

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on the Twentieth day of March, 1793, and continued by several Prorogations to the Seventh day of June, 1799; in the Thirty-ninth Year of the Reign of Our Sovereign Lord George The Third of Great-Britain, France, and Ireland, being the Seventh, and last, Session of the Seventh General Assembly convened in the said Province. From Richard John Uniacke, The Statutes at Large passed in the General Assembly held in His Majesty's Province of Nova Scotia: A complete index and abridgement of the whole. John Howe and Son, 1805.

39 George III – Chapter 13

An Act for raising a Revenue to repair the Roads throughout the Province, by laying a Duty on Persons hereafter to be Licensed to keep Public Houses, or Shops, for the retail of Spirituous Liquors, and for regulating such Public Houses, and Shops.

Be it enacted, by the Lieutenant-Governor, Council and Assembly, that, from and after the publication hereof, if any person or persons whatsoever, within this province, either by themselves or their wives, or any of their children, or their known or reputed servants, or substitutes under them, directly or indirectly, in any house, shop, warehouse, or other place whatsoever, belonging to the father, or mother, of such child or children, or to the known or reputed master, or mistress, of such servant, or substitute, shall sell, barter or exchange, or deliver upon credit, any rum, brandy, ale, wine, cyder [cider], perry, or other strong liquors, mixt or unmixt, by whatsoever name or names they are, or may be, called, or distinguished, without licence first had and obtained for that purpose, in manner and form as herein after directed, whether such wife, child, children, servant or substitute, so sold, bartered, exchanged or delivered, the same, or not, by the command of such father, mother, master or mistress, or shall hawk, sell, or expose to sale, barter or exchange, or deliver upon credit, any such liquors, mixt or unmixt, by whatsoever name or names they are or may be called, or distinguished, about the streets, wharves, highways, lanes or suburbs, of the town of Halifax, or any other town or place whatsoever within this province, in any manner whatsoever, or upon the water in any ship, boat or vessel, or in any other manner whatsoever, or shall deliver upon credit, or sell, or barter or exchange, or expose the same to sale on any bulk or bulks, stall or stalls, or in any shed or sheds, or on, or in, any other place or places: such person or persons, and the father, or mother, of such child or children, and the reputed master or mistress of such servants, or substitutes, shall forfeit, for every offence, a sum not exceeding ten pounds, nor less than five pounds. And it shall and may be lawful for any two justices of the peace within this province, on their view, or on confession of the party, or by proof on the oath of one credible witness, to convict any person or persons so offending; and the person or persons so convicted shall immediately on such, and every other like, conviction pay the amount of such fines or forfeitures into the hands of such justices: and on such offender or offenders refusing or neglecting to pay the said sum, together with the charges of prosecution, it shall and may be lawful for such justices to issue a warrant, under their hands and seals, for the levying the same, by distress and sale of the offender's gods and chattles, and if no sufficient distress can be found, then the said justices shall, by warrant under their hands and seals, commit the offender, or offenders, to His

Majesty's goal, within the county, where the offence shall be committed, there to remain in close confinement, or be put to hard labour for the space of three months, or until he, or she, shall have fully paid, and satisfied, the said fine, and charges as aforesaid; or otherwise, to be bound out by said justices, for any time not exceeding three months, to serve and labour for any person who will pay the fine and costs. Provided, that all prosecutions, in pursuance of this act, shall be made within three months after the offence committed.

II. And be it further enacted, that every person having licence to sell any spirituous liquors, wine, ale, beer, cyder [cider] or perry, shall, within ten days after obtaining such licence, hang out a sign, or inscription, with their names thereon, setting forth that spirituous liquors are there to be sold by licence, on pain of forfeiting five pounds for each and every such neglect.

III. And be it further enacted, that if any person or persons, not having obtained a licence therefor, shall presume to hang out, or suffer to remain, any sign or inscription whatsoever, importing that rum, or other distilled spirituous liquors, wine, ale, beer, cyder, or perry, are there sold, otherwise than by wholesale, upon proof thereof, in manner and form herein described, such person shall be subject, and liable, to the like penalties and forfeitures as persons convicted of selling spirituous liquors without license.

