall also be entitled to receive, on the first day  
8 of January of every year, a sum equal to seven per  
9 cent. upon the amount of capital actually required  
10 and furnished by him to establish and maintain the  
11 said agency. Said capital shall at no time exceed the  
12 sum of forty thousand dollars.

13 After the expiration of six months from the passage  
14 of this act, all liquor of foreign production kept or  
15 sold by said commissioner, shall be imported by him  
16 or under his direction.

17 All profits accruing from the sale of liquors by  
18 said commissioner shall, after deducting such neces-  
19 sary office and incidental expenses as shall be  
20 approved by the governor and council, be paid into  
21 the treasury of the Commonwealth, semi-annually, on  
22 the first days of January and July.

1 SECT. 4. The eighty-sixth chapter of the General  
2 Statutes, and all other acts revived by this act, are  
3 hereby so amended, that the selectmen of towns con-  
4 taining not more than five thousand inhabitants *may*  
5 appoint one or more agents for the lawful sale of  
6 intoxicating liquor, as provided in section seventeen,  
7 chapter eighty-six, of the General Statutes; and any  
8 town or city agent who adulterates or causes to be  
9 adulterated any of said liquors, or sells the same at a  
10 greater advance on their cost than fifteen per cent.,  
11 shall be subject to a fine of not less than one hun-  
12 dred nor more than five hundred dollars, and be im-  
13 prisoned in the house of correction not less than six  
14 months nor more than two years. If any person  
15 employed by any town or city agent violates any of  
16 the provisions of this section, he shall be liable to  
17 the same term of imprisonment.

1 SECT. 5. The governor, with the advice and con-  
2 sent of the council, shall annually appoint and com-  
3 mission a competent person as an "inspector and  
4 assayer of liquors," and the said person shall not

5 analyze liquors for other parties than the state, cities  
6 or towns during the term of his office. He shall,  
7 before receiving his commission, file in the office  
8 of the treasurer of the Commonwealth, a bond to  
9 the Commonwealth in the penal sum of ten thou-  
10 sand dollars, with two or more good and sufficient  
11 sureties, to be approved by the treasurer, for the  
12 faithful performance of the duties of his office. The  
13 said inspector and assayer of liquors shall receive  
14 an annual salary of three thousand dollars, payable  
15 quarterly, on the first days of January, April, July  
16 and October.

17 The duties of said inspector and assayer of liquors  
18 shall be to inspect and analyze all liquors sent to him  
19 by any of the officers of the state duly commissioned to  
20 enforce the criminal laws of the Commonwealth under  
21 the seal of the agent from whom the said liquors were  
22 obtained, keeping a record of the result of his analysis,  
23 and reporting the result of such inspection and  
24 analysis to the officer from whom the said liquors  
25 were received. He shall also analyze the liquors of  
26 the state commissioner, as provided in chapter eighty-  
27 six, section three, of the General Statutes.

1 SECT. 6. Each officer of the state duly commis-  
2 sioned to enforce the criminal law within the Com-  
3 monwealth, shall as often as once in three months,  
4 visit the town or city agent in his locality, take  
5 samples of all liquors kept for sale by the said  
6 agent, allowing the said agent to seal the said  
7 samples with the seal of his agency; he shall then  
8 forward the same to the inspector and assayer of liq-  
9 uors, with a certificate setting forth the kinds of

10 liquors sent, from whom they were obtained, and the  
11 date when obtained; and upon the receipt of the  
12 report of the inspection and analysis of said liq-  
13 uors, if it shall be found that any of the said samples  
14 of liquors were adulterated, he shall immediately  
15 proceed in a prosecution against the said offending  
16 agent, as provided in the preceding sections of this  
17 act. The having adulterated liquors by any of the  
18 said agents, shall be considered *prima facie* evidence  
19 of the intent to sell the same.

20 All intoxicating liquors, other than malt liquors  
21 and wines, containing less than thirty-five per cent.  
22 of absolute alcohol, shall be considered adulterated  
23 within the meaning of this act.

