

HOUSE....No. 79.

[Introduced on leave, by Mr. BURBECK, of Salem. Read and referred to the Committee of the Whole House.]

Commonwealth of Massachusetts.

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

AN ACT

To regulate the Sale of Intoxicating Liquors and for the prevention of the Evils of Drunkenness.

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. At the state election next after the pas-
2 sage of this act, and every fifth year thereafter, there
3 shall be elected by the qualified voters of this Com-
4 monwealth, a commissioner of excise on liquors, to
5 hold office until his successor is chosen and qualified ;

6 which officer, before entering the duties of his office,
7 shall in addition to the oaths prescribed by the consti-
8 tution, take and subscribe an oath that he will faith-
9 fully and impartially perform all the duties of his
10 office, and shall also give bond with sufficient sureties
11 to the treasurer and receiver-general of the Common-
12 wealth, in a sum not exceeding dollars,
13 conditioned to the faithful performance of said duties.
14 There shall also be chosen in each county on the day
15 of the said election two assessors of excise on liquors,
16 one of whom shall be chosen for the term of three
17 years, and the other for two years ; and at the expira-
18 tion of their respective terms, their successors shall be
19 chosen triennially. Said assessors shall take the oaths
20 herein prescribed for the commissioner.

1 SECT. 2. Said commissioner shall be collector-
2 general of all excise and of all sums of money, whether
3 penalties or otherwise, accruing or to be recovered by
4 process of law under the provisions of this act. And
5 he shall have power to appoint deputy collectors, and
6 he may require bonds or other securities from his said
7 deputies ; and each deputy shall have the like author-
8 ity in every respect to collect the duties and taxes
9 levied or assessed within the county or district
10 assigned to him, which by this act is conferred upon
11 the commissioner and collector-general.

1 SECT. 3. It shall be the duty of any person, part-
2 nership, association or corporation engaged in the
3 manufacture or sale of any alcoholic, distilled or fer-
4 mented liquors within this Commonwealth, on or
5 before the day of in the year

6 of our Lord eighteen hundred and six , to
7 make return in writing to one of the assessors for the
8 county in which such manufacture or sale is to be
9 carried on, stating the description of liquors manu-
10 factured or sold, the quantity of each kind so manu-
11 factured or sold, per annum, or if said business shall
12 not have been carried on for a year, then stating the
13 quantity so manufactured or sold, and the time during
14 which said sale or manufacture has been carried on ;
15 and also stating the purposes for which said liquors
16 are manufactured or to be manufactured, sold or to be
17 sold, setting forth particularly whether the same are
18 to be used for medicinal, mechanical or scientific pur-
19 poses, or as beverages, and whether sold at wholesale
20 or retail, and if the latter, whether to be drank on the
21 premises or not, and giving also the usual trade or
22 occupation of the party making the return, and the
23 business in connection with which said manufacture
24 or sale has been or is to be carried on, together with
25 an accurate description of the place or places in which
26 said business or any branch thereof has been and is
27 to be conducted.

1 SECT. 4. If any person engaged individually or
2 as a member of any firm, association or corporation,
3 in any business described in the foregoing section,
4 shall fail to make or cause to be made the return
5 provided for in said section, it shall be the duty of
6 the assessors for the county in which the business
7 aforesaid is carried on, to make out said return, and
8 the same so made out and subscribed by the party
9 owning, possessing or having the care and manage-
10 ment of said business, shall be received as such return.

1 SECT. 5. If any person shall deliver or disclose to
2 any assessor chosen under this act and requiring a
3 return as aforesaid, any false or fraudulent statement
4 with intent to defeat or evade any of the purposes of
5 this act, he shall, upon conviction thereof, be fined in
6 a sum not exceeding five hundred dollars; and the
7 said assessors or either of them are hereby authorized
8 and required in all such cases to make out such
9 return according to the best information they can
10 obtain, and for that purpose they are hereby author-
11 ized to enter into and upon any premises occupied or
12 used by the party so attempting to evade for the busi-
13 ness aforesaid. And from the return so made there
14 shall be no appeal.

