PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

LIQUOR CONTROL ACT

PLEASE NOTE

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*** on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca

LIQUOR CONTROL ACT

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LIQUOR CONTROL ACT
CHAPTER L-14

INTERPRETATION

1. Definitions

In this Act

(a) "**alcohol**" means a product of fermentation or distillation of grains, fruits or other agricultural products, and includes synthetic ethyl alcohol;

(a.1) repeal by *2005,c.11,s.1;*

(b) "**beer**" means any beverage containing alcohol obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in water;

(b.01) "**boat**" means any type of boat, ship, vessel or other craft that is designed or used to travel on water;

(b.1) "**club**" to which a liquor license may be granted under this Act, means a club that, in the opinion of the Commission,

(i) has a clearly defined basis of membership and reasons for existence other than selling liquor,

(ii) is non-proprietary and is not operated for pecuniary gain or personal profit of any member, officer or shareholder thereof,

(iii) has regular hours of operation, and

(iv) has premises that are of a high standard as to décor, furnishings, equipment and service;

(c) "**Commission**" means the Commission appointed under this Act under the name of the "Prince Edward Island Liquor Control Commission";

(c.1) "**Corporation**" means the Prince Edward Island Cannabis Management Corporation established under section 3 of the *Cannabis Management Corporation Act* R.S.P.E.I. 1988, Cap. C-1.3;

(d) repealed by *2006,c.16,s.63(8)(a);*

(e) "**dentist**" means a duly qualified and registered dentist or dental surgeon practising as such in this province;

(e.1) "**dwelling-house**" means

(i) the whole or any part of a building or structure that is kept or used by the owner or lessee as a residence and includes any surrounding buildings or structures used in conjunction with the residence,

(ii) a unit that is designed to be mobile and used as a permanent residence and is being used by the owner or lessee as a permanent residence, and

(iii) a boat that is moored, anchored or otherwise secured to a stationary dock or land and is being used by the owner or lessee of the boat solely as a residence;

(e.2) "**ferment on premises facility**" means premises where equipment for the making of beer or wine on the premises is provided to individuals;

(f) repealed by *2005,c.11,s.1;*

(g) repealed by 2022,c.62,s.41(2);

(g.1) "**holiday**" means a holiday as defined in the *Retail Business Holidays Act* R.S.P.E.I. 1988, Cap. R-13.02;

(h) "**hotel**" means any place where the public may for a consideration obtain sleeping accommodation, with or without meals;

(i) "**inspector**" means an inspector appointed by the Commission under this Act;

(j) "**license**" means a license granted or issued under this Act or the regulations;

(k) "**liquor**" means beer, spirits, wine and any other intoxicating beverage containing alcohol, alone or in a mixture, but does not include a beverage containing one-half of one per cent or less of absolute alcohol by volume at 15.5 degrees Celsius;

(k.1) "**liquor agency**" means a liquor agency established under the regulations that is operated by a vendor;

(l) "**liquor license**" means a liquor license granted under this Act or the regulations;

(m) "**motor vehicle**" means a vehicle that is powered, drawn, propelled or driven by any means other than muscular power;

(n) "**package**" means any container or receptacle used for holding liquor;

(o) "**permit**" means a permit issued under this Act for the purchase of liquor or for the purchase and sale of liquor;

(o.1) "**pharmacist**" means a person who is registered as a pharmacist with the College of Pharmacists;

(p) repealed by *2004,c.7,s.1;*

(q) "**possession**" means not only having in one's own personal possession, but also knowingly,

(i) having in the actual possession or custody of any other person, or

(ii) having in any place, whether belonging to or occupied by one's self or not, for the use or benefit of one's self or of any other person;

(q.1) "**prohibited premises**" means premises that are subject to an order made under section 82.1 declaring the premises to be prohibited premises;

(r) "**provincial court judge**" means a provincial court judge appointed under the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25.1;

(s) "**public place**" includes any place, building or conveyance to which the public has or is permitted to have access and any place of public resort;

(t) "**regulations**" means regulations made by the Commission and approved by the Lieutenant Governor in Council under this Act;

(u) repealed by *2004,c.7,s.1;*

(v) "**sale**" or "**sell**" includes, in respect of liquor,

(i) the exchange or barter of, or the traffic in, liquor,

(ii) the sale, supply or distribution of liquor by any means, directly or indirectly, and

(iii) the advertisement, display or offer of liquor for sale;

(w) "**second or subsequent offence**" means an offence committed within three years of the date of a previous conviction;

(w.1) "**spirits**" means any beverage containing alcohol obtained by distillation and includes brandy, gin, moonshine, rum, vodka, whiskey and spirit coolers;

(x) "**store**" means a store established by the Commission under this Act for the sale of liquor;

(y) "**vendor**" means a person appointed under this Act

(i) as the manager of a store, or

(ii) as a vendor authorized to operate a liquor agency;

(z) "**wine**" means any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples, or other agricultural products containing sugar, including honey, milk. *R.S.P.E.I. 1974, Cap. L-17, s.1; 1975, c.52, s.1; 1975, c.78, s.3; 1984, c.25, s.1; 1992, c.43, s.1; 1993, c.29, s.4; 1994, c.36, s.1 {eff.} Nov. 26/94; 1997,c.20,s.3; 2000,c.5,s.3; 2001,c.42,s.1; 2004,c.7,s.1; 2005,c.11,s.1; 2006,c.16,s.63(8)(a); 2007,c.27,s.1; 2009,c.77,s.1; 2012,c.24,s.1; 2014,c.39,s.62; 2016,c.12,s.1; 2016,c.13,s.1; 2018,c.20,Sch. 2-s.32(2); 2021,c.39,s.1; 2021,c.15,s.59; 2022,c.62,s.41.*

PRINCE EDWARD ISLAND LIQUOR CONTROL COMMISSION

2. Commission continued

(1) A commission known as the "Prince Edward Island Liquor Control Commission" consisting of five members appointed by the Lieutenant Governor in Council, is continued with the powers and duties herein specified.

Administration of Act in Commission

(2) The administration of this Act, including the general control, management and supervision of all vendors and stores, is vested in the Commission.

Body corporate

(3) The Commission is a body corporate having capacity to contract and to sue and be sued in the name of the Commission, and to have a common seal which may be altered from time to time.

Agent of Crown

(4) The Commission is for all purposes an agent of the Government and its powers under this Act may be exercised by it only as an agent.

Property

(5) Property acquired by the Commission is the property of the Government, and title thereto may be vested in the name of the Government or in the name of the Commission.

Actions by or against, in name of

(6) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Commission, whether in its name or in the name of the Government, may be brought or taken by or against the Commission, in the name of the Commission in any court that would have jurisdiction if the Commission were not an agent of the Government.

Power of commissioner under *Public Inquiries Act*

(7) A member of the Commission has the powers of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31 for the purposes of this Act. *R.S.P.E.I. 1974, Cap. L-17, s.2; 1975, c.52, s.25; 1997,c.1,s.1; 2022,c.62,s.41.*

3. Head office of Commission

The head office of the Commission shall be in the City of Charlottetown, County of Queens in the Province of Prince Edward Island, or in such other location as the Lieutenant Governor in Council may determine. *R.S.P.E.I. 1974, Cap. L-17, s.3;2001,c.42,s.2.*

4. Duties of Lieutenant Governor in Council

The Lieutenant Governor in Council shall

(a) appoint the members of the Commission;

(b) specify what number of members constitute a quorum of the Commission;

(c) fix the salaries of members of the Commission;

(d) appoint a vice-chairman who shall perform the duties assigned by the Commission. *R.S.P.E.I. 1974, Cap. L-17, s.4; 1975, c.52, s.2; 2001,c.42,s.3.*

5. Chairman

(1) The Lieutenant Governor in Council shall designate one of the members of the Commission to be chairman and the chairman shall preside at meetings of the Commission.

Acting chairman

(2) Whenever it appears that a member of the Commission has acted for and in place of the chairman, it shall be conclusively presumed that he has so acted in the temporary absence or disability of the chairman.

Vice-chairman

(3) The vice-chairman may, in the absence of the chairman, exercise all the powers and authority of the chairman, and everything done by the vice-chairman in the capacity of chairman, shall be of the same force and effect as if done by the chairman. *1997,c.1,s.2 {eff.} May 1/97; 2001,c.42,s.4.*

5.1 Chief Executive Officer

(1) The Lieutenant Governor in Council shall appoint a Chief Executive Officer of the Commission who shall

(a) have the status of a Deputy Minister for the purpose of the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8;

(b) supervise the administration and management of the affairs of the Commission;

(c) perform such other duties as the Lieutenant Governor in Council may assign;

(d) be paid such remuneration as the Lieutenant Governor in Council may determine.

Term of office

(2) The Chief Executive Officer shall hold office for such term as may be specified in his instrument of appointment. *1997,c.1,s.2 {eff.} May 1/97.*

6. Term of office

(1) The term of office of members of the Commission including the chairman, is three years.

Reappointment

(2) Members are eligible for reappointment but shall not serve more than two consecutive terms.

Vacancy

(3) The Lieutenant Governor in Council may fill any vacancy occurring on the commission, but no vacancy in the membership of the Commission impairs the right of the remaining members to act. *1993,c.13,s.1; 1997,c.1,s.3 {eff.} May 1/97.*

7. Functions, duties & powers of Commission

(1) The Commission has the following functions, duties and powers:

(a) to buy, import and have in its possession for sale, and sell, liquors, in the manner set forth in this Act;

(b) to control the possession, sale and delivery of liquors in accordance with this Act;

(b.1) to conduct or support initiatives and programs that promote responsible liquor consumption and warn of the harm caused by irresponsible liquor consumption;

(c) to determine the locations where stores or liquor agencies will be established in the province;

(c.1) in accordance with this Act and the regulations, to establish liquor agencies, to appoint vendors to operate liquor agencies, and to regulate the conduct of vendors and the operation of liquor agencies;

(d) to grant or issue, or to decline to grant or issue, permits for the purchase of liquor, and to suspend or cancel such permits;

(e) to lease, furnish and equip any building or land required for the operation of this Act;

(f) to buy or lease plants and equipment necessary and useful in carrying into effect the objects and purposes of this Act;

(g) with the approval of the Lieutenant Governor in Council,

(i) to acquire by purchase, lease, exchange, hire or otherwise and to hold land, buildings, easements, privileges, licenses, concessions, rights and powers and, generally property of all kinds, whether real or personal, movable or immovable, or any interest therein, for the objects and purposes of this Act,

(ii) to construct, erect and maintain either by the Commission or other parties on the land of the Commission or upon any other lands or property, buildings, roads, sewers and all other works, erections and things of any description whatsoever and whether of the foregoing kind or not, and generally to alter, improve, or otherwise deal with the lands and other property of the Commission,

(iii) to borrow or raise money for any of the purposes of this Act in such manner as the Commission shall think fit and, in particular by the issue of bonds, debentures or any other security whatsoever whether of the foregoing kind or not, and to secure the repayment of any money borrowed, raised or owing by the Commission by mortgage, charge or lien upon the whole or any part of the Commission's property or assets, whether present or future, and also by a similar mortgage, charge or lien to secure and guarantee the performance by the Commission of any obligation or liability it may undertake;

(h) repealed by *2016,c.12,s.2;*

(i) to determine the nature, form and capacity of packages used for containing liquor kept or sold under this Act;

(j) to grant or issue, or to decline to grant or issue, licenses under and pursuant to this Act, and to suspend and cancel such licenses;

(j.1) to attach terms and conditions to a license granted or issued under this Act or the regulations;

(j.2) to impose sanctions, including, but not limited to, fines on licensees and permit holders for a violation of or failure to comply with a provision of this Act or the regulations or a condition attached to the license or permit;

(k) to suspend any vendor, officer, clerk or other employee appointed under this Act;

(l) without in any way limiting or being limited by the foregoing, to do all such things as are considered necessary or advisable by the Commission for the purpose of carrying into effect this Act and the regulations;

(m) to employ officers, clerks and other employees required for the operation of this Act, subject to the *Civil Service Act*;

(n) to provide advice and assistance, and to enter into agreements, to support the operations of the Corporation, at the request of the Corporation;

(o) to provide services, advice, assistance, goods and other property to the Corporation at the request of the Corporation.

