



[HOME](#) > [TITLE 4](#)

[§ 901](#) [§ 902](#) [§ 903](#) [§ 904](#) [§ 905](#) [§ 906](#) [§ 907](#) [§ 908](#) [§ 909](#) [§ 910](#) [§ 911](#) [§ 912](#) [§ 913](#) [§ 914](#) [§ 915](#) [§ 916](#)

TITLE 4

Alcoholic Liquors

CHAPTER 9. CRIMINAL OFFENSES AND PENALTIES

§ 901. Offenses carrying penalty of imprisonment for 3 to 6 months.

Whoever:

- (1) Peddles any alcoholic liquor; or
- (2) Keeps, sells or dispenses alcoholic liquor in a disorderly house; or
- (3) Being an employee of the Commissioner and/or Division, infringes any of the provisions of this title; or
- (4) Not being the holder of a proper and valid license, or not being so authorized by this title, sells any alcoholic liquor in this State; or
- (5) Not being the holder of a license under this title, claims or represents that he is the holder of a license or exhibits a document purporting to be a license under this title; or
- (6) Sells, offers for sale, or keeps with the intent to sell for beverage purposes, denatured alcohol, perfume, lotion, tincture, fluid extract or essence, or other liquid or solid not originally manufactured or intended for use as a beverage, containing more than one half of 1 percent of ethyl alcohol by volume, shall, in addition to the payment of costs, be imprisoned not less than 3 nor more than 6 months. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

38 Del. Laws, c. 18, §§ 44, 45; Code 1935, §§ 6172, 6173; 41 Del. Laws, c. 250, § 1; 4 Del. C. 1953, § 901; 58 Del. Laws, c. 239, § 43; 67 Del. Laws, c. 109, § 27; [72 Del. Laws, c. 486, § 10.](#)

§ 902. Offenses carrying penalty of fine of \$500 to \$1,000 or imprisonment for 3 to 6 months on failure to pay fine.

Whoever:

- (1) Being the holder of a license, sells any alcoholic liquor of a kind other than that authorized to be sold by his or her license or by this title; or
- (2) Being the holder of a license, sells alcoholic liquor to any person to whom neither his license nor this title authorizes him or her to sell; or
- (3) Being the holder of a license, keeps or allows the keeping in his or her establishment of any alcoholic liquor other than that which he or she is authorized to sell by virtue of his or her license; or
- (4) Being the manufacturer or the agent in this State for the manufacturer of any

liquid or solid containing alcoholic liquor, sells such liquid or solid as a medicine or preparation after the Commissioner and/or Division has notified him or her in accordance with § 725 of this title; or

(5) Keeps or allows the keeping of any alcoholic liquor in his or her residence, either for himself or herself or for other persons on deposit or otherwise, with intent to sell the same; or

(6) Not being the holder of a license under Chapter 5 of this title, keeps or allows alcoholic liquor to be kept in a club for himself or herself or for members of the club or for other persons in storage or otherwise; or

(7) Not being the holder of a license authorized by § 515A of this title, operates or maintains an establishment commonly known as a "bottle club," shall, in addition to payment of costs, be fined not less than \$500 nor more than \$1,000, and, on failure to pay such fine and costs, shall be imprisoned not less than 3 nor more than 6 months. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

38 Del. Laws, c. 18, § 45; Code 1935, § 6173; 4 Del. C. 1953, § 902; 58 Del. Laws, c. 239, § 44; 63 Del. Laws, c. 232, § 3; 67 Del. Laws, c. 109, § 28; 70 Del. Laws, c. 186, § 1; [72 Del. Laws, c. 486, § 10.](#)

§ 903. Offenses carrying penalty of fine of not more than \$100 or imprisonment for 1 month on failure to pay fine.

Whoever:

(1) Being the holder of a license, sells beer to which wine, spirits or alcohol has been added; or sells wine to which spirits or alcohol has been added, other than an addition of spirits or alcohol to render possible transportation or to secure the customary fortifying thereof; or sells any alcoholic liquor to which has been added any adulterating or deleterious substances or liquid; or

(2) Being the holder of a license, sells any alcoholic liquor in any place, or in any manner, or in any quantity other than as authorized by his or her license; or

(3) Being the holder of a license to sell spirits, wine or beer in a dining room or bedroom, has not furnished, fitted, or equipped such dining room or bedroom in the manner or to the extent indicated by the Commissioner and/or Division; or

(4) Being the holder of a license to sell spirits, wine or beer, as the case may be, does not comply with any requirement or provision of §§ 512-520 or 706 of this title; or

(5) Being the holder of a license, sells any alcoholic liquor which he or she is authorized by his or her license to sell, at any time forbidden by § 709 of this title; or

(6) Being the holder of a license, knowingly sells to any of the persons mentioned in § 708 of this title after notice sent to him or her by the Commission in compliance with the provisions of said section, any alcoholic liquor, the sale of which is authorized by his or her license; or

(7) Being the holder of a license to sell alcoholic liquor in a store, allows any alcoholic liquor sold therein to be drunk in such store or its dependencies, either by the purchaser or by any other person; or

(8) Being the holder of a license to sell alcoholic liquor in the dining room of any hotel, restaurant, club or steamboat, or in a dining car, does not keep his or her license constantly posted conspicuously in view of the public in such dining room or dining car; or