IV. And be it further enacted, that if any person or persons, either by themselves or their wives, or any of their children, or known or reputed servants, or substitutes under them, directly or indirectly shall presume to sell any rum, brandy, wine, ale, cyder, perry, or other strong liquors, mixt or unmixt, by whatsoever name or names they are or may be called or distinguished, by virtue of, or under pretence of, licence obtained as in this act is directed, in any other place than at the house or place where such person or persons themselves shall, bona fide, actually and constantly reside and dwell, upon conviction thereof, such person or persons shall be subject, and liable, to the like pains and penalties as persons convicted of selling spirituous liquors without licence: and the same shall and may be prosecuted for, paid, levied and disposed of, in like manner as is directed by this act.

V. And be it further enacted, that it shall and may be lawful for the grand juries of the several counties and districts of this province, and they are hereby required to nominate and recommend to the justices of the peace, at their general or quarter sessions for the said counties and districts respectively, first to be held after the publication hereof, and at the spring sessions annually afterwards, as many fit and proper persons of good fame, and of sober life and conversation, as they shall judge necessary to be licensed to sell spirituous liquors, or to keep taverns, or houses of public entertainment, in the several towns, and on the several roads, of this province, lying within their respective counties or districts, setting forth, in such nomination, the several townships, and the streets, lanes or roads, in or upon which the said persons respectively dwell; and the justices shall, out of such list, at their next general sessions of the peace after the publication hereof, and at the next spring sessions in every year afterwards, grant to as many of the persons so nominated, as they shall see fit, licenses to sell wine, porter, beer, ale, rum, brandy, and all kinds of spirituous liquors, and

shall then and there cause each, and every person so licensed, to enter into a recognizance, with one good and sufficient surety, in the penal sum of fifty pounds, that he, she or they, shall well and truly comply with, and yield obedience to, the laws of this province already made, or to be hereafter made, in relation to persons licensed to sell liquors, and shall keep and maintain good order in the said tavern, or house of entertainment, and shall not suffer any raffle, or raffles, the using, or playing, of any kind of game, or games, whatsoever therein, and shall duly pay into the hands of the clerk of the licenses, his, her and their, quarterly payments, within ten days after such payments shall become due, and the clerk of the license, where such license shall be granted, shall receive for his fees, from each person so licenced, for the licence and recognizance, five shillings, and no more.

VI. And be it also enacted, that each and every person, to whom license for selling wine, ale, cyder or perry, rum, or other distilled spirituous liquors, within the peninsula of Halifax, shall be granted, shall pay for the same the sum of six pounds per annum: one fourth part whereof shall be paid to the clerk of the licences, on or before the granting of such licence, and the remainder to be paid quarterly, three months in advance; and that there shall be paid by every person who shall obtain licence, as aforesaid, in every other town and place within the said province, three pounds per annum, to be paid quarterly, and in advance, as aforesaid. Provided always, that it shall be in the power of the said justices, in their general or quarter sessions of the peace, from time to time, on the recommendation of the grand jury, and at the discretion of said justices, to grant licence, or licences, gratis, to any person or persons living on roads, which are remote, and little frequented, for the encouragement of such persons, keeping houses of entertainment on such public roads, for the accommodation of travellers.

VII. And be it further enacted, that the justices aforesaid shall, on the first day of their spring sessions of the peace, appoint one certain day, during their said spring session, whereon to grant licences as aforesaid: on which day the clerk of the licences shall, and is hereby required to, attend the said justices to receive the quarters advances from the several persons licensed as aforesaid, and to take a list of their names and places of abode, and all licenses granted at any other time, or in any other manner, shall be void. Provided, that if any person or persons, recommended as aforesaid by the Grand Jury, shall neglect or refuse to attend on the day or days to be appointed as aforesaid for the granting of licences, or shall neglect or refuse then and there to enter into recognizance, with one surety, as herein before provided, or shall not pay, to the clerk of the licences, one fourth part of the said licence money in advance; or in case any person, licensed, should die, or his or their licence be taken away, or otherwise become vacant, then, and in all such cases, it shall be lawful for the said justices, at any time during the same sessions, or in any succeeding sessions, to appoint, and grant, such licence or licences to any other person or persons of good fame, and a sober life, living near the person whose licence may become vacant as aforesaid, or so neglecting or refusing to comply with the conditions required by this act, he, she or they, so to be licensed instead thereof, giving the security, and paying the fees and advances, hereby required.