1 SECT. 6. If any person shall be absent from his
2 or her residence at the time an assessor shall call to
3 receive the return of said person, it shall be the duty
4 of said assessor to leave at the residence of such per-
5 son, with some person of suitable age and discretion,
6 if present, otherwise to deposit in the nearest post-
7 office, a written note or memorandum, dated on the
8 day of its deposit, addressed to such person, requir-
9 ing him or her to present to such assessor said return
10 within ten days from the date of such note.

1 SECT. 7. If any person engaged in the manufac-
2 ture or sale of liquors as aforesaid, being notified or
3 required as aforesaid shall refuse or neglect to make
4 and deliver his return within ten days from the date
5 of said notice or demand, it shall be the duty of the
6 assessors of the county in which said business is car-
7 ried on, and they or either of them are hereby

8 required and authorized to make up said return as
9 provided in section five of this act, and said return
10 shall be binding on the person so refusing or neglect-
11 ing, and unless said neglect was caused by sickness,
12 the person so refusing or neglecting shall pay the
13 sum of one hundred dollars, to be added to the tax
14 assessed upon said return under the provisions of this
15 act.

1 SECT. 8. In all cases, except when otherwise
2 provided, any person feeling aggrieved by the return
3 recorded against his name, or against the name of
4 the firm, association or corporation of which he is
5 a member, may appeal therefrom to the general
6 board of assessors hereinafter established, and his
7 appeal shall be heard and determined by said board,
8 at a session of said board held for the hearing of
9 appeals, notice of which session, and the names of
10 appellants, with the number of their cases arranged
11 according to the date of filing the same, shall be
12 published in one or more of the daily newspapers
13 published in Boston, and in such of the papers of
14 the county in which the appellants live, as the com-
15 missioner shall determine. Notice of the hearing
16 shall also be given to the appellant by mail seven
17 days at least before the day appointed therefor.
18 The determination of said board shall be final for
19 the purposes of this act, except only, that if the
20 appellant shall claim that he is not engaged, either
21 directly or indirectly, in the manufacture or sale of
22 any liquors described in this act, he may, on proof
23 thereof, recover back the amount paid by him to the
24 collector-general or his deputy under the provisions

25 of this act, in an action of contract against the said
26 collector. In such action no execution shall issue,
27 but a copy of the judgment, endorsed by the col-
28 lector-general, shall be filed with the treasurer and
29 receiver-general, and the amount thereof shall be
30 audited and paid in the same manner as other debts
31 of the Commonwealth are paid.

1 SECT. 9. It shall be the duty of the assessors of
2 each county to record, in books prepared by the
3 commissioner, and according to instructions issued
4 by him, the names, sex, age, color, places of birth,
5 residences and places of business of all persons by
6 whom or for whom returns shall have been made to
7 them, and also the name and places of business
8 of the partnerships, associations and corporations
9 returned by or to them, together with the names of
10 the members or officers thereof. And they shall also
11 prepare alphabetical lists of the names of all such
12 persons, partnerships, associations and corporations,
13 with the returns set against them respectively ; which
14 lists, when prepared, shall be open to the inspection
15 of all parties concerned, for fifteen days after their
16 completion. And the said assessors shall give notice
17 of the time and place of the opening of said lists for
18 examination, by publication in at least one daily
19 newspaper published in the county of Suffolk, and
20 in such newspapers in the respective counties for
21 which said lists are prepared, as the commissioner
22 may determine ; all returns from which no appeal
23 shall have been taken during the said fifteen days,
24 except as hereinafter provided, shall remain final and
25 conclusive on the parties assessed. Notices of appeal

26 shall contain the reason of appeal in full, and shall
27 be given to one of the assessors in writing, who shall
28 immediately, and if so required, in presence of
29 the appellant, enter said appeal upon his record.
30 And at the expiration of said fifteen days a true list
31 of all appeals with the reasons thereof, in the order
32 of their date, shall be transmitted to the commis-
33 sioner, who shall cause the same to be entered in a
34 general docket of appeals to be heard and deter-
35 mined in the manner set forth in the preceding section.