Delegation of functions, duties and powers

(2) The Commission may delegate the following of its functions, duties and powers set out in subsection (1) to an officer or employee of the Commission:

(a) to grant or issue, or decline to grant or issue, a permit;

(b) to grant or issue, or decline to grant or issue, a license;

(c) to attach terms or conditions to a license or permit when granted or issued.

Delegation in writing, terms and conditions

(3) A delegation made pursuant to subsection (2) shall be in writing and may contain any terms, conditions or restrictions the Commission considers appropriate.

Subject to terms, conditions, restrictions in Act or regulations

(4) A delegation made pursuant to subsection (2) is subject to any terms, conditions or restrictions set out in the Act or regulations in relation to the delegated functions, duties or powers of the Commission.

Delegation does not include

(5) For greater certainty, a delegation made pursuant to subsection (2) does not include the function, duty or power to suspend or cancel the permit or license. *R.S.P.E.I. 1974, Cap. L-17,s.7; 1975,c.53,s.4; 1975,c.74,s.1; 1994,c.36,s.2 {eff.} Nov. 26/94; 1998,c.5,s.1; 2001,c.42,s.5; 2007,c.9,s.1; 2012,c.24,s.2; 2013,c.41,s.1; 2016,c.12,s.2; 2018,c.20,Sch. 2-s.32(3).*

7.1 Additional functions, etc. of Commission

(1) The Commission has the following functions, duties and powers in relation to the Corporation:

(a) to enter into written agreements with the Corporation, at the request of the Corporation, providing that the Commission, or any of its officers or employees, shall provide services, advice, assistance, goods or other property to the Corporation;

(b) to take reasonable measures to ensure that any personal information in the custody or control of the Corporation which may be accessed by an officer or employee of the Commission in connection with an agreement referred to in clause (a) is not collected, used or disclosed by the Commission except in accordance with the agreement or as otherwise authorized by law;

(c) to ensure that any costs incurred for the benefit of both the Commission and the Corporation pursuant to an agreement referred to in clause (a) are apportioned appropriately.

Interpretation, "personal information"

(2) In this section, "**personal information**" has the same meaning as in the *Freedom of Information and Protection of Privacy Act*. *2018,c.20,Sch. 2-s.32(4).*

8. Power of Commission to make, amend & repeal regulations

(1) The Commission, with the approval of the Lieutenant Governor in Council, may make regulations for carrying out the provisions of this Act, and for the efficient administration thereof; the regulations shall be published in the Gazette, and upon being so published they have the same force as if they formed a part of this Act, and any such regulations may be repealed by the Commission, subject to the approval of the Lieutenant Governor in Council, and notice thereof shall be published in the Gazette.

Specific subjects of regulations

(2) Without limiting the generality of subsection (1), the power of the Commission to make regulations extends to and includes the following:

(a) regulating the equipment and management of stores or liquor agencies, warehouses and premises in which liquor is kept, sold or manufactured, and prescribing the books and records to be kept therein;

(a.1) requiring licensees operating a ferment on premises facility to provide the Commission with such information and returns respecting the operation of the facility as is prescribed;

(b) prescribing the duties of the officers, clerks and servants of the Commission, and regulating their conduct while in the discharge of their duties;

(c) governing the purchase of liquor and the furnishing of liquor to stores or liquor agencies;

(d) determining the classes, varieties and brands of liquor to be kept for sale at any store or liquor agency;

(d.1) respecting the establishment and operation of liquor agencies;

(d.2) respecting the appointment of a vendor to operate a liquor agency;

(d.3) respecting the renewal, cancellation or suspension of an appointment of a vendor;

(e) repealed by *2007,c.27,s.2;*

(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety or brand of liquor kept for sale under this Act;

(g) prescribing an official seal and official labels and determining the manner in which the seal or labels shall be attached to every package of liquor sold or sealed under this Act including the prescribing of different official seals or different official labels for different classes, varieties and brands of liquor;

(g.1) controlling the advertising of goods and services provided in connection with the making of beer and wine at a ferment on premises facility and requiring that advertisements meet conditions that may be imposed by the Commission;

(h) prescribing forms to be used for the purposes of this Act or of the regulations, and the terms and conditions in permits and licenses issued and granted under this Act;

(h.1) prescribing the forms of identification acceptable as proof of the age of a person;

(i) prescribing the nature of the proof to be furnished, and the conditions to be observed in the issuing of duplicate permits in lieu of those lost or destroyed;

(j) prescribing the kinds and quantities of liquor which may be purchased under permits of any class, including the quantity which may be purchased at any one time or within any specified period of time;

(k) prescribing the form of records of purchases of liquor by the holders of permits, and the reports to be made thereon to the Commission, and providing for inspection of the records so kept;

(l) prescribing the manner of giving and serving notices required by this Act or the regulations;

(m) respecting applications for permits, providing for permits referred to in clause 22(2)(c) and prescribing fees for permits;

(n) providing for all classes of liquor licenses authorized under section 11 and fixing the expiry dates thereof and the fees therefor;

(n.1) prescribing fees for renewal of a liquor license;

(n.2) prescribing sanctions, including, but not limited to, fines for the late renewal of a liquor license;

(n.3) prescribing fees for the amendment of liquor licenses including, but not limited to, amendments required as a result of

(i) alterations to the licensed premises,

(ii) changes to the business name, operating name or trade name specified in the license,

(iii) changes to the name of the individual or corporation specified in the license, or

(iv) changes in the management or ownership of the licensed premises, including, but not limited to, ownership of the shares of a corporate licensee;

(n.4) prescribing fees for the operation of off-site retail outlets;

(o) providing for the cancellation or suspension of liquor licenses;

(o.1) prescribing the hearing fee that is payable by a licensee or permit holder under subsection 27.1(1);

(p) prescribing terms, conditions, requirements or limitations in respect of liquor licenses or any class thereof or any liquor licenses;

(p.1) prescribing the qualifications and duties of persons who work in ferment on premises facilities;

(p.2) prescribing standards for ferment on premises facilities;

(p.3) prescribing, restricting or prohibiting methods and practices in connection with the making of beer or wine at ferment on premises facilities;

(q) governing and regulating the premises in respect of which liquor licenses may be or are issued, and the purchase, keeping for sale, sale, serving, having, possessing and consuming the liquor therein;

(q.1) governing and regulating the sampling or tasting of beer or wine on the premises of a ferment on premises facility;

(q.2) regulating and controlling the possession, storage, removal and consumption of beer and wine at a ferment on premises facility;

(q.3) prohibiting operators of ferment on premises facilities and their employees and agents from offering or giving inducements or engaging in prescribed practices with respect to the provision of any service provided at such a facility;

(r) prescribing the days and hours during which liquor may be sold or dispensed on licensed premises or any of them;

(r.1) repealed by *2001,c.42,s.6.*

(r.2) defining words, phrases or terms for which no definition is given under this Act;

(r.3) respecting the beverage service training certificates referred to in subsection 11(3) and section 11.1;

(s) in respect of any other matter or thing in order to give full effect to the terms, intent and purposes of this Act and to carry out the functions and duties and exercise the powers of the Commission.

Idem

(3) Whenever it is provided in this Act that any act, matter or thing may be done, if permitted or authorized by the regulations, or may be done in accordance with the regulations, or as provided by the regulations, the Commission, subject to the restrictions set out in subsection (1), may make regulations respecting such act, matter or thing. *R.S.P.E.I. 1974, Cap. L-17,s.8; 1975,c.52,s.25; 1987,c.45,s.1; 1994,c.36,s.3 {eff.} Nov. 26/94; 1997,c.1,s.4 {eff.} May 1/97; 2001,c.42, s.6 {eff.} June 19/01; 2007,c.27,s.2; 2007,c.9,s.2; 2008,c.21,s.1; 2009,c.77,s.2; 2012,c.24,s.3; 2013,c.41,s.2; 2015,c.34,s.1; 2016,c.12,s.3.*

8.1 Inspectors

(1) The Commission may appoint one or more inspectors whose duties shall be to

(a) inspect all licensed premises;

(b) make reports to the Commission, as required;

(c) carry out such functions as are provided for by this Act and the regulations; and

(d) perform such other duties as the Commission may direct.

Obstruction

(2) No person shall obstruct or attempt to obstruct, or fail to cooperate with, an inspector in the exercise of his or her functions under this Act or the regulations. *2004,c.7,s.3.*

9. Manner of sale & price of liquor

(1) Subject to this Act and the regulations, liquor may be sold in such manner and at such prices as the Commission may by the regulations prescribe.

Stores, establishment and maintenance in province

(2) The Commission shall establish and maintain stores at Charlottetown and Summerside, and at such other locations as the Commission may consider advisable.

Price of liquor

(3) The Commission may fix the prices at which various classes, varieties and brands of liquor may be sold in a store; the prices shall be the same in all stores. *R.S.P.E.I. 1974, Cap. L-17, s.9; 1975, c.52, s.5 & 25.*

LICENSES AND PERMITS

10. Liquor licenses

(1) The Commission may, in accordance with this Act and the regulations, grant liquor licenses to produce, sell or serve liquor on premises to which the license applies and at other locations authorized by the license, and may impose terms and conditions on such licenses.

Rights of liquor license holder

(2) The holder of a valid liquor license may purchase liquor from the Commission, have such liquor in his or her possession, sell or serve such liquor on the premises to which the license applies, and do such other things as are authorized by the license, in accordance with and subject to the terms and conditions of the license and the provisions of this Act and the regulations.

Prohibitions respecting purchase by holder of a liquor license

(2.01) Subject to this Act and the regulations, no holder of a liquor license shall, directly or through an agent or servant, purchase, or otherwise obtain, liquor from another person, other than the Commission, to sell or serve under the license.

License required, ferment on premises facility

(2.1) No person shall operate a ferment on premises facility except under the authority of a liquor license to operate such a facility.

Suspension of liquor licenses

(3) The Commission may in its discretion and for any reason it considers sufficient suspend any liquor license.

Cancellation of liquor licenses

(4) The Commission may, in the manner prescribed by the regulations, for any cause cancel any liquor license and thereupon all rights and privileges of the person named in the liquor license by or under this Act are cancelled.

Security for due observance of Act

(5) Subject to the regulations, the Commission may require the holder of any liquor license to give such security and to comply with such other provisions as the Commission may consider necessary or desirable in order to secure the due observance of this Act.