VIII. And be it further enacted, that the said justices shall not grant a tavern licence to any person (except in the town of Halifax) unless he, she or they, shall keep a house of public entertainment for travellers: and every person, obtaining such tavern licences, shall cause a sign to be set up over or near the door of such tavern, with his or her name thereon, and a plain inscription, setting forth, that entertainment may be had there for man and horse, and shall also keep and have in his or her house, two good beds, over and above what may be required for the lodging of his or her family and servants; and shall also be sufficiently provided with good and wholesome victuals, and drink, for the accommodation of travellers, and with stables, hay and provender, for horses, in default whereof it shall be lawful for the justices in sessions, on complaint thereof, by one or more witnesses upon oath, to take away such licences as forfeit.

IX. And be it further enacted, that if any tavern-keeper, retailer of spirituous liquors, vintner, or other person, keeping a public house of entertainment within this province, shall, on any pretence whatsoever, suffer any disorderly persons, or any hired man, or woman servant, apprentice, male or female, or any person or persons under the age of twenty-one years, to resort to such tavern, or public house, at any time or times of the day, or night, throughout the week, there to idle, or misspend, his, her or their, time, or to have any liquor to drink therein, or shall entertain, or suffer, on the Lord's day, any of the inhabitants of Halifax, or of any of the towns respectively, where such tavern-keepers, retailers of spirituous liquors, vintners, or other persons keeping public houses of entertainment, respectively dwell; or others, not being strangers, or lodgers, in such houses, or such as come thither for necessary dieting and victualling only, to abide or remain, in or about their dwelling-houses, drinking, or idly spending their time; it shall be lawful for any one of His Majesty's justices of the peace for the county, either on his own view, or on the information of one credible witness, to cause the person or persons, offending against this clause, or any matter or thing herein contained, to be apprehended, and committed prisoner to the county jail, unless such offender, or offenders, shall enter into a recognizance, before such justice, with one or more sufficient bondsmen, for his, her, or their appearance, at the next General Sessions of the Peace, there to answer such complaint; and, in the mean time, to be of good behaviour, and also to bind over the witness or witnesses, to prosecute at such sessions: and it shall and may be lawful for the Grand Jury, of their own knowledge, or on the information of one or more credible witness, to make presentment, or to prefer a bill of indictment, against such offender, before the justices of the peace, at their general or quarter sessions for the county, or district, where the offence shall have been committed; and such tavern-keepers, retailers of spirituous liquors, vintner, or other person, keeping a public house of entertainment, being duly convicted by the verdict of a jury, upon such presentment, and indictment, shall forfeit his licence, and shall also pay the penalty of his, her or their, bond or recognizance, taken pursuant to the fifth section of this act, for such offence. And every such tavern-keeper, retailer of spirituous liquors, vintner, or other person keeping a public house of entertainment, shall cause the whole of the fifth and ninth sections of this act, written or printed in a plain and legible manner, to be affixed or set up in some conspicuous part of his or her tavern, shop, and in every room in his or her house set apart, or commonly used, for the entertainment of travellers or other persons: and there to remain as long as

such tavern-keeper, retailer of spirituous liquors, vintner, or other person keeping a public house of entertainment, shall hold such licence, on pain of forfeiting such licence for any neglect thereof.