1 SECT. 10. Persons who are not residents of the
2 county where the sale or manufacture of liquors in
3 which they are engaged is carried on, shall receive in
4 addition to the notice of the opening of said lists for
5 examination provided for in the preceding section, a
6 notice by publication in some newspaper in the
7 county in which they reside, if known, or if not
8 known, then by publication of their names in a
9 special list in some daily newspaper printed in the
10 county of Suffolk; and the lists shall remain open for
11 the inspection of non-residents and for appeals by
12 them during thirty days, when the said lists shall be
13 closed with the same effect as regards appealed and
14 unappealed cases as is provided in the preceding
15 section in regard to the returns of residents.

1 SECT. 11. The assessors chosen under this act shall
2 receive six dollars for every day in which they are
3 employed exclusively in performance of their official
4 duties. And not less than eight hours shall be
5 reckoned a day's labor. They shall keep accurate
6 accounts of their official labors in books prepared for

7 that purpose by the commissioner, and also of all
8 sums actually and necessarily expended by them in
9 the performance of their duties. And it shall be the
10 duty of the board of examiners for each county,
11 except Suffolk, and of the board of accounts in
12 Suffolk, to examine and audit such accounts, and if
13 properly vouched and sworn to, to certify the same to
14 the treasurer of the Commonwealth for payment.

1 SECT. 12. The commissioner of excise, together
2 with the assessors for the counties of Suffolk, Middle-
3 sex, Essex, Worcester and Norfolk, are hereby con-
4 stituted a general board of assessors for the Common-
5 wealth. And it is hereby made the duty of said
6 board, after the amount of costs and expenses accru-
7 ing by reason of the use of intoxicating liquors has
8 been ascertained in the manner hereinafter set forth,
9 to ascertain and determine in like manner what pro-
10 portion of the costs and expenses incurred by the
11 Commonwealth and not included in the county esti-
12 mates was incurred by reason of the use of intoxi-
13 cating liquors. And said amount shall be by them
14 added to the amount of the county estimates, and to
15 the amount estimated under the twenty-seventh sec-
16 tion of this act. And the finding and estimate of
17 said board of the whole amount of excise to be raised
18 shall be final and conclusive upon all parties.

19 And after the finding of said general estimate, the
20 said board shall forthwith proceed to apportion,
21 divide and assess the whole amount of said general
22 estimate upon and among all manufacturers of and
23 dealers in intoxicating liquors, as returned by the
24 boards of assessors for the several counties, and as

25 finally corrected and recorded by the said general
26 board of assessors, in the following proportions:—

27 (*First.*) All retailers of distilled liquors shall be
28 assessed double the rate assessed upon retailers of
29 fermented liquors in the same places.

30 (*Second.*) Bar-keepers and retailers of liquors to
31 be drunk on the premises, except as hereinafter pro-
32 vided, to be assessed double the rate assessed upon
33 wholesale dealers in the same places.

34 (*Third.*) Wholesale dealers, distillers, brewers
35 and makers of fermented liquors from the juices of
36 vegetables, fruits and berries, grocers and others sell-
37 ing in quantities of one quart or more, not to be
38 drunk on the premises, and inn-keepers furnishing
39 liquors only to guests at table or in private rooms
40 hired and occupied, in good faith, by such guests, to
41 be assessed at a uniform rate.