Rights of Commission *re* issue & refusal to issue liquor license

(6) Notwithstanding anything in this Act, the Commission shall not be compelled to issue any permit, license or liquor license under this Act or the regulations, and may refuse any permit, license or liquor license in its discretion and is not obliged to give any reason or explanation for the refusal. *R.S.P.E.I. 1974, Cap. L-17, s.10; 2009,c.77,s.3; 2013,c.17,s.1; 2016,c.12,s.4; 2021,c.39,s.2.*

11. Classes of liquor licenses

(1) A liquor license may be one of the following classes and no other:

(a) a club license, which shall permit the licensee to have and sell liquor;

(b) a dining room license, which shall permit the sale of liquor;

(b.1) a package sales license, which may be issued to the holder of a dining room license, club license or special premises license, and shall authorize the licensee to sell, to a person who has taken a meal at the licensed premises, in an unopened package for consumption off the licensed premises, liquor of the class, variety or brand, and in the quantity, specified on the package sales license;

(c) a military canteen license, which shall permit the sale of liquor;

(d) a lounge license, which shall permit the licensee to sell liquor by the glass and to sell beer or wine by the glass or open bottle, in his licensed premises;

(e) a brewer's license, which shall permit the licensee to sell to the Commission beer manufactured within the province and to deliver the beer to the Commission at any place in the province when and as authorized by the Commission to do so;

(f) a special premises license, which shall permit the licensee to purchase from the Commission beer, wine and other liquor or any of them as may be specified in the license and to sell or serve beer or wine by the glass, open bottle or other container, and spirits by the glass, for consumption only on the premises licensed and during such period and subject to such conditions as may be specified in the license;

(g) a caterer's license, which shall authorize the holder of a dining room license to purchase liquor from the Commission, to have it in his possession and to sell or serve it in such premises and subject to such conditions as may be specified in the license;

(h) a winery license, of a type specified in the regulations, which shall authorize the licensee to

(i) operate a winery on the licensed premises,

(ii) sell or serve, on the licensed premises and at off-site retail outlets, wine produced at or on behalf of the winery, and

(iii) sell, on the licensed premises, in an unopened package for consumption off the licensed premises, liquor produced by or on behalf of the holder of a winery license, a distiller's license or a micro-brewery license;

(i) a tourist home license, which shall permit the licensee to sell liquor by the glass and to sell beer or wine by the glass or open bottle in an area approved by the Commission subject to such conditions as may be specified in the license;

(j) a distiller's license, which shall authorize the licensee to

(i) operate a distillery on the licensed premises,

(ii) sell or serve, on the licensed premises and at off-site retail outlets, spirits produced at or on behalf of the distillery, and

(iii) sell, on the licensed premises, in an unopened package for consumption off the licensed premises, liquor produced by or on behalf of the holder of a winery license, a distiller's license or a micro-brewery license;

(k) a brew-pub license, which shall authorize the holder to operate a brew-pub and to sell and serve beer produced by the brew-pub on the premises and on such other premises as may be approved by the Commission and subject to such conditions as may be specified in the license;

(l) a micro-brewery license, which shall authorize the licensee to,

(i) operate a micro-brewery on the licensed premises,

(ii) sell or serve, on the licensed premises and at off-site retail outlets, beer produced at or on behalf of the micro-brewery, and

(iii) sell, on the licensed premises, in an unopened package for consumption off the licensed premises, liquor produced by or on behalf of the holder of a winery license, a distiller's license or a micro-brewery license;

(m) a ferment on premises license, which shall authorize the holder of the license to operate a ferment on premises facility to provide goods, facilities and services to persons producing or manufacturing beer or wine in the premises, subject to such terms and conditions as may be specified in the license.

Issuance of several classes to one person

(2) Subject to this Act and the regulations any one or more of the several classes of liquor license may be issued to any person.

Limitations on issuance of liquor license

(3) The Commission may not grant a liquor license except to

(a) a person who

(i) is nineteen or more years of age,

(ii) is, in the opinion of the Commission, of good character and reputation,

(iii) holds a beverage service training certificate, issued by the Commission or such agency or school as the Commission may approve, indicating that the person has successfully completed a responsible beverage service training program approved by the Commission for the purposes of this Act, and

(iv) has, in the opinion of the Commission, sufficient ability and experience to supervise the operation of the premises for which the license is issued;

(b) a partnership, each of the members of which is qualified as provided in clause (a);

(c) a corporation authorized to carry on business in Prince Edward Island if the officer, agent or manager of the corporation who is to be at any time in charge of the premises for which the liquor license is issued is personally qualified as provided in clause (a); or

(d) a club or association whose officers, agents, stewards or other persons who are to be at any time in charge of the premises for which the liquor license is issued are personally qualified as provided in clause (a).

Limitations on issuance of dining room license

(4) Repealed by *2015,c.34,s.3.*

Railway Company, dining room license for

(5) Repealed by *1995, c.32, s.6. R.S.P.E.I. 1974, Cap. L-17, s.11; 1975, c.52, s.6; 1982, c.18, s.1; 1987, c.45, s.2; 1994, c.36, s.4 {eff.} July 14/94; 1995, c.32, s.6; 1996, c.25, s.1 June 1/96; 1997,c.1,s.3 {eff.} May 1/97; 2000,c.8,s.1; 2007,c.9,s.3; 2009,c.77,s.4; 2013,c.17,s.2; 2015,c.34,s.3; 2020,c.77,s.1; 2023,c.26,s.1.*

BEVERAGE SERVICE TRAINING CERTIFICATES

11.1 Staff of licensed premises, requirement to hold

(1) No person shall

(a) act as a manager of the licensed premises of a licensee;

(b) sell, give or otherwise supply liquor at the licensed premises of a licensee; or

(c) provide security at the licensed premises of a licensee,

unless the person holds a beverage service training certificate, issued by the Commission or such agency or school as is approved by the Commission, indicating that the person has successfully completed a responsible beverage service training program approved by the Commission for the purposes of this Act.

Duty of licensee

(2) Every licensee shall ensure that a person does not

(a) act as a manager of the licensed premises of the licensee;

(b) sell, give or otherwise supply liquor at the licensed premises of the licensee; or

(c) provide security at the licensed premises of the licensee,

unless the person holds a beverage service training certificate required under subsection (1).

Deemed expiry

(3) Subject to subsection (4), any certificate required to be held by a person under this section or under subsection 11(3) is deemed, for the purposes of this Act, to expire 5 years after the date on which it was issued.

Deemed expiry of a certificate

(4) The Commission may, where it considers it in the public interest to do so, deem a beverage service training certificate held by a person referred to in subsection (1), or a licensee, to expire as of a specified date before the date determined under subsection (3) by serving a written notice to the holder of the certificate which

(a) advises the holder of the Commission's decision to deem the certificate to expire before the date determined under subsection (3);

(b) specifies the date the expiry is deemed to occur, which may not be sooner than 5 days after the written notice is served on the holder of the certificate; and

(c) provides the reasons for the Commission's decision.

Inspection

(5) On the request of an inspector, a person who is required to hold a beverage service training certificate under subsection (1), or a licensee, shall produce for inspection the certificate held by that person or licensee, as the case may be. *2015,c.34,s.4.*

VENDORS, STORES AND LIQUOR AGENCIES

12. Sale of liquor conducted by vendor

The sale of liquor at each store or liquor agency shall be conducted by a person appointed under this Act to be known as a "vendor," who is under the direction of the Commission, responsible for the carrying out of this Act and the regulations, so far as they relate to the conduct of the store or liquor agency and the sale of liquor thereat. *R.S.P.E.I. 1974, Cap. L-17, s.12; 1994, c.36, s.5 {eff.} Nov. 26/94.*

13. Sale of liquor to persons not disqualified

(1) A vendor may sell to any person who is not disqualified from having liquor in his possession such liquor as that person is entitled to purchase in conformity with this Act and the regulations.

Preconditions to sale of liquor

(2) Before the vendor makes delivery of any liquor sold pursuant to subsection (1) he shall

(a) have first received an order such as may be prescribed or required by the Commission; and

(b) have been paid the purchase price in cash or in the case of a permit or license holder, by certified cheque or other form of payment approved by the Commission. *R.S.P.E.I. 1974, Cap. L-17, s.13; 1982, c.18, s.2.*

14. Sale of liquor in sealed package

No liquor shall be sold to any purchaser, except in a package; the package shall not be opened on the premises of a store or liquor agency. *R.S.P.E.I. 1974, Cap. L-17, s.14; 1975, c.52, s.7; 1994, c.36, s.6 {eff.} Nov. 26/94.*

15. No consumption of liquor in store

No officer, clerk or servant of the Commission, employed in the store and no other vendor, shall allow any liquor to be consumed on the premises of a store or liquor agency, nor shall any person consume any liquor on the premises. *R.S.P.E.I. 1974, Cap. L-17, s.15; 1975, c.52, s.25; 1994, c.36, s.7 {eff.} Nov. 26/94.*

15.1 Liquor tasting

Notwithstanding sections 14 and 15, the Commission may, subject to such terms and conditions as it may determine, authorize any brewer, distiller or wine producer or any agent of them, to conduct a sampling or tasting of liquor on the premises of a store or liquor agency. *1997,c.1,s.6 {eff.} May 1/97.*

16. Commission sets days and hours of opening

(1) Subject to subsection (2), the Commission may set the days and hours during which stores or liquor agencies may be open for the sale or delivery of liquor.

Not open on holiday

(2) No store shall be open for the sale or delivery of liquor on a holiday. *R.S.P.E.I. 1974, Cap. L-17, s.16; 1975, c.52, s.8 & 25; 1994, c.36, s.8 {eff.} Nov. 26/94; 2007,c.27,s.3; 2012(2nd),c.15,s.1.*

CONVEYANCE OF LIQUOR

17. Conveyance of liquor

(1) It is lawful to carry or convey liquor to any store or liquor agency and to and from any warehouse or depot established by the Commission for the purpose of this Act.

Idem

(2) When permitted so to do by this Act and the regulations, it is lawful for the purchaser himself or his duly authorized agent to carry or convey liquor sold by a vendor from a store or liquor agency to any place in Prince Edward Island to which it may be lawfully delivered, kept or had under this Act or the regulations.

Idem

(2.1) A common carrier or other person, when permitted to do so by this Act and the regulations, may convey liquor to and from premises where the liquor may lawfully be kept, sold or delivered.

Common carrier may not buy or sell

(2.2) Notwithstanding subsection (2.1), no common carrier shall

(a) purchase liquor for resale;

(b) canvass for, receive, take or solicit orders for the purchase or sale of liquor or act as an agent or intermediary for the sale or purchase of liquor or claim to be such an agent or intermediary; or

(c) convey liquor contrary to this Act and the regulations.

Prohibition from breaking seal

(3) No common carrier or any other person shall open or break or allow to be opened or broken, any package containing liquor, or drink, use, or allow to be used, any liquor therefrom while being carried or conveyed as provided in this section. *R.S.P.E.I. 1974, Cap. L-17, s.17; 1975, c.52, s.25; 1994, c.36, s.9 {eff.} Nov. 26/94; 2001,c.42,s.7.*

18. Transportation and consumption of unsealed liquor by commercial traveller

Whether or not the package containing liquor is opened or the seal on the package is broken, a commercial traveller may carry or transport in the province any liquor that he had lawfully purchased in another province if the package is carried or transported in the luggage with his clothing and other necessities of travel and the liquor may be had and consumed by the traveller only in his dwelling-house or a private guest room occupied by him in an hotel. *R.S.P.E.I. 1974, Cap. L-17, s.18; 2004,c.7,s.5.*

19. Transportation of opened containers by permit holder

Opened containers of liquor purchased under a permit may be transferred by the permit holder from the premises in respect of which the permit was issued to his dwelling-house. *R.S.P.E.I. 1974, Cap. L-17, s.19; 2004,c.7,s.5.*

20. Transportation of open containers by licensee

A licensee under this Act may transport opened containers of liquor between the various areas covered by license, but any liquor so transported shall be in a sealed container and carried in an outside compartment of the vehicle. *R.S.P.E.I. 1974, Cap. L-17, s.20.*

21. Transportation of liquor in province

(1) Any person lawfully in possession of liquor may, subject to subsection (2), transport it in a motor vehicle in the province.

Idem

(2) Where the excise stamp on the package containing liquor or a seal used to close the package containing liquor has been broken or removed the package shall be transported in the trunk of the motor vehicle or in a locked container other than a glove or map compartment in a part of the motor vehicle not readily accessible by the driver or any passenger.

Offence

(3) Repealed by *2016,c.13,s.2. R.S.P.E.I. 1974, Cap. L-17, s.21; 1975, c.52, s.9; 2016,c.13,s.2.*

21.1 Transportation of liquor on boat

(1) Any person lawfully in possession of liquor may, subject to subsection (2), transport it on a boat.

Idem

(2) Subject to subsection (3), where the excise stamp on the package containing liquor, or a seal used to close the package containing liquor, has been broken or removed, the package shall be transported in a locked compartment in a part of the boat that is not readily accessible by the operator.

Exception

(3) Subsection (2) does not apply

(a) where the package containing liquor is being transported on a boat that is a licensed premises; and

(b) while liquor is being lawfully served on the boat. *2016,c.13,s.3.*

22. Special permits for purchase and sale of liquor

(1) The Commission may issue permits under this Act for the purchase of liquor and for the purchase and sale of liquor.