X. And be it further enacted, that, from and after the publication of this act, the justices of the peace, in the several counties in this province, in their general or special sessions of the peace, shall and may grant licences to persons keeping shops and vending goods, wares and merchandise, for the selling wine, beer, ale, cyder or perry, rum, or other distilled spirituous liquors, in quantity not less than one quart, delivered at one and the same time; (the town and suburbs of Halifax excepted: within which it shall be lawful for persons, having shop licences, to retail a quantity of spirits not less than one jill, delivered at one and the same time) and there shall be paid for such licence, by the person taking out the same, if residing within the township of Halifax, the sum of four pounds per annum; and if residing within any other township or place in the Province, the sum of forty shillings per annum, and five shillings to the clerk of the licence for making out the same: which payment shall be made in advance in manner herein before directed. Provided always, that if any person, so taking out a shop licence, shall sell or deliver any quantity of wine, ale, beer, cyder or perry, rum, or other distilled spirituous liquors, less than one quart, (the town and suburbs of Halifax only excepted as aforesaid) or shall on any account permit or suffer any wine, ale, beer, cyder or perry, rum or other strong liquors, to be sold for the purpose of being drank or consumed in his or her shop or house: such person or persons so offending shall be subject to the like prosecutions, penalties and forfeitures, as persons selling spirituous liquors without licence. And every person taking out such shop licence shall cause the whole of the tenth section of this act, written or printed in a plain legible manner, to be affixed up in some conspicuous part of his or her shop, and there to remain during the continuance of his or her licence, on pain of forfeiture thereof.

XI. And be it further enacted, that all licences which shall be granted in the present year, by virtue of this act, shall not continue or be in force for a longer time than until the next ensuing general sessions of the peace, to be held in each county or district in the year of our Lord one thousand eight hundred: and all licences to be afterwards granted shall continue and be in force for one year, and no longer, after their dates respectively; and any person or persons who shall continue to sell for a longer time, without taking out a new licence, shall be subject to the like prosecutions, penalties and forfeitures, as persons selling spirituous liquors without licence.

Provided always, that nothing in this act contained shall extend, or be construed to extend, to prevent or debar any merchant, shop-keeper or other person, not licensed to retail rum, or other distilled spirituous liquors, wine, ale, beer, cyder or perry, from selling any quantity of such liquors, not less than one gallon, delivered at one and the same time.

XII. And be it further enacted, that when any information, presentment or indictment, shall be made against any person or persons, offending against this act, and any person or persons shall be summoned to give evidence relative thereto, and that any such person so

summoned, shall neglect, or refuse, to give his, or her, attendance, at the time and place mentioned in the summons, not having any just cause therefor, to be allowed of by the justices before whom such information, presentment or indictment, shall be made, or shall wilfully withdraw himself, or herself, before sworn, or shall wilfully refuse to be sworn, or shall refuse to give his, or her, evidence, in every such case the party so offending, shall forfeit and pay the sum of ten pounds: to be levied by warrant of distress and sale from the said justices on the offender's goods and chattels; and for want of such distress such person or persons shall be committed to jail, there to remain for the space of three months, or until the said sum of ten pounds shall be paid; provided nevertheless, that no person shall be obliged to give evidence on any information before such person be paid or secured their reasonable charges for attendance: to be allowed of, and ordered by, such justices, and payable out of the monies arising by virtue of this act.

XIII. And be it further enacted, that all the monies arising from the conviction of any person or persons for the breach of any part of this act, shall, after deducting the charges of prosecution, be paid by the justices before whom the same shall be recovered: one half to the person or persons who shall inform and sue for the same, and the remaining half part to the clerk of the licences, to be by him accounted for and applied as herein after directed.