42 (*Fourth.*) The amounts assessed upon all and
43 every the persons described in the foregoing list, shall
44 be graduated according to the amount of the popula-
45 tion in the places in which they respectively carry on
46 the business aforesaid, in the following manner:—

47 In a population of ten thousand or less, the rate for
48 each class shall be uniform and equal throughout the
49 Commonwealth, and for every additional ten thousand
50 inhabitants an addition of ten per cent. shall be made
51 to the sum assessed in each case: *provided, however,*
52 that there shall be no increase for any population over
53 one hundred thousand inhabitants; and *provided, also,*
54 that farmers, gardeners and others who make and sell
55 cider or the fermented juices of grapes, berries, fruits
56 and vegetables of their own raising, and with or with-
57 out the addition of sugar, and apothecaries and

58 others who distil liquors for their own use for scien-
59 tific, mechanical and medicinal purposes, and who sell
60 exclusively for scientific, mechanical, sacramental and
61 medicinal purposes, and persons who brew beer and
62 other liquors for their own domestic uses, shall not be
63 subjected to any tax therefor under the provisions of
64 this act; but this shall not be construed to exempt
65 apothecaries and others who sell any alcoholic liquors
66 or compounds to be used as bitters or tonics, or who
67 sell such as patent medicines, unless the same are sold
68 according the prescription of the family physician of
69 the person applying therefor; nor to exempt any
70 persons from making any return required by this act.

71 All persons exempted from paying any excise tax,
72 are nevertheless hereby forbidden to sell liquors with-
73 out taking oath and giving bond to the collector-gen-
74 eral not to violate any of the provisions of this act.
75 And no person being liable to a tax under this act
76 who neglects or refuses to pay the same, or shall sell
77 or manufacture, under the penalties of a fine of not
78 less than double the amount of tax, and imprisonment
79 not exceeding sixty days.

1 SECT. 13. It shall be the duty of the commissioner
2 of excise, annually, and as much oftener as his duties
3 may require, to visit every county of the Common-
4 wealth, and in conjunction with the assessors of the
5 several counties, who together are hereby constituted
6 a board of assessors for the purposes hereinafter set
7 forth, to prepare and record in books prepared under
8 the direction of said commissioner, an accurate
9 account, in tabular form, and systematically arranged
10 for use and reference, of all persons who, on the first

11 day of January in each year, were dependent upon
12 the several towns, cities and counties, either as pau-
13 pers, insane persons or criminals, by reason of their
14 use of intoxicating liquors. Said list shall contain a
15 statement of the names and residences of said parties,
16 of their age, color and sex, and the place of their and
17 their parents' birth; also of their condition, whether
18 criminals, insane persons or paupers, and the number
19 of times they have been committed, the dates of said
20 commitments, and the charges upon which they were
21 so committed.

1 SECT. 14. Said boards of assessors shall also ascer-
2 tain and record in like manner the expense to which
3 every such town, city and county is subjected for the
4 support of said criminals, paupers and insane per-
5 sons, but no item of expense recorded under the pro-
6 visions of this act shall be estimated or recorded more
7 than once in said record.

1 SECT. 15. Said boards of assessors shall also annu-
2 ally make out and record in like manner, an accurate
3 account of the costs of the courts of this Common-
4 wealth in criminal cases, for the year ending the first
5 day of January next, before the completion of said
6 record; including the amount paid for the travel and
7 attendance of jurors, the expense of serving venires,
8 writs and subpœnas, and the attendance of officers
9 upon said courts, and all the expenses attending crim-
10 inal trials in the several police courts and before trial
11 justices, together with the costs of committing lunatics
12 to the state hospitals, and children to the state reform
13 school and the state industrial school for girls. And

14 the said board of assessors shall, thereupon, ascertain,
15 according to their best judgment, what proportion of
16 the whole of said costs was justly incurred by reason
17 of the use of intoxicating liquors by the persons com-
18 mitted as criminals, paupers and insane persons; and
19 if said persons are minors, insane or idiotic, then by
20 reason of the use of intoxicating liquors by one or
21 both of the parents of said person; and shall record
22 the said amount, together with a concise statement of
23 the method by which the results recorded as afore-
24 said were ascertained. And the finding of said boards
25 of assessors, respectively, shall be final and conclusive,
26 unless the general board shall detect therein some
27 manifest error of computation, which they are hereby
28 authorized to correct.