Application for and issuance of classes of permits

(2) Upon application in the prescribed form accompanied by payment of the prescribed fee, the Commission, if satisfied that the applicant is entitled to a permit for the purchase of liquor or for the purchase and sale of liquor under this Act, may issue to the applicant a permit of the class applied for as follows:

(a) a permit in the prescribed form may be granted to a pharmacist, medical practitioner, dentist or veterinarian or to a person within the province in a mechanical or manufacturing business, or in scientific pursuits, requiring liquor for the purpose named in the permit, and in accordance with the terms and provisions of the permit and in accordance with the provisions of this Act, and the regulations;

(b) a permit in the prescribed form may be granted to a clergyman of any denomination in charge of a congregation in the province, entitling the applicant to purchase wine for sacramental purposes only, in accordance with the terms and provisions of the permit for which no fees shall be charged;

(c) a permit in the prescribed form may be granted when authorized by the regulations entitling the applicant to purchase liquor and to purchase and sell liquor for the purpose named in the permit and in accordance with the terms and provisions of the permit and of this Act and the regulations;

(d) a permit in the prescribed form may be granted to the holder of a brewer's license authorizing the licensee to operate a hospitality room on the premises in which the

beer is manufactured in accordance with the provisions of this Act and the regulations and subject to such conditions as may be specified in the permit.

Fees payable for permits

(3) The fees payable for any permit or any class of permit shall be prescribed by the Lieutenant Governor in Council.

Cancellation of permits

(4) The Commission may refuse to issue, or may suspend, or cancel any permit, in accordance with this Act and the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.22; 1975, c.52, s.10; 1987, c.45, s.3, 2001, c.42, s.8; 2004,c.7,s.6; 2005,c.11,s.2; 2009,c.77,s.5; 2016,c.12,s.5.*

23. Expiration of permits

Unless sooner cancelled every permit expires in accordance with the terms thereof. *R.S.P.E.I. 1974, Cap. L-17, s.23.*

24. Permit issued in name of

(1) Every permit shall be issued in the name of the applicant therefor, and no permit is transferable.

Use of permit restricted

(2) The holder of any permit shall not allow any other person to use it, unless otherwise provided for in the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.24.*

25. No permit without signature

No person shall issue a permit to an applicant who has been granted a permit until the applicant has signed the permit in the presence of a member of the Commission or a person to whom the Commission has delegated the function, duty or power to grant and issue permits and that witness has attested to the applicant's signature. *R.S.P.E.I. 1974, Cap. L-17, s.25; 2016,c.12,s.6.*

26. Consumption and keeping in purchaser's dwelling-house

Liquor lawfully purchased from the Commission may be consumed, had, given or kept in the dwelling-house of the purchaser. *R.S.P.E.I. 1974, Cap. L-17, s.26; 1975, c.52, s.11; 1994, c.58, s.6; 2004,c.7,s.7.*

REFUSAL, SUSPENSION AND CANCELLATION OF LICENSES AND PERMITS

27. Definition

(1) In sections 27 to 27.9, "adjudicator" means an adjudicator appointed by the Minister under section 27.1.

Powers of adjudicator

(2) An adjudicator may refuse to issue or cancel or suspend a license or permit.

Issue of notice of proposal, grounds

(3) Where the Commission has reasonable grounds to believe that

(a) a licensee or permit holder has violated or failed to comply with a provision of this Act or the regulations or a condition attached to the license or permit;

(b) a licensee or permit holder has violated or failed to comply with, in respect to the licensed premises, the provisions of the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11 or regulations with respect to crowding, or the provisions of the *Public Health Act* or regulations;

(c) a licensee or permit holder has provided the Commission, its servants or agents, with false or misleading information in a declaration, affidavit, or an application, or with any other false or misleading documentation, information or description of plans; or

(d) that other grounds exist for the cancellation or suspension of a license or permit,

the Commission may issue a notice of proposal to the licensee or permit holder.

Content of notice

(4) The notice of proposal shall contain the allegations made against the licensee or permit holder, the evidence relied upon by the Commission in support of the allegations and the sanction respecting the allegations proposed by the Commission, including the amount of any fine imposed pursuant to subsection 27.01(1), and shall be signed by a member of the Commission.

Right to hearing before adjudicator

(5) The notice of proposal shall inform the licensee or permit holder, as the case may be, that the licensee or permit holder is entitled, subject to the requirements of subsection 27.1(1), to make a request for a hearing before an adjudicator in respect of the proposed sanction stated in the notice of proposal.

Sanction where no notice that hearing is required

(6) If a licensee or permit holder on whom a notice of proposal is served does not make a request for a hearing before an adjudicator in accordance with subsection 27.1(1), the Commission may

(a) in the case of a notice of proposal to review an application for a license or permit to sell liquor, refuse to issue the license or permit; or

(b) in any other case, carry out the proposed sanction stated in the notice. *1997,c.1,s.7 {eff.} May 1/97; 2001,c.42,s.9; 2008,c.21,s.2,3; 2013,c.41,s.3.*

27.01 Maximum fine

(1) The Commission may, as part of or in addition to any sanction proposed in respect of a licensee or permit holder under subsection 27(4), impose a fine of not more than $200,000, and require that the fine be paid in full prior to the issuing or reinstating of a license or permit.

Fines payable to Commission

(2) All fines imposed by the Commission shall be immediately due and payable to the Commission. *2013,c.41,s.4.*

27.1 Hearing by an adjudicator, notice and fee

(1) A licensee or permit holder on whom a notice of proposal is served under section 27 may require a hearing to be held before an adjudicator respecting the allegations contained in the notice of proposal and the proposed sanction contained therein if, within seven days after the notice of proposal is served on the licensee or permit holder, the licensee or permit holder

(a) delivers to the Commission a notice in writing requiring a hearing before an adjudicator; and

(b) pays to the Commission the hearing fee prescribed by the regulations.

Minister to appoint adjudicator

(1.1) Where, in accordance with subsection (1), a licensee or permit holder who is served with the notice of proposal delivers a notice requiring a hearing and pays the hearing fee prescribed by the regulations, the Minister shall, in writing, appoint a person to hold a hearing respecting the allegations and sanction contained in the notice of proposal.

Eligibility

(2) No person is eligible to be appointed as or to act as an adjudicator who

(a) carries out duties in relation to the issuance or renewal of licenses or permits or to inspections under this Act;

(b) is engaged in the manufacture, sale, or distribution of liquor has any other dealing whatsoever in liquor;

(c) has a pecuniary interest or a proprietary interest in premises that are licensed under this Act;

(d) has a pecuniary interest in any contract respecting any licensed premises;

(e) has a pecuniary interest in purchases or sales made by the Commission; or

(f) has a direct or indirect interest in an undertaking that could place the person's interest in conflict with the interests of an adjudicator or in carrying out the duties of an adjudicator.

Acquisition of conflicting interest by succession, etc.

(3) Where any interest prohibited in subsection (2) vests, by will or succession, in an adjudicator for his benefit, the adjudicator shall, within six months after the interest vests, absolutely dispose of the interest.

Personal use of liquor

(4) Nothing in this section prevents an adjudicator from lawfully purchasing or possessing liquor for personal or family use. *1997,c.1,s.7 {eff.} May 1/97; 2001,c.42,s.10; 2008,c.21,s.4.*

27.2 Hearing

(1) The adjudicator shall hold a hearing respecting the allegations contained in the notice of proposal and the proposed sanction contained therein.

Place for hearing

(2) The adjudicator may designate any place within the province as the place of hearing.

Evidence

(3) For the purposes of the hearing, the adjudicator may receive and consider evidence obtained by an inspector in the execution of his duties under this Act or the regulations and any other evidence that the adjudicator considers relevant to the proceeding.

Rules

(4) The adjudicator may make additional rules consistent with this Act respecting the procedure for making representations to the adjudicator and the conduct of hearings. *1997,c.1,s.7 {eff.} May 1/97.*

27.3 Sanction

(1) After conducting a hearing, the adjudicator may impose a sanction if the adjudicator is satisfied that a licensee or permit holder

(a) has violated or failed to comply with a provision of this Act or the regulations or a condition attached to the license or permit;

(b) has violated or failed to comply with, in respect to the licensed premises, the provisions of the *Fire Prevention Act* or regulations with respect to crowding and the provisions of the *Public Health Act* or regulations; or

(c) has provided the Commission, its servants or agents, with false or misleading information in a declaration, affidavit, or an application or with any other false or misleading documentation, information or description of plans;

or that other grounds exist for a sanction to be imposed.

Sanctions

(2) An adjudicator may impose

(a) the sanction that was proposed in the notice of proposal issued to the licensee or permit holder under subsection 27(3);

(b) a fine of not more than $200,000 and require that the fine be paid in full prior to the issuing or reinstatement of the license or permit; or

(c) any other sanction that the adjudicator considers just and appropriate.

One or more sanctions may be imposed

(3) For greater certainty, the adjudicator may impose any one or more of the sanctions referred to in subsection (2). *1997, c.1,s.7 {eff.} May 1/97; 2013,c.41,s.5.*

27.4 Copy to licensee and commission

(1) The adjudicator shall render a decision in writing within 7 days after the hearing and shall forthwith give a copy of his or her decision, and upon request, a copy of the adjudicator's findings of fact and the reasons for the decision, to

(a) the licensee or permit holder affected by the decision; and

(b) the Commission.

Refund

(2) Where, after a hearing, the adjudicator finds that the proposed sanction stated in the notice of proposal of the Commission is entirely or partly inappropriate, the adjudicator may, in the decision he or she renders under subsection (1), direct the Commission to refund all or part of the hearing fee paid by the licensee or permit holder under subsection 27.1(1), as the adjudicator considers appropriate. *1997,c.1,s.7 {eff.} May 1/97; 2008,c.21,s.5.*

27.5 Authorization to purchase liquor stock or more

(1) The Commission may give written authorization to a licensee or permit holder whose license or permit is cancelled, suspended, forfeited or rendered void and who has liquor stocks on

hand, or to a person beneficially entitled to such stocks, to sell all or part of the stocks, in accordance with any conditions set out in the authorization, to a person who is nineteen years or more and is not otherwise disqualified from having or consuming liquor, and may give written authorization to such a purchaser to purchase the stocks.

Forfeiture of liquor

(2) A licensee or permit holder who received a notice of cancellation or suspension shall, if the notice so directs, forthwith deliver to the Commission all liquor of which the licensee or permit holder has possession or control to be forfeited to the Government for destruction or other disposal according to the direction of the Commission.

Notice of cancellation, etc.

(3) The Commission shall notify those persons the Commission considers advisable and those whom the Commission is required to notify by regulation of the cancellation or suspension of a license or permit. *1997,c.1,s.7 {eff.} May 1/97; 2022,c.62,s.41.*

Reissue of license

(4) Repealed by *2001,c.42,s.11 {eff.} June 19/01.*

27.6 Notice

(1) The adjudicator shall give the holder of a license or permit notice of the cancellation or suspension of the license or permit

(a) by mailing by certified mail a written notice addressed to the holder at the address given in the license or permit; or

(b) by personal service on the holder of the license or permit or on a person in apparent charge, at the time of service, of the licensed premises.

Effect

(2) A notice of cancellation or suspension takes effect on the day and at the hour stipulated in the notice.

Period of suspension

(3) A notice of suspension shall state the period of time during which a license or permit is to remain suspended, or whether the period is indeterminate. *1997,c.1,s.7 {eff.} May 1/97.*

27.7 Certified mail

Subject to subsection 27.6(1), documents may be given or served by being mailed by certified mail to the person for whom the document is intended and the document takes effect on the day and at the hour stipulated in the document. *1997,c.1,s.7 {eff.} May 1/97.*

27.8 Record of mailing, evidence

The adjudicator or the Commission, as the case may be, shall keep a record of the mailing of any document by certified mail and, until the contrary is proved a document given or served by mail in accordance with clause 27.6(1)(a) or section 27.7 shall be deemed to have been mailed to the person for whom it is intended at the time shown in the record and *prima facie* proof to that effect may be given by a certificate of the adjudicator or the Commission, as the case may be. *1997,c.1,s.7 {eff.} May 1/97.*

27.9 Decision final

(1) The adjudicator's decision is final.