XIV. And be it further enacted, that the clerk of the licences, for the county of Halifax, shall once every quarter render a just account of, and pay into the hands of the treasurer of the province, all such monies as shall be by him received, as well for the licence duties as for any fines and penalties incurred by this act (first deducting thereout seven and a half per cent for his trouble therein): to be applied, under the direction of the Governor, Lieutenant-Governor, or Commander in Chief for the time being, for the repairs of the public roads in the town of Halifax, or within ten miles thereof. Provided always, that before it shall be lawful for the treasurer of the province to pay to any person or persons, whatsoever, any sum or sums of money, whatsoever, out of the monies hereafter to be received into the treasury of this province by virtue of this act, the account or accounts of the expenditure of such money or monies shall be duly rendered on oath to the justices of the sessions for the county of Halifax, who, by and with the assistance of the grand jury of said county, are hereby authorised and empowered to audit and examine said accounts, and to certify to the Governor, Lieutenant-Governor, or Commander in Chief for the time being, that it appears to such justices and grand jury that such account or accounts are just and true, and that the amount of such account or accounts has been faithfully applied to the making or repairing the streets, roads or bridges, within ten miles of the said town of Halifax: which account, so certified, shall be annexed to the warrant for payment of the same. And the clerk of the licences, for the other counties and districts of this province, shall also once every quarter render a just account, and pay into the hands of the respective treasurers of such county or districts, all monies and fines received by them by virtue of this act (deducting thereout seven and a half per cent as aforesaid): which monies are hereby appropriated, and shall be applied by the justices of the several counties or districts of this province, by and with the advice of the grand juries for such county or district, to the making, opening and repairing,

the public roads, making or repairing bridges, or establishing ferries, throughout the several counties or districts within which such monies shall have been collected.

XV. And be it further enacted, that if any clerk of the licences, shall neglect to render such account, or to pay over the monies remaining in his hands, at the times, and in the manner aforesaid, he shall forfeit and pay to His Majesty, for every such neglect, double the sum he shall so retain, to be recovered, and applied to the several purposes, herein before appointed by this act.

XVI. And be it further enacted, that the clerks of the licences shall, and may, at such times and periods as they shall see fit, visit the taverns, retail shops, and public rooms, of persons holding licences, to see that the several provisions of this act are complied with, and shall and may, and are hereby required and commanded, to prosecute all offenders against this act, and shall be sworn faithfully to carry this act into execution, to the best of his or their power and ability, and to discharge honestly and justly, all the several duties herein and hereby imposed on him or them.

XVII. And be it further enacted, that in case any person or persons keeping taverns, retail shops, or public rooms, or any person or persons being in or about such tavern, shop or room, at the time the clerk of the licence may be visiting the same, shall interrupt or assault the said clerk while in the execution of this act, the said person or persons shall be liable to be indicted, and, if convicted, fined or imprisoned for every such offence.

XVIII. And be it further enacted, that it shall and may be lawful for the Governor, Lieutenant-Governor, or Commander in Chief for the time being, to appoint, during pleasure, the clerk of the licenses for the town and county of Halifax, and for the grand jury in the several other counties and districts, shall be vacant, to return to the justices in their general sessions, three fit and proper persons to fill such office, one of whom, the justices in their said sessions, shall appoint clerk of the licences for such county or district, during pleasure.

XIX. And be it further enacted, that it shall not be lawful for any tavern-keeper within this province, hereafter to sell, vend or expose to sale, in or about his, or her tavern, any goods, wares or merchandise whatsoever, other than the victuals and drink necessary to be used and consumed, and which are usually used and consumed in taverns, nor shall it be lawful for such tavern-keeper to suffer the same to be done; and any person or persons offending against the provisions contained in this clause, shall forfeit and pay the penalty of twenty pounds for each and every offence; to be recovered and applied in the manner herein last before mentioned.

XX. And be it further enacted, that so often as one quarter's payment for a tavern or a shop licence shall be due, and unpaid to the clerk of the licence ten days after the same shall be due, it shall and may be lawful for the clerks of the licence, to bring an action on such person's bond, against himself, on his or her surety or sureties, before any one of His Majesty's justices of the peace, for the amount of such quarter's licence duty, and such

justice shall give judgment for the same, and grant execution for such quarter's duty and costs against such debtor, and his or her surety or sureties.

XXI. And be it further enacted, that this act shall be publicly read by the clerk of the peace on the first day of the spring sessions, in every county throughout this province.

XXII. And be it further enacted, that this act shall continue, and be in force, until the thirty first day of July, which will be in the year of our Lord one thousand eight hundred and no longer.