1 SECT. 16. The warden of the state prison, the
2 superintendent of the state almshouses, hospitals,
3 reform school and industrial school, all sheriffs, keep-
4 ers of houses of correction, jails, almshouses and
5 workhouses, clerks of the courts, county treasurers,
6 judges of probate, police courts and trial justices
7 throughout the Commonwealth, and all other public
8 officers who may have in their possession or custody
9 any records or other evidence bearing upon the sub-
10 ject of the costs and expenses herein before mentioned,
11 are hereby required, at all reasonable times, to assist
12 said boards of assessors, or the general board of
13 assessors, in their investigations under this act, by
14 exhibiting their books, records and files, and stating
15 any such pertinent facts within their knowledge as
16 said boards, or the chairman thereof, or the secretary
17 of the general board may require of them.

1 SECT. 17. When the general board of assessors
2 shall have completed their general estimate, apportion-
3 ment and assessment, under section twelve of this act,
4 they shall forthwith cause three copies to be prepared,
5 one of which shall be deposited with the secretary of
6 the Commonwealth, one with the treasurer and
7 receiver-general, and a third shall be delivered to the
8 collector-general of excise. Said copies shall be
9 signed by the members of said general board, or a
10 majority thereof, and a warrant to be framed by the
11 treasurer and receiver-general shall thereupon be
12 issued by said treasurer to said collector for the col-
13 lection of the excise so assessed and apportioned.
14 And said collector, and the sureties on his official
15 bond, shall be charged with the whole sum so assessed,
16 and shall forthwith proceed to collect the same.

1 SECT. 18. In the collection of the excise tax so
2 committed to him, the collector shall have the same
3 powers throughout the Commonwealth, and be sub-
4 ject to the same regulations as are conferred and
5 imposed upon collectors of taxes in chapter twelve of
6 the General Statutes: *provided, however,* that noth-
7 ing in sections five, twenty-three, forty-five and fifty-
8 five of said chapter shall be construed to apply to
9 him, and provided also that wherever taxes are men-
10 tioned in said chapter as assessed upon polls or
11 personal or real estate, or as state, county or town
12 taxes, that the same shall for the purposes of this act
13 be construed to mean, the excise tax; and wherever
14 "assessors" or "treasurer," mayor and aldermen or
15 selectmen, on the action of any city or town are
16 mentioned the same shall be construed to apply to

17 the treasurer and receiver-general, except in sections
18 fifty-two and fifty-three, where the words mayor and
19 aldermen and selectmen shall be held to apply to the
20 governor of the Commonwealth.

1 SECT. 19. No abatement shall be made under this
2 act ; but the auditor and the treasurer and receiver-gen-
3 eral shall together audit the accounts of the collector-
4 general, annually, and as much oftener as they shall
5 decide ; and if it shall appear that the failure of the
6 collector to collect any excise tax or penalty under
7 this act was occasioned by no fault or negligence on
8 his part, they shall by a certificate under their hands
9 discharge him of the whole or so much of said
10 uncollected excise tax, as they may deem just and
11 proper.

1 SECT. 20. The said collector-general shall make
2 return and pay over, on the first Monday of every
3 month, and at all times when his collections shall
4 have exceeded five thousand dollars, to the treasurer
5 and receiver-general, of all moneys collected by him ;
6 and he shall keep safely deposited all sums collected
7 by him or his deputies, in some bank or banks in
8 this Commonwealth, until the same are paid over as
9 aforesaid.

1 SECT. 21. The said commissioner and collector-
2 general of excise, shall give the several county asses-
3 sors all necessary directions and information concern-
4 ing their duties under this act, and shall prepare all
5 forms, books of record, blank returns, schedules,
6 notices and processes whatever, to be used by said

7 assessors or his deputies throughout the Common-
8 wealth. He shall preside at all meetings of the
9 general board of assessors. And all rules made and
10 promulgated by him for the purpose of carrying out
11 the purposes or supplying deficiencies in the pro-
12 visions of this act, shall, when approved by the
13 auditor and treasurer of the Commonwealth, be
14 binding upon all assessors and other officers chosen
15 under this act, and upon all parties assessed.