Appeal, question of law

(2) Notwithstanding subsection (1), a licensee or permit holder affected by a decision of an adjudicator, the Commission, or a person who made representations in respect of the hearing of the matter may, within fifteen days after being notified of the decision, appeal it to the Court of Appeal on a question of law only.

Service

(3) A notice of appeal shall be served on the adjudicator and on such other persons as the Court of Appeal directs.

Rules

(4) The rules of court apply to an appeal under this section. *1997,c.1,s.7 {eff.} May 1/97; 2008,c.21,s.6; 2008,c.20,s.72(56).*

27.91 Fines payable to Commission

All fines imposed by the adjudicator shall be immediately due and payable to the Commission. *2013,c.41,s.6.*

28. Sale of liquor prohibited to certain persons

No liquor shall be sold to any person to whom the sale of intoxicants is prohibited under any Act of the province. *R.S.P.E.I. 1974, Cap. L-17, s.30.*

APPLICATION OF ACT

29. Brewers & distillers, application to

(1) Nothing in this Act prevents any brewer, distiller, or other person duly licensed under a statute of Canada, for the manufacture of liquor, from having or keeping liquor in a place and in the manner authorized by the statute.

Purchases, importation & sale of liquor by Commission

(2) Nothing in this Act prevents

(a) the sale of liquor by any person to the Commission;

(b) the purchase, importation and sale of liquor by the Commission in accordance with this Act. *R.S.P.E.I. 1974, Cap. L-17, s.31.*

30. Manufacture, sale, purchase & consumption of certain preparations not prevented

(1) Nothing in this Act prevents the manufacture, sale, purchase or consumption of any of the following preparations, by reason only of the fact that they contain alcohol:

(a) any extract, essence, lotion or tincture or other preparation containing alcohol, which is prepared according to a formula of the *British Pharmacopoeia*, or the *United States Pharmacopoeia*, or according to a formula approved of by the Commission; or

(b) any proprietary or patent medicine prepared according to a formula approved of by the Commission and in respect of which a license has been granted to sell the same under the *Food and Drugs Act* (Canada) R.S.C. 1985, Chap. F-27.

Restriction on sale of certain medicines by regulation

(2) The Commission, if of opinion that any proprietary or patent medicine, extract, essence, lotion, tincture or preparation containing alcohol, whether of a solid, semi-solid or liquid nature, can be used as a beverage or as the ingredient of any beverage, may, with the approval of the Lieutenant Governor in Council, make regulations prohibiting the sale thereof by retail within the province, or the possession of the same for sale by retail within the province, except by a store, or by persons duly licensed by the Commission to keep and sell the same by retail in accordance with this Act and the regulations.

Notice to manufacturer of restriction on sale, offence not to comply

(3) The Commission shall notify the manufacturer or vendor of the proprietary or patent medicine, extract, essence, lotion, tincture or preparation, of the prohibition, and from and after the date of the notification any person within the province selling or keeping for sale any such proprietary or patent medicine, extract, essence, lotion, tincture or preparation prohibited as aforesaid is guilty of an offence.

Publication of regulation conclusive evidence of certain facts

(4) Proof of the publication in the Gazette of any regulation made and approved pursuant to subsection (2) shall be conclusive evidence, in any proceeding or prosecution under this Act or the regulations, of

(a) any notification required under this section; and

(b) the fact that such medicine, extract, essence, lotion, tincture or preparation can be used as a beverage or as the ingredient of a beverage.

Sale of medicine by retail after publication

(5) After publication in the Gazette, no person shall sell by retail or have in his possession for sale by retail any such medicine, extract, essence, lotion, tincture or preparation containing alcohol prohibited pursuant to subsection (2) unless that person is duly licensed in accordance with subsection (2).

Sale by wholesale, restricted

(6) After publication in the Gazette, no person shall sell by wholesale any such medicine, extract, essence, lotion, tincture or preparation containing alcohol to any person who is not duly licensed under subsection (2) to sell it by retail.

Prohibition from selling medicine having 15% or more, alcohol per volume

(7) No person licensed by the Commission under subsection (2) shall sell by retail or have in his possession for sale by retail any medicine, extract, essence, lotion, tincture or preparation containing more than fifteen per cent of alcohol by volume in any bottle or container having a content capacity greater than sixteen ounces.

Sale per customer restricted

(8) No person licensed under subsection (2) shall sell by retail more than one such bottle or container to any one person in any calendar week.

Proof of possession by unlicensed person conclusive of intent to retail

(9) In any proceeding or prosecution under or pursuant to this section or the regulations made thereunder, proof of the possession of more than one bottle or container containing any

amount of any such medicine, extract, essence, lotion, tincture or preparation containing alcohol, by a person not duly licensed by the Commission under subsection (2), shall be conclusive evidence that such person had it in his possession for sale by retail, and the burden of proving that he is duly licensed as aforesaid is upon the person accused in the proceeding or prosecution. *R.S.P.E.I. 1974, Cap. L-17, s.32; 1975, c.52, s.14 & 25.*

31. Having liquor for export sale not prevented

(1) Nothing in this Act prevents any person

(a) from having liquor for export sale in his liquor warehouse, if the liquor warehouse and the business carried on therein complies with the requirements of this section; or

(b) from selling liquor from the liquor warehouse to persons in other provinces or in foreign countries or to the Commission,

but no warehouse shall be deemed to be a liquor warehouse within the meaning of this section if the person having liquor therein has failed to comply with this section.

Construction and use of warehouse

(2) The liquor warehouse referred to in this section shall be suitable for the business and shall be so constructed and equipped as not to facilitate any violation of this Act and not connected by any internal way or communication with any other building or any other portion of the same building, and shall be a warehouse or building wherein no other commodity or goods than liquor for export from the province are kept and wherein no other business than keeping or selling liquor for export from the province or sale to the Commission is carried on.

Information to be provided to Commission

(3) Every person who brings or has liquor in a liquor warehouse, as referred to in this section

(a) shall forthwith furnish the Commission with correct written information as to the location of the warehouse, the amount and description of the liquor therein contained, the place from which and the date when the liquor was brought and its intended destination;

(b) shall also forthwith from time to time furnish to the Commission correct written information as to all removals of liquor from the liquor warehouse, including the amount, description, date of removal and destination.

Right of entry by Commission

(4) The Commission or an officer duly authorized in writing has, for the purpose of obtaining or confirming any information provided under subsection (3), at any time the right to enter into any and every part of any liquor warehouse and to make searches in every part thereof and of the premises connected therewith.

Act severable if provision *ultra vires*

(5) If, for any reason, any section, paragraph, provision, clause or part of this Act is held unconstitutional or invalid, that fact shall not affect or destroy any other section, paragraph, provision, clause or part of the Act that is not of itself invalid, but the remaining portions shall be in force without regard to that so invalidated. *R.S.P.E.I. 1974, Cap. L-17, s.33.*

PROHIBITIONS AND PENALTIES

32. Sale of liquor

Except as authorized by this Act or the regulations, no person shall, by himself or herself or by his or her clerk, servant, employee or agent,

(a) sell liquor to another person;

(a.1) keep liquor for sale; or

(b) in consideration of the purchase or transfer of any property, or for any other consideration, or at the time of the transfer of any property, give any liquor to any other person. *R.S.P.E.I. 1974, Cap. L-17, s.34; 2004,c.7,s.8; 2005,c.11,s.3.*

33. Liquor not bought in province

(1) No person shall have in his possession or keeping within the province any liquor that has not been purchased from a vendor under this Act.

Keeping for sale

(2) This section does not apply

(a) to the Commission;

(b) to the keeping or having of beer or wine by persons engaged in the making, on the property of their principal dwelling-house or licensed ferment on premises facility, of beer or wine for personal use;

(b.1) to the keeping or having by persons of or over the age of nineteen years of liquor brought in person into the province for personal use;

(c) to the keeping or having of liquor by brewers, distillers and other persons duly licensed by Canada for the manufacture of the liquor; or

(d) to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures, lotions, or preparations where the having and keeping is authorized by this Act. *R.S.P.E.I. 1974, Cap. L-17, s.35; 1988, c.3, s.1; 1989, c.4, s.1; 1993, c.13, s.2; 2004,c.7,s.5; 2009,c.77,s.6; 2012(2nd),c.15,s.2; 2021,c.39,s.3.*

34. Giving or having liquor by brewer etc.

No brewer, distiller or manufacturer of liquor shall, within the province by himself, his clerk, servant or agent, give to any person any liquor, except as may be permitted by this Act and the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.36.*

35. Sale by vendor in unauthorized place

No vendor, and no person acting as the clerk or servant of or in any capacity for any vendor, shall sell liquor in any other place or at any other time or otherwise than as authorized by this Act and the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.37.*

36. Dealing in liquor by member or employee for own profit

(1) No member or employee of the Commission shall be directly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, member of a syndicate, shareholder, agent or employee, and whether for his own benefit or in a fiduciary capacity for some other person.

Soliciting or receiving gift from liquor salesmen etc.

(2) No member or employee of the Commission or any employee of the government shall solicit or receive directly or indirectly any commission, remuneration or gift from any person or corporation having sold, selling or offering liquor for sale to the Commission.

Offering gift to member or employee of Commission

(3) No person selling or offering for sale to, or purchasing liquor from, the Commission, shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift to any member or employee of the Commission, or to any employee of the government, or to anyone on behalf of the member or employee. *R.S.P.E.I. 1974, Cap. L-17, s.38.*

37. Purchase of liquor

Except as authorized by this Act or the regulations, no person shall, by himself or herself or by his or her clerk, servant, employee or agent,

(a) purchase liquor from another person;

(b) attempt to purchase liquor from another person; or

(c) in consideration of the sale or transfer of any property, or for any other consideration, or at the time of the transfer of any property, take or accept liquor from another person. *R.S.P.E.I. 1974, Cap. L-17, s.39; 2004,c.7,s.9.*

38. Prohibition, consumption

No person shall consume liquor unless it has been made, purchased or imported in accordance with this Act and the regulations. *R.S.P.E.I. 1974,Cap. L-17,s.40; 1975,c.52,s.15; 2021,c.39,s.4.*

39. Consuming liquor in public place

(1) No person shall consume liquor in a public place except on licensed premises where liquor is lawfully served.

Intoxication in public place

(2) No person shall be in an intoxicated condition in a public place.

Consumption in motor vehicle

(3) No person shall consume liquor in or about a motor vehicle. R.S.P.E.I.

Consumption on or about boat

(4) No person shall consume liquor on or about a boat unless

(a) the boat is

(i) a licensed premises, or

(ii) a dwelling-house; or

(b) the boat

(i) is moored, anchored or otherwise secured to a stationary dock or land,

(ii) has permanent sleeping accommodations, permanent cooking facilities and permanent sanitary facilities, and

(iii) is not used to carry passengers for hire. 1974,Cap. L-17,s.41; *2016,c.13,s.4.*

40. Selling, giving or supplying liquor to a minor

(1) No person shall knowingly sell, give or otherwise supply liquor to any person under the age of nineteen years or apparently under the age of nineteen years and in any prosecution under this subsection the provincial court judge or court may determine from the appearance of the person to whom the liquor was sold, given or otherwise supplied whether the person is apparently under that age.

Person under 19, use of ferment on premises facility

(1.1) No licensee of a ferment on premises facility or employee or agent of such a licensee shall

(a) knowingly permit a person under the age of nineteen years to use the facility for the making of beer or wine; or

(b) permit a person who appears to be under the age of nineteen years to use the facility for the making of beer or wine.

Person under 19, in the company of a parent or guardian

(1.2) Subsection (1.1) does not preclude a person under the age of nineteen years from entering or being in a ferment on premises facility if the person is in the company of a parent or guardian.

Entry of minor into licensed premises

(2) No person under the age of nineteen years shall enter, be in, or remain in the licensed premises of the holder of a liquor license except as provided by the Act or the regulations.