1 SECT. 22. The assessors chosen under this act are
2 required to make their returns in season to have all
3 their lists returned, examined, corrected, completed
4 and finally closed by the first Monday in July, in
5 each year. The general board of assessors are
6 authorized to appoint a secretary, with a salary, the
7 amount of which, shall be approved by the auditor of
8 the Commonwealth.

9 It shall be the duty of said secretary to prepare the
10 lists described in section seventeen of this act, and to
11 perform such other clerical duties under this act as
12 the said general board may direct.

1 SECT. 23. There shall be paid out of the treasury
2 of the Commonwealth, to the commissioner and
3 collector-general, a salary of five thousand dollars
4 per year, and he shall have a further allowance of
5 five per cent. on all sums collected by him and paid
6 into the treasury, whether for excise, license or penal-
7 ties, to defray his expenses of travel, clerk hire, and
8 the pay of his deputies: *provided, however*, that if
9 said percentage should amount to a sum more than
10 sufficient to meet the actual expenses of said collector

11 as aforesaid, the excess shall be paid by him into the
12 treasury or retained by the treasurer of the Common-
13 wealth.

14 One-half of one per cent. on all sums received by
15 him under this act, shall be retained by the treasurer
16 and receiver-general, and the amount thereof equally
17 divided between him and the auditor, as a compensa-
18 tion for their services under this act.

1 SECT. 24. All books, printed blanks and station-
2 ery used by the commissioner or the assessors, shall
3 be paid for by the Commonwealth, upon a bill of the
4 items thereof, duly certified by the commissioner
5 under oath.

1 SECT. 25. The collector-general shall make return
2 of all his collections to the treasurer annually, on the
3 first Monday of December, and no assessment shall
4 be in any wise invalidated because the sum collected
5 thereupon exceeds or falls short of the amount
6 intended to be raised; but such excess, if any, shall
7 be deducted from the total amount to be assessed the
8 following year; and any deficiency shall be added to
9 the next year's assessment.

1 SECT. 26. The treasurer and receiver-general,
2 assisted by the auditor and commissioner of excise,
3 shall, within ten days after the first day of December
4 annually, set apart from the whole amount of excise
5 tax paid in by the collector-general, a sum sufficient
6 to cover the expenses of the Commonwealth as set
7 forth in section twelve of this act, which said sum
8 shall be added to the regular receipts of the treasury.

9 And thereupon the said treasurer shall apportion and
10 pay over to the county treasurers of the several coun-
11 ties, and to the treasurer of the city of Boston in
12 Suffolk county, in proportion to the population
13 thereof, the amount of said excise tax remaining in
14 his hands, taking therefor the receipt of said treas-
15 urers and notifying the county commissioners thereof.

1 SECT. 27. The county commissioners of the sev-
2 eral counties, and the aldermen of the city of Boston,
3 in the county of Suffolk, within ten days after the
4 receipt of said money from the treasurer, shall pro-
5 ceed, with the assistance of the county assessors, to
6 set apart a sum sufficient to cover the expenses of
7 their respective counties, as set forth in section thir-
8 teen, which sum the respective county treasurers shall
9 add to the general county receipts, and the remainder
10 shall be apportioned by said county commissioners
11 and aldermen to and among the towns and cities of
12 the respective counties, according to their popula-
13 tion. And the county treasurers, and the treasurer
14 of the city of Boston, in the county of Suffolk, shall
15 thereupon pay over the same, according to said
16 apportionment, to the treasurers of the several towns
17 and cities within their respective counties.

1 SECT. 28. In addition to the state and county
2 estimates of costs and expenses, as herein before pro-
3 vided for, it shall be the duty of the general board of
4 assessors to include in their general and final esti-
5 mate the amount of the salaries established under
6 this act, and the total annual expenses of maintaining
7 the state hospital for inebriates provided for by

8 chapter of the acts of this year, together
9 with the amount of the annual interest upon the total
10 cost of erecting or purchasing and fitting up said
11 hospital, and a further sum, equal to ten per cent. of
12 said cost of erecting or purchasing and fitting up ;
13 which last mentioned sum shall be assessed and paid
14 into the treasury of the Commonwealth annually,
15 until all sums expended by the Commonwealth in
16 purchasing, &c., as aforesaid, shall have been repaid.
17 To the whole amount thus computed an addition of
18 ten per cent. shall be made, to defray all incidental
19 expenses, and to cover deficiencies.