Permitting minor to enter & remain in licensed premises

(3) The holder of a liquor license shall not permit any person under the age of nineteen years to enter, be in, or remain in the licensed premises except as provided by the Act or regulations.

Demand for proof of age

(4) The holder of a liquor license or his employee shall, before serving any person who appears to be under the age of nineteen years, demand proof that the person is of the age of nineteen years or over, and if the person refuses to furnish proof he shall not be served and on request of the holder of the liquor license or his employee, shall leave the premises and if he fails to do so he is guilty of an offence.

Offences by minors

(5) Any person under the age of nineteen years who

(a) has in his possession or consumes liquor; or

(b) falsely claims to be over that age in order to obtain liquor,

is guilty of an offence.

Exception *re* minors

(6) This section does not apply in the case of liquor given to a person under the age of nineteen years by his parent, guardian, or spouse for beverage purposes, or administered to him by a medical practitioner or dentist for medical purposes. *R.S.P.E.I. 1974, Cap. L-17, s.42,43,44; 1975,c.52,s.25; 1975, c.78, s.3; 1987, c.45, s.4; 2004,c.7,s.6,10; 2009,c.77,s.7.*

Sections 41 and 42 repealed by ***2004,c.7,s.11.***

43. Application for permit by minor

(1) No permit shall be issued to any person under the age of nineteen years, and every person under the age of nineteen years who makes application for a permit, or, subject to subsection (1.1), who enters or is found upon the premises of any store is guilty of an offence.

Exception

(1.1) Subsection (1) does not preclude a person under the age of nineteen years from entering or being in a store if in the company of a parent or guardian.

Burden of proof of age

(2) In every prosecution or proceeding under this section, the burden of proving that he is of age of nineteen years is upon the person accused in the prosecution or proceeding. *R.S.P.E.I. 1974, Cap. L-17, s.45; 1975, c.52, s.25; 1987, c.45, s.5; 1992, c.43, s.2.*

44. Application for permit after cancellation

No person whose permit has been cancelled shall, within a period of twelve months after the date of the cancellation, make application for another permit under this Act. *R.S.P.E.I. 1974, Cap. L-17, s.46.*

45. Purchase or attempted purchase without permit

(1) No person shall purchase or attempt to purchase liquor under a permit that is suspended, or which has been cancelled, or of which he is not the holder.

Application for permit not in own name

(2) No person shall apply in any name except his own for the issue to him of a permit. *R.S.P.E.I. 1974, Cap. L-17, s.47.*

46. Repealed by *2004,c.7,s.12. R.S.P.E.I. 1974, Cap. L-17,s.48.*

47. Prohibition on giving liquor to intoxicated persons

No person shall sell or give any liquor to any person apparently in an intoxicated condition. *R.S.P.E.I. 1974, Cap. L-17, s.49; 2004,c.7,s.13.*

48. Having liquor in possession

(1) Except as authorized by this Act or the regulations, no person shall have any liquor in his possession within the province.

Consuming liquor in residence or private guest room

(2) Except as provided in the Act no person shall have or consume in his dwelling-house or in a private guest room occupied by him in an hotel any liquor that has not been lawfully had or acquired by him under this Act or the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.50; 2004,c.7,s.5.*

49. Keeping or consuming liquor in private guest room or hotel room

Except as provided by this Act and by the regulations, and except in the case of liquor kept and consumed pursuant to a special permit granted under clause 22(2)(c), no person

(a) shall keep or consume liquor in any part of an hotel other than a private guest room;

(b) shall keep or have any liquor in any room in an hotel unless he is, in good faith, a guest of the hotel and is duly registered in the office of the hotel as an occupant of that room, and has baggage and personal effects belonging to him in the hotel. *R.S.P.E.I. 1974, Cap. L-17, s.51.*

50. Prohibitions

(1) No person in the province shall

(a) canvass for, receive, take or solicit orders for the purchase or sale of liquor contrary to this Act or the regulations;

(b) exhibit or display, or permit to be exhibited or displayed, any advertisement or notice of or concerning liquor by an electric or illuminated sign, contrivance or device or on any signboard, billboard or other like place in public view or by any of the means aforesaid, advertise any liquor;

(c) exhibit, publish or display any advertisement for or respecting liquor, other than an advertisement referred to in clause (b), unless the advertisement

(i) complies with any requirements or restrictions imposed by the policy guidelines approved by the Commission, and

(ii) satisfies such other terms and conditions as the Commission may determine.

Application of section

(2) This section does not apply

(a) to the Commission, nor to any act of the Commission, nor to any store or liquor agency; or

(b) to the receipt or transmission of a telegram or letter by any telegraph agent or operator or post office employee in the ordinary course of his employment as agent, operator or employee.

Exemption for representative of distiller, etc.

(3) Clause (1)(a) does not apply to any person who is

(a) a full-time salaried employee of a brewer, distiller or wine manufacturer; and

(b) approved by the Commission as the representative of the brewer, distiller or wine manufacturer in transactions with the Commission. *R.S.P.E.I. 1974, Cap. L-17, s.52; 1975, c.52, s.16 & 25; 1994, c.36, s.10 {eff.} Nov. 26/94; 1997,c.1,s.8 {eff.} May 1/97; 2001,c.42,s.12.*

51. Offences and penalties

(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and, where the person is convicted of

(a) an offence under

(i) a regulation made under subsection 30(2),

(ii) subsection 30(3), (5), (6), (7) or (8),

(iii) subsection 33(1),

(iv) section 35,

(v) section 36, or

(vi) subsection 40(1), (1.1) or (3),

the person is liable, for a first offence, to a fine of not less than $500 and not more than $1,250, and for any subsequent offence, to a fine of not less than $1,250 and not more than $2,500;

(b) an offence under section 32, subsection 58(2) or subsection 82.1(7), the person is liable,

(i) for a first offence, to a fine of not less than $5,000 and not more than $10,000, and

(ii) for any subsequent offence, to a fine of not less than $10,000 and not more than $20,000;

(c) an offence under section 37, 39 or 48, the person is liable,

(i) for a first offence, to a fine of not less than $200 and not more than $400, and

(ii) for any subsequent offence, to a fine of not less than $400 and not more than $800; or

(d) an offence under a provision of this Act or the regulations for which no penalty is otherwise specifically provided, the person is liable,

(i) for a first offence, to a fine of not less than $200 and not more than $400, and

(ii) for a subsequent offence, to a fine of not less than $400 and not more than $700.

Imprisonment

(2) Where a person

(a) is convicted of an offence under section 32 or 33; and

(b) is proved to have been previously convicted of an offence under any provision of this Act or the regulations,

the person is liable to imprisonment for a term not exceeding six months, in addition to the fine for which the person is liable under subsection (1).

Costs, awarded with fine

(3) Where by this section a fine is imposed, the accused may be ordered to pay the costs in addition thereto, in the discretion of the court or provincial court judge.

Conviction of a corporation

(4) Whenever a corporation is convicted of an offence against or under this Act and the conviction adjudges a pecuniary penalty or compensation to be paid by the corporation, or an order under this Act requires the payment of a sum of money by a corporation, the Act requires the payment of a sum of money by a corporation, the adjudging payment of the penalty, compensation or sum of money with costs may order and adjudge that, in default of payment of the penalty, compensation or sum of money forthwith or within a limited time, the penalty, compensation or sum of money shall be levied by distress and sale of the goods and chattels of the corporation.

Conviction registered as a judgment of Supreme Court

(5) In any case referred to in subsection (4) and in addition to the other remedies provides hereby a copy of the conviction or order certified to by any provincial court judge or by the officer in whose custody it is by law required to be kept, may be filed in the office of the Supreme

Court, and the conviction or order shall thereupon become a judgment of the court and all proceedings may be thereupon taken and had as on any other judgment of the court.

Corporate officer in charge deemed part to offence

(6) Where an offence against this Act is committed by a corporation, the officer or agent of the corporation in charge of the premises in which the offence is committed shall *prima facie* be deemed to be party to the offence so committed, and is personally liable to the penalties prescribed for the offence as a principal offender, but nothing in this section relieves the corporation or the person who actually committed the offence from liability therefor.

Service of proceeding

(7) In all prosecutions, actions, or proceedings under this Act against a corporation, every summons, warrant, order, writ or other proceeding may, in addition to any other manner of service which may be provided or authorized by law be served on the corporation by delivering it to any officer, attorney or agent of the corporation within the province, or by leaving it any place within the province, where it carried on any business; but service in any other way shall be deemed sufficient if the court or provincial court judge by or before whom the summons, warrant, order, writ, or other proceeding was issued or is returnable, or by or before whom any proceeding subsequent to the service is to be had or taken is of the opinion that the service has been such as to bring the summons, warrant, order, writ, or other proceeding to the notice of the corporation.

Proof of incorporation

(8) In any prosecution, action or proceeding under this Act in which it is alleged that a corporation is or has been guilty of an offence against this Act, the fact of the incorporation of that corporation shall be presumed without it being proved by the prosecutor, unless satisfactory proof is produced to the contrary.

Alternative sentence for chronic alcoholic offender

(9) Where a person pleads guilty to or is found guilty of an offence under this Act relating to the consumption of alcohol, a provincial court judge, after hearing medical or other evidence, if he considers that person is in need of curative treatment in relation to his consumption of alcohol, instead of convicting him, may order that he be discharged upon conditions prescribed in a probation order, including a condition respecting his attendance for treatment in an addiction treatment facility designated by the Minister of Health and Wellness by notice published in the Gazette. *R.S.P.E.I. 1974, Cap. L-17, s.53; 1975, c.52, s.17 & 25; 1975, c.78, s.3; 1982, c.18, s.3; 1984, c.25, s.2; 1988, c.3, s.2; 1989, c.4, s.2; 1993, c.13, s.3; 1997,c.1,s.9; 2004,c.7,s.14; 2005,c.11,s.4; 2009,c.73,s.2; 2009,c.77,s.8; 2010,c.31,s.3.*

Sections 52 to 55 Orders for interdiction

repealed by *2004,c.7,s.15.*

ENFORCEMENT PROCEDURE

56. Entry and search

(1) Where a peace officer believes, on reasonable grounds, that there is in any premises, boat or motor vehicle

(a) any thing upon or in respect of which any offence against this Act has been or is suspected to have been committed; or

(b) any thing that will afford evidence relevant to the contravention of this Act or the regulations,

the peace officer may, without a warrant,

(c) enter and search the premises, boat or motor vehicle, at any reasonable time;

(d) open any container or package that the peace officer believes, on reasonable grounds, contains any thing that will provide evidence with respect to a contravention of this Act or the regulations;

(e) request the production for inspection of documents or things that may be relevant to the search;

(f) inspect and, upon giving a receipt therefor, remove, for the purpose of making copies or extracts, documents or things relevant to the search;

(g) conduct such tests as are reasonably necessary; and

(h) remove materials or substances for examination or test purposes subject to the occupier of the premises, or the operator of the boat or motor vehicle, being notified thereof.

Entry to dwelling -houses

(2) Subsection (1) does not apply to confer a power of entry to a dwelling-house without the consent of the occupier.

Warrant

(3) A judicial justice of the peace may issue a warrant authorizing the peace officer named in the warrant

(a) to do anything set out in subsection (1);

(b) to search for and seize any thing, including liquor, documents, computers, cash registers, coolers, refrigerators, money, boats and motor vehicles, that will provide evidence relevant to a contravention of this Act or the regulations, subject to the conditions that may be specified in the warrant; or

(c) to enter and search a dwelling-house and to do anything therein as set out in subsection (1) or in clause (b).

Requirements

(4) A warrant may be issued under subsection (3) to a peace officer if the judicial justice of the peace is satisfied, on information under oath, that,

(a) in the case of a warrant to be issued under clause (3)(a),

(i) the peace officer has been prevented from doing anything permitted under subsection (1),

(ii) there are reasonable grounds to believe that the peace officer may be prevented from doing any of those things, or

(iii) there are reasonable grounds to believe that there has been or is likely to be a contravention of this Act or the regulations;

(b) in the case of a warrant to be issued under clause (3)(b), it is necessary to search for and seize any thing that there are reasonable grounds to believe will afford evidence relevant to a contravention of this Act or the regulations; or

(c) in the case of a warrant to be issued under clause (3)(c), it is necessary that a dwelling-house be entered for the purposes of carrying out a search or there is, in a dwelling-house, any thing that there are reasonable grounds to believe will afford evidence relevant to a contravention of this Act or the regulations.