1 SECT. 29. The findings and estimates of the
2 boards of assessors for the several counties, and of
3 the general board of assessors, respectively, shall, for
4 the purposes of this act, except as herein otherwise
5 specially provided, be final and conclusive upon all
6 questions, matters and things the consideration and
7 determination whereof is herein committed to them.
8 And a copy of the general assessment, or of any
9 apportionment thereof, or of any item in said appor-
10 tionment, signed by the secretary of the general board
11 of assessors, and certified by the treasurer of the
12 Commonwealth, shall be conclusive of all facts found
13 and matters determined therein, agreeably to the pro-
14 visions of this act, in all proceedings at law, whether
15 criminal or civil, for the enforcement of any of the
16 provisions of this act. And a copy, printed by
17 authority of the secretary of the Commonwealth, may
18 be used in evidence with the same effect as is given
19 to printed copies of statutes in the sixty-third section

20 of one hundred and thirty-first chapter of the General
21 Statutes.

1 SECT. 30. Every person hereafter convicted of
2 drunkenness, shall have his true name, age, color, sex,
3 residence, place of nativity, offence and the date of
4 conviction recorded by the justice or clerk of the
5 court by which he is convicted; and he shall be held
6 in custody until such facts can be ascertained, when
7 he shall be discharged: *provided, however,* if the
8 offender is convicted a third time within one year, he
9 shall, after his third conviction, be committed to the
10 state hospital for inebriates by the judge of probate
11 for any county or either of the justices of the superior
12 court before whom the offender may be brought; said
13 judge having first received a certified copy of the
14 record of his three convictions, and being satisfied of
15 his identity.

1 SECT. 31. The facts so recorded, shall be certified
2 within forty-eight hours after every conviction, by the
3 said clerk or justice, to the clerk of the city or town
4 where the offence was committed, and to the clerk of
5 the city or town of which the offender was an inhab-
6 itant at the date of his conviction; and each of said
7 clerks shall record said facts and the name of the
8 offender in a book kept for that purpose, and shall
9 forthwith cause the same to be placed in a printed list,
10 which shall be set up in two or more public places in
11 the town or city of which he is clerk. Every person who
12 shall hereafter sell any intoxicating liquors shall,
13 annually, provide himself with a certified copy of said
14 list, to which copy he shall add, from time to time, the

15 names of persons subsequently recorded by the city or
16 town clerk, as aforesaid. And any person who shall
17 knowingly sell, or deliver, or cause to be sold or deliv-
18 ered, directly or indirectly, any intoxicating liquors to
19 any person convicted of a first offence, within one year
20 after the date of the record of said conviction, or
21 within two years after the date of the record of a
22 second conviction, or within three years after the date
23 of the record of a third or subsequent conviction,
24 shall, on conviction thereof, be fined for a first offence
25 not less than fifty dollars nor more than one hundred
26 dollars, and for a second offence, not less than one
27 hundred dollars nor more than two hundred dollars,
28 and for a third offence, not less than three hundred
29 dollars, and be sentenced for said last offence not less
30 than one year and not more than five years, in the
31 house of correction. The fines accruing under this
32 section shall be divided equally between the
33 informer and the family of the person to whom said
34 liquor was so sold or delivered; but if said person is
35 unmarried, one-half of said sum shall be paid to the
36 treasurer of the county where said offence was
37 committed.

1 SECT. 32. The penalty for violating any other
2 provision, or neglecting or refusing to perform any
3 duty imposed by this act, except otherwise specially
4 provided, shall be a fine in the discretion of the court,
5 not exceeding five hundred dollars.