Execution of warrant

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Expiry

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is issued.

Notice

(7) A warrant under this section may be issued or renewed before or after expiry upon application without notice.

Renewal

(8) A warrant under this section may be renewed for any reason for which it may be issued.

Admissibility of copies

(9) Copies of, or extracts from, documents, computers or other things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents, computers or other things. *R.S.P.E.I. 1974, Cap. L-17, s.58; 1975, c.78, s.3; 1985, c.30, s.1; 2004,c.7,s.16; 2016,c.13,s.5; 2018,c.52,s.65.*

57. Detention of vehicles etc.

(1) For any purpose relating to the administration and enforcement of this Act or the regulations, any peace officer who has reasonable grounds to believe that a motor vehicle, a boat or an aircraft contains evidence of a contravention of this Act or the regulations may

(a) without warrant, stop and detain the motor vehicle, boat or aircraft;

(b) examine its contents, including any cargo, manifests, records, records accounts, vouchers, papers or other documents that may afford evidence as to the contravention; and

(c) subject to subsection (2), seize and take away any of the manifests, records, accounts, vouchers, papers or other documents and retain them until they are produced in a court proceeding.

Application for detention of documents

(2) The peace officer who seizes documents pursuant to subsection (1) shall, within 14 days, make application to a judicial justice of the peace, for an order to permit the retention of the documentation until they are produced in a court proceeding, and the application may be heard by and the order may be made, both without notice, upon receipt of information under oath from a peace officer who believes, on reasonable grounds, that the documents afford evidence of the commission of an offence under this Act or the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.59; 2004,c.7,s.16; 2016,c.13,s.5; 2018,c.52,s.65.*

58. Powers

(1) In this section and in section 59, "proceeds", in relation to an offence under this Act or the regulations, means

(a) personal property, other than money, derived in whole or in part, directly or indirectly, from the commission of the offence; and

(b) money derived directly or indirectly from the commission of the offence.

Possession of Proceeds

(2) No person shall knowingly possess the proceeds of an offence under this Act or the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.60; 1988, c.3, s.3; 2004,c.7,s.16.*

59. Seizure of liquor, documents, coolers, money, and other things

A peace officer may, where a warrant issued under section 56 so provides, seize, remove and impound any thing, including liquor, documents, computers, cash registers, coolers, refrigerators, money, boats and motor vehicles, if

(a) the peace officer reasonably believes that it will afford evidence of an offence under this Act or the regulations;

(b) the peace officer reasonably believes that

(i) the thing was used or was being used in connection with the commission of an offence under this Act or the regulations, and

(ii) unless the thing is seized, it is likely that it would continue to be used or would be used again in the commission of an offence against this Act or the regulations; or

(c) the peace officer reasonably believes that the thing is proceeds from the commission of an offence under this Act or the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.61; 1975, c.78, s.3; 2004,c.7,s.16; 2016,c.13,s.5.*

60. Forfeiture if no application for restoration

(1) Any thing seized under this Act is forfeited to the Government unless, within 30 days following the seizure, the person from whom the thing was seized, or the owner of the thing, applies to the Supreme Court to establish the right to possess the thing.

Right to possession

(2) For the purpose of an application under subsection (1), the applicant has the right to possession of the thing seized if the possession did not, at the time the seizure was made, constitute a contravention of this Act or the regulations.

Restoration order

(3) On an application made under subsection (1), the Supreme Court may order that the thing seized be restored forthwith to the applicant if the court is satisfied that

(a) the applicant is entitled to possession of the thing seized;

(b) the thing seized is not required as evidence in any proceeding;

(c) continued detention of the thing is not necessary to prevent the commission of an offence; and

(d) it is unlikely that the thing would be forfeited upon conviction under subsection (6).

Idem

(4) If the court is satisfied that an applicant is entitled to possession of the thing seized but is not satisfied as to all of the matters mentioned in clauses (3)(a) to (d), the court shall order that the thing seized be restored to the applicant,

(a) upon the expiration of three months from the date of the seizure, if no proceeding in respect of an offence has been commenced; or

(b) upon the final conclusion of any such proceeding.

Forfeiture if not restored on application

(5) If an application has been made for the return of any thing seized under this Act, but upon the hearing of the application no order of restoration has been made, the thing seized is forfeited to the Government.

Forfeiture on conviction

(6) If a person is convicted of an offence under this Act or the regulations, the court shall order that any thing seized in connection with the offence be forfeited to the Government in right of the province, unless the court concludes that such forfeiture would be unjust in the circumstances.

Relief against forfeiture

(7) Any person with an interest in a thing forfeited under this section may apply to the Supreme Court for relief against forfeiture, and the court may make an order providing for any relief that it consider just, including, but not limited to, one or more of the following orders:

(a) an order directing that the thing or any of the thing be returned to the applicant;

(b) an order directing that any interest in the thing be vested in the applicant;

(c) an order directing that an amount be paid by the Government to the applicant by way of compensation for the forfeiture.

Idem

(8) The court shall not order any relief under subsection (7) unless the court is satisfied that the applicant did not, directly or indirectly, participate in, or benefit from, any offence in connection with which the thing was seized. *R.S.P.E.I. 1974, Cap. L-17, s.62; 1975, c.78, s.3; 2004,c.7,s.16; 2022,c.62,s.41*.

61. Arrest without warrant

If a peace officer finds a person apparently in contravention of this Act or the regulations and the person refuses to give his or her name and address, or there are reasonable grounds to believe that the name or address given is false, the peace officer may arrest the person without a warrant. *R.S.P.E.I. 1974, Cap. L-17, s.63; 1975, c.52, s.21; 1975, c.78, s.3; 2004,c.7,s.16.*

Sections 62 and 63 repealed by ***2004,c.7,s.16.***

DESCRIPTION OF OFFENCE

64. Statement of certain facts unnecessary

In describing an offence respecting the sale or keeping for sale or other disposal of liquor, or the having, keeping, giving, purchasing or the consumption of liquor, in any information, summons, conviction, warrant, or proceeding under this Act, it is sufficient to state the sale or keeping for sale or disposal, having, keeping, giving, purchasing, or consumption of liquor, simply, without stating

(a) the name or kind of liquor;

(b) the price of the liquor;

(c) any person to whom it was sold or disposed of;

(d) by whom it was taken or consumed;

(e) by whom it was purchased or received,

and it is not necessary to state the quantity of liquor so sold, kept for sale, disposed of, had, kept, given, purchased, or consumed, except in the case of offences where the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less than that quantity. *R.S.P.E.I. 1974, Cap. L-17, s.66.*

65. Wording of offence

(1) The description of any offence under this Act or the regulations, in the words of this Act or the regulations or in words of like effect, is sufficient in law.

No need to negatived exception

(2) No exception, exemption, excuse or qualification as set out in this Act or the regulations is required to be set out or negatived in an information.

Burden of proving exception

(3) The burden of proving that an exception, exemption, excuse or qualification as set out in this Act or the regulations operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the exception, exemption, excuse or qualification does not operate in favour of the defendant, whether or not it is set out in the information. *R.S.P.E.I. 1974, Cap. L-17, s.67; 2004,c.7,s.17.*

EVIDENCE AND PRESUMPTIONS

66. Proof that money changed hands not necessary, where

(1) In proving the sale, disposal, gift or purchase, gratuitous or otherwise, or consumption of liquor, it is not necessary in any prosecution to show that any money actually passed or any liquor was actually consumed, if the provincial court judge hearing the case is satisfied that a transaction in the nature of a sale, disposal, gift, or purchase actually took place, or that any consumption of liquor was about to take place.

Proof of consumption evidence of sale of liquor to person consuming

(2) Proof of consumption or intended consumption of liquor on premises on which the consumption is prohibited, by some person not authorized to consume liquor thereon, is evidence that the liquor was sold or given to or purchased by the person consuming, or being about to consume, or carrying away the same, as against the occupant of the premises. *R.S.P.E.I. 1974, Cap. L-17, s.69; 1975, c.78, s.3.*

67. Packages required to be sealed, evidence of offence

Subject to sections 29 and 31, where a seal has been prescribed by regulation, the keeping or having of liquor by any person within the province in a package which has not been sealed with the seal in the manner prescribed by the regulations, shall be *prima facie* evidence that it was kept or had in violation of this Act. *R.S.P.E.I. 1974, Cap. L-17, s.71; 1975, c.52, s.22.*

68. Package broken or destroyed during search, evidence of violation

If, in the process of any search under this Act, any person breaks any package or empties out or otherwise destroys or attempts to empty out or otherwise destroys or disposes of the contents of any such package, it is *prima facie* evidence that the package contained liquor and shall be so construed by any court or provincial court judge in any proceeding under this Act. *R.S.P.E.I. 1974, Cap. L-17, s.73; 1975, c.78, s.3.*

69. Certificate of analyst conclusive proof of contents thereof

In any prosecution under this Act or the regulations, where there is a production by a peace officer of a certificate or report signed or purporting to be signed by a Government of Canada or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound, or substance, the certificate or report is conclusive evidence of each and every fact stated therein and of the authority of the person giving or making it without any proof of appointment or signature. *R.S.P.E.I. 1974, Cap. L-17, s.74; 2006,c.16,s.63(8)(b).*

70. Inference that liquor intoxicating required

The provincial court judge trying a case, shall in the absence of proof to the contrary, infer that the liquor in question is intoxicating from the fact that a witness describes it as intoxicating, or as rum, whisky, gin, wine, ale, beer or by any other name that is commonly applied to liquor. *R.S.P.E.I. 1974, Cap. L-17, s.75; 1975, c.52, s.23; 1975, c.78, s.3.*

71. Intoxicating beverage

Any beverage that contains more than one-half of one per cent of absolute alcohol by volume at 15.5 degrees Celsius is deemed to be intoxicating. *R.S.P.E.I. 1974, Cap. L-17, s.76; 1975, c.52, s.23; 2021,c.39,s.5.*

72. Provincial court judge to draw inferences of fact

Upon the hearing of any charge of selling or purchasing liquor, or of unlawfully having or keeping liquor, contrary to this Act, the provincial court judge trying the case shall draw inferences of fact from the kind and quantity of liquor found in the possession of the person accused, or in any building, premises, vehicle, motor-car, automobile, boat, canoe, conveyance or place occupied or controlled by him, and from the frequency with which liquor is received thereat or therein or is removed therefrom, and from the circumstances under which it is kept or dealt with. *R.S.P.E.I. 1974,Cap. L-17,s.77; 1975,c.52,s.24; 1975,c.78,s.3; 2016,c.13,s.6.*

73. Conclusive evidence premises are prohibited premises

The production of the issue of the Gazette in which a copy of an order made under section 82.1 appears, is conclusive evidence in any proceeding under this Act that the premises declared by the order to be a prohibited premises are prohibited premises for the period mentioned in the order. *2004,c.7,s.19.*

74. Contents of package

The provincial court judge trying a case shall infer, in the absence of evidence to the contrary, that a container or package labelled with the word "liquor", or with a word or words referred to in clause 1(k) to describe a type of liquor, contains what the label indicates. *R.S.P.E.I. 1974, Cap. L-17, s.80,81,82,83,84; 1975,c.78,s.3; 1993,c.29,s.4; 1977,c.20,s.3; 2000,c.5,s.3; 2004,c.7,s.19.*