1 SECT. 33. Any person convicted of adulterating
2 or changing the character or quality of any liquor
3 after purchase or manufacture of the same, with
4 intent to sell the same as pure and unadulterated,

5 and any person convicted of knowingly and wilfully
6 deceiving purchasers of liquors offered for sale by
7 him or any other person, by representing said liquors
8 to be pure, or imported, or of a certain brand, name
9 or quality, when the same are not pure, imported, or
10 are of a different brand, name or quality than that
11 represented, shall be punished by a fine not exceed-
12 ing five thousand dollars, and by imprisonment in the
13 house of correction or state prison for a period not
14 exceeding two years.

1 SECT. 34. Every person selling or delivering
2 liquors in violation of the provisions of this act, and
3 every person selling or delivering liquors to another,
4 with reasonable cause to believe that the purchaser
5 will become intoxicated thereby, shall (whether con-
6 victed of said violation or not,) be answerable in an
7 action of tort jointly and severally with the said
8 intoxicated person, for all damages and injury to the
9 persons or property of others, committed by said
10 person while so intoxicated: *provided*, it can be
11 shown that the liquor so purchased produced
12 intoxication.

1 SECT. 35. No person shall under any pretence
2 sell or deliver or cause to be sold or delivered to any
3 minor, insane, imbecile or idiotic person, or person
4 under guardianship any intoxicating liquors, without
5 an order in writing for such sale by the parent,
6 guardian or master of said person, unless the same be
7 delivered upon the order or prescription of a physician.

1 SECT. 36. All costs and expenses incurred by pub-
2 lic officers in the execution of this act, unless other-

3 wise provided for by law, shall be defrayed out of the
4 funds paid into the treasury of the Commonwealth,
5 and of the several counties, upon the presentation of
6 vouchers properly audited and at the rates established
7 for other similar proceedings by statute.

1 SECT. 37. Immediately upon the passage of this
2 act, the governor with the advice and consent of the
3 council shall appoint a commissioner of excise on
4 liquors to have all the powers and to perform all the
5 duties belonging to said office, so far as the same can
6 be performed as herein established and set forth, to
7 hold office until his successor is elected and qualified.
8 Said commissioner shall forthwith notify all dealers
9 in intoxicating liquors throughout the Commonwealth
10 to apply for licenses which shall be by him granted,
11 to expire upon the first day of July in the year of our
12 Lord eighteen hundred and sixty-nine, and which
13 shall be computed and graduated according to the
14 plan established by the twelfth section of this act, the
15 lowest rate except for persons exempt by the provi-
16 sions of said section to be twenty dollars in a popula-
17 tion of ten thousand or less. And all persons, selling
18 without a license after the day of
19 next, and all persons violating any of the provisions
20 of this act after said date, are to be punished accord-
21 ing to the provisions herein before made and declared
22 for similar cases, arising after the excise shall have
23 been assessed.

1 SECT. 38. All buildings, lands and tenements
2 occupied for the business of selling or manufacturing
3 intoxicating liquors, shall be held liable for the excise

4 assessed upon the person so selling or manufacturing,
5 whether owned or hired by the person occupying the
6 same for said purpose. And said excise tax shall be
7 a lien upon said real estate, and may be enforced in
8 the manner provided by law for the sale of lands
9 for non-payment of taxes: *provided*, that no land shall
10 be subject to said lien, the owner of which has not
11 consented, actually or impliedly, to its use or occupa-
12 tion for the purposes aforesaid; and the owner of
13 such land or buildings is hereby authorized to enter
14 and expel the lessee or tenant, without notice, who
15 shall so use his premises without his consent. And
16 said excise shall have priority over all other debts and
17 taxes, except national dues and taxes.

1 SECT. 39. The basis of estimates of population in
2 every case under this act shall be the last state or
3 national census next before the assessment made.

1 SECT. 40. Chapter eighty-six of the General
2 Statutes, and all acts and parts of acts inconsistent
3 herewith, are hereby repealed.

1 SECT. 41. This act shall take effect from and after
2 its passage.