Sections 75 to 77 repealed by ***2004,c.7,s.18.***

GENERAL ENFORCEMENT PROVISIONS

78. Evidence of earlier conviction admissible, where

Notwithstanding section 54 of the *Evidence Act* R.S.P.E.I. 1988, Cap. E-11, where in any prosecution it is alleged that the offence took place in a public place, and that place is a public place only because of a previous conviction of the occupant of premises otherwise it is a dwelling-place, then the prosecution may submit as part of its case evidence of the earlier conviction for the purpose only of establishing the nature of the premises, and no conviction shall be held invalid or quashed by reason only of evidence having been so tendered or received. *R.S.P.E.I. 1974, Cap. L-17, s.85; 1977, c.39, s.1; 2004,c.7,s.5.*

79. Rehearing conviction for subsequent offence where first offence set aside

In the event of a conviction for any second or subsequent offence becoming void or defective after the making thereof by reason of any previous conviction being set aside, quashed, or otherwise rendered void, the provincial court judge by whom the second or subsequent conviction was made shall summon the person convicted to appear at a time and place to be named, and shall thereupon, upon proof of the due service of the summons, if the person fails to appear, or on his appearance, amend the second or subsequent conviction, and adjudge the punishment as might have been adjudged had the previous conviction never existed; and the amended conviction shall thereupon be held valid to all intents and purposes as if it had been made in the first instance. *R.S.P.E.I. 1974, Cap. L-17, s.86; 1975, c.78, s.3.*

80. Second conviction under Act deemed second offence

In case any person who has been convicted of a violation of any provision of this Act is afterwards convicted of a violation of any other provision of this Act, the later conviction shall be deemed a conviction for a second offence within the meaning of this Act, and shall be dealt with and punished accordingly, although the two convictions may have been under different sections. *R.S.P.E.I. 1974, Cap. L-17, s.87.*

81. Several charges, set out in one information

Charges of several offences against this Act committed by the same person may be included in one and the same information, if the information and the summons or warrant issued thereon contain specifically the time and place of each offence. *R.S.P.E.I. 1974, Cap. L-17, s.88.*

82. Penalty for each conviction

One conviction for several offences, and providing a separate punishment for each, may be made under this Act, although the offences may have been committed on the same day; but the increased punishment hereinbefore imposed shall only be incurred or awarded in the case of offences committed on different days and after information laid for a first offence. *R.S.P.E.I. 1974, Cap. L-17, s.89.*

82.1 Prohibited premises-designation

(1) Where, on any premises,

(a) a person commits an offence by contravening section 32, 33 or 37; and

(b) the person is convicted of the offence,

the provincial court judge making the conviction may, on application by the prosecutor, by order, declare the premises to be prohibited premises.

Contents of order

(2) An order made under subsection (1) shall indicate

(a) the name of the person convicted;

(b) the address of the premises which are declared to be a prohibited place under the order; and

(c) the duration of the order, as determined under subsection (3).

Duration of order

(3) Subject to subsection (9), an order made under subsection (1) expires,

(a) in the case of a first offence by the person named in the order, one year after it is made;

(b) in the case of a second offence by the person named in the order, two years after it is made; and

(c) in the case of a third or subsequent offence by the person named in the order, three years after it is made.

Copy of order

(4) Where a provincial court judge makes an order under subsection (1), the judge shall forthwith cause a copy of the order to be given to

(a) the person convicted;

(b) the Commission;

(c) the owner of the premises, if the owner is not the person convicted; and

(d) the police force having jurisdiction over the area in which the prohibited premises is located.

Gazette

(5) On receipt of a copy of an order made under subsection (1), the Commission shall forthwith cause a copy of the order to be published in the Gazette.

Notice or placard affixed to prohibited premises

(6) During the period of time any premises are subject to an order made under subsection (1), a peace officer may affix in any prominent place on the exterior of the premises that faces a road, street or entranceway, a notice, sign, label or placard containing

(a) a copy of the order; and

(b) a copy of subsection (7).

Restrictions in effect during order

(7) During the period of time any premises are subject to an order made under subsection (1), no person shall

(a) deliver or transport liquor to such premises;

(b) store or keep liquor on such premises;

(c) possess liquor on such premises;

(d) sell or purchase liquor on such premises; or

(e) consume liquor on such premises.

Deemed effects of order

(8) During the period of time any premises are subject to an order made under subsection (1),

(a) the premises shall be deemed not to be a dwelling-house;

(b) any liquor found on the premises shall be deemed to be unlawfully possessed by the occupier of the premises; and

(c) any person on the premises found to be in possession of liquor shall be deemed to have unlawfully purchased the liquor.

Recession of order

(9) A provincial court judge may, on application, rescind an order made under subsection (1) in respect of any premises if, after hearing the applicant and the police force having jurisdiction in the area where the premises are located, the judge is satisfied that the applicant

(a) has purchased or taken occupation of the premises after the order was made; and

(b) is not connected in interest to the person whose conviction led to the making of the order. *2004,c.7,s.20.*

82.2 Duty on owner of premises

(1) Where

(a) a premises is subject to an order under subsection 82.1(1); and

(b) the owner of the premises has, under subsection 82.1(4), been served with a copy of the order,

the owner of the premises shall ensure that, during the term of the order, no liquor is

(c) delivered or transported to; or

(d) stored, kept, possessed, sold, purchased or consumed at,

the premises.

Offence and penalty

(2) Any person who fails to comply with subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of not less than $10,000 and not more than $20,000.

Owner deemed not to have complied

(3) In the absence of evidence to the contrary, an owner of premises which are subject to an order under subsection 82.1(1), shall be deemed to have failed to comply with subsection (1) where, during the term of the order, anyone is convicted of an offence under section 32 or 37 or subsection 82.1(7) in relation to any act or omission occurring on the premises. *2004,c.7,s.20.*

JUDICIAL REVIEW AND APPEAL

83. Defect in proceedings, affect on conviction

(1) No conviction or order, or warrant for enforcing it, or other process shall, upon application by way of judicial review or for *habeas corpus* or upon any appeal, be held insufficient or invalid for any irregularity, informality or insufficiency therein or by reason of any defect of form or substance, if the court or judge hearing the application or appeal is satisfied by a perusal of the depositions that there is evidence on which the provincial court judge might reasonably conclude that an offence against this Act has been committed.

"Any defect in form or substance" defined

(2) In particular the words "any defect in form or substance" include any excess or defect in the punishment imposed or order made, but the inclusion does not affect the generality of the words. *R.S.P.E.I. 1974, Cap. L-17, s.90; 1975, c.78, s.3.*

84. Confirmation, reversal or modification of decision on appeal

(1) The court or judge hearing any such application or appeal may, upon being satisfied as referred to in subsection 83(1)

(a) confirm, reverse or modify the decision which is the subject of the application or appeal;

(b) amend the conviction or other process;

(c) make such other conviction or order in the matter as he thinks just;

(d) by the order exercise any power that might have been exercised at the trial; and

(e) make any order as to costs.

Effect of conviction or order

(2) The conviction or order or the amended conviction shall have the same effect and may be enforced in the same manner as if it had been made at the trial or by process of the court hearing the application or appeal. *R.S.P.E.I. 1974, Cap. L-17, s.91.*

85. Inferences & presumptions on appeal

Any inference or presumption which is or may be made by a provincial court judge under this Act shall or may be made by a judge on the hearing of an appeal. *R.S.P.E.I. 1974, Cap. L-17, s.92; 1975, c.78, s.3.*

COMMISSION ACCOUNTING

86. Property of Commission is property of Crown

All property, real or personal, all moneys acquired, administered, possessed or received by the Commission and all profits earned in the administration of this Act, are the property of the Government and all expenses, debts and liabilities incurred by the Commission, in connection with the administration of this Act, shall be paid by the Commission from the moneys received by the Commission in the administration of this Act. *R.S.P.E.I. 1974, Cap. L-17, s.93; 2022,c.62,s.41.*

87. Report to Minister *re* administration

(1) The Commission shall from time to time make reports to the Minister of the Crown charged with the administration of this Act, by order of the Lieutenant Governor in Council, through the Commission, covering such matters in connection with the administration of this Act as he may require.

Report to Minister *re* enforcement

(2) The Commission shall also from time to time make reports to the Minister, charged with the enforcement of this Act, covering such matters in connection with the enforcement of this Act as he may require.

Annual report to Minister

(3) The Commission shall annually make to the Lieutenant Governor in Council, through the Minister referred to in subsection (1), a report for the twelve months ending on March 31 in the year in which the report is made, which shall contain

(a) a statement of the nature and amount of the business transacted by each vendor during the year;

(b) a statement of its assets and liabilities including a profit and loss account, and such other accounts and matters as may be necessary to show the result of the operations of the Commission for the year;

(c) general information and remarks as to the working of the law within the province;

(d) any other information requested by the Minister charged with the administration of this Act.

Laying before Legislative Assembly

(4) Every annual report made under this section shall be forthwith laid before the Legislative Assembly if the Legislative Assembly is then in session, and if not then in session, shall be laid before the Legislative Assembly within fifteen days after the opening of the next session.

Books & accounts subject to audit

(5) The books and records of the Commission shall at all times be subject to examination and audit by the Auditor General, and to such other persons as the Lieutenant Governor in Council may authorize in that behalf. *R.S.P.E.I. 1974, Cap. L-17, s.94; 1980, c.10, s.21; 1986, c.5, s.2; 1992, c.43, s.3.*

88. Payment of expenses in administration of Act

The Commission shall make all payments necessary for the administration of this Act, including the payment of

(a) the salaries of the members of the Commission and its staff;

(b) all expenditures incurred by the Commission to conduct or support initiatives and programs that promote responsible liquor consumption and warn of the harm caused by irresponsible liquor consumption; and

(c) all expenditures incurred in establishing and maintaining stores and generally in the administration of this Act. *R.S.P.E.I. 1974, Cap. L-17, s.95; 2013,c.41,s.7.*

89. Net profits payable to

The net profits, remaining from time to time, shall be paid into the Operating Fund and be appropriated to the public service of the province. *R.S.P.E.I. 1974, Cap. L-17, s.96; 1983, c.1, s.6; 1986, c.5, s.2; 1997,c.20,s.3.*

90. Purchase orders

(1) Every order for the purchase of liquor shall be authorized by the Chief Executive Officer or, in the absence of the Chief Executive Officer, by a person designated by him, and no order shall be valid or binding unless so authorized.

Duplicates kept

(2) A duplicate of every order referred to in subsection (1) shall be kept at the principal office of the Commission.

Cancellation of orders

(3) All cancellations of orders shall be executed in the manner prescribed in subsection (1) and a duplicate thereof kept as prescribed in subsection (2). *R.S.P.E.I. 1974, Cap. L-17,s.97; 1993,c.13,s.4; 1997,c.1,s.10 {eff.} May 1/97.*

GENERAL PROVISIONS

91. Application of s.304, *Highway Traffic Act*

Section 304 of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5 applies with the necessary changes to all fines imposed under this Act. *R.S.P.E.I. 1974, Cap. L-17, s.98.*

92. Limitation of action

(1) No action or proceeding shall be taken against any member of the Commission for anything done or omitted to be done in or arising out of the performance of his duties under this Act.

Decisions, orders & actions of Commission final.

(2) Every action, order, or decision of the Commission as to any matter or thing, in respect of which any power, authority or discretion is conferred on the Commission under this Act is final, and shall not be the subject of an application for judicial review. *R.S.P.E.I. 1974, Cap. L-17, s.99.*

93. Administration of oaths

Every vendor and every person to whom the Commission has delegated the function, duty or power to grant and issue permits or licenses under this Act may administer any oath and take and receive any affidavit or declaration required under this Act or the regulations. *R.S.P.E.I. 1974, Cap. L-17, s.100; 2016,c.12,s.7.*

94. Purpose and intent of Act

The purpose and intent of this Act is to prohibit transactions in liquor which take place wholly within the province except as specifically provided by this Act, and every section of this Act shall be construed accordingly; the provisions of this Act dealing with the importation, sale and disposition of liquor within the province through the instrumentality of the Commission, provide the means by which this Act shall be made effective, and nothing in this Act shall be construed as forbidding, affecting or regulating any transaction which is not subject to the legislative authority of the province. *R.S.P.E.I. 1974, Cap. L-17, s.101.*