(9) Being the holder of a license, keeps or transports any alcoholic liquor in

contravention of this title; or

(10) Having acquired for the purpose of resale any liquid or solid containing alcoholic liquor, sells it as a medicine or preparation after having been notified by the Commissioner and/or Division in accordance with § 725 of this title; or

(11) Not being the holder of a license, leads the public or travellers to believe, by means of signs, inscriptions, advertisements, or circulars that he or she is authorized to sell alcoholic liquor; or

(12) Buys or receives any alcoholic liquor from any person not authorized to sell such variety of alcoholic liquor or keeps such alcoholic liquor in his or her possession; or

(13) Obtains, even gratuitously, during the time when the sale thereof is forbidden, any alcoholic liquor from any holder of a license for the sale thereof; or

(14) Causes any disturbance in any place or brings thereinto or drinks therein any alcoholic liquor prohibited therein; or

(15) Buys, for any remuneration whatsoever, any alcoholic liquors for another person; or

(16) Being the holder of a license to sell alcoholic liquor, fails to post in a conspicuous place a sign which clearly reads, "According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects," shall, in addition to the payment of costs, be fined not more than \$100, and, on failure to pay such fine and costs, shall be imprisoned for 30 days. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

38 Del. Laws, c. 18, § 46; Code 1935, § 6174; 41 Del. Laws, c. 254, § 2; 45 Del. Laws, c. 263, § 1; 4 Del. C. 1953, § 903; 58 Del. Laws, c. 239, § 45; 67 Del. Laws, c. 23, §§ 1, 2; 67 Del. Laws, c. 109, § 29; 70 Del. Laws, c. 186, § 1; [72 Del. Laws, c. 486, § 10.](#)

§ 904. Offenses concerning certain persons.

(a)(1) Whoever sells any alcoholic liquor to any person who has not reached the age of 21 years, or sells to any person of more than such age any alcoholic liquor knowing that such alcoholic liquor is bought for a person who is less than 21 years of age and is to be drunk by the latter, shall, in addition to the payment of costs, be fined not less than \$250 nor more than \$500 and, on failure to pay such fine and costs, shall be imprisoned for 30 days.

(2) In any prosecution for an offense under this subsection, it shall be an affirmative defense that the individual, who has not reached the age of 21 years, presented to the accused identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 21 years of age or older.

(b) Any person under the age of 21 years who knowingly makes false statement to any person engaged in the sale of alcoholic liquor for the purpose of obtaining the same and to the effect that he is 21 years of age or older, shall, in addition to the payment of costs, be fined for the first offense, not less than \$100 nor more than \$500, and on failure to pay such fine and costs, shall be imprisoned for 30 days, and for each subsequent like offense, shall be fined not less than \$500 nor more than \$1,000, and on failure to pay such fine and costs shall be imprisoned for 60 days.

(c) Whoever purchases, buys or gives alcoholic liquor for or to a person under the age of 21 years or knowingly allows a person under his or her supervision and under the age of 21 years to consume alcoholic liquor shall, in addition to the payment of costs, be fined for the first offense, not less than \$100 nor more than \$500, and may be ordered by the court to perform community service for a period of 40 hours in such form and on such terms as the court shall

deem appropriate under the circumstances and may be imprisoned for not more than 30 days; and for each subsequent like offense, shall be fined not less than \$500 nor more than \$1,000 and may be ordered by the court to perform community service for a period of 80 hours in such form and on such terms as the court shall deem appropriate under the circumstances and may be imprisoned for not more than 60 days. This subsection shall not apply to religious services or members of the same family within the private home of any of said members.

(d) Except as provided in subsection (n) of this section, whoever, being the holder of a license to operate a tavern or taproom, admits or permits to remain in such tavern or taproom any individual under the age of 21 years, shall be fined not more than \$100.

(e) Except as provided in subsection (n) of this section, whoever, being under the age of 21 years, enters or remains in a tavern, taproom or package store, or while therein possesses at any time alcoholic liquors, shall be fined \$50.

(f) Whoever, being under the age of 21 years, has alcoholic liquor in his or her possession at any time, or consumes or is found to have consumed alcoholic liquor, shall have their Delaware driver's license revoked for a period of 30 days for the 1st offense and not less than 90 days nor more than 180 days for each subsequent offense. If the underage person does not have a Delaware driver's license, the person shall be fined \$100 for the 1st offense and not less than \$200 nor more than \$500 for each subsequent offense. This section shall not apply to the possession or consumption of alcoholic liquor in connection with any religious service or by members of the same family within the private home of any of said members.

(g) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in clubs with authorized dining facilities, hotels, racetracks and restaurants licensed under this title where such employment has been authorized by permit issued by the Commission, provided that such a person shall not be involved in the sale or service of alcoholic liquor.

(h) Nothing in this section shall prevent the employment of a person 19 years of age or older to serve alcoholic liquor to patrons of clubs with authorized dining facilities, hotels, racetracks and restaurants licensed under this title.

(i) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in a catering business serving liquors, provided that such person shall not be engaged in the sale or service of alcoholic liquor.

(j) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in a bowling alley licensed to serve alcoholic beverages, provided that such person shall not be engaged in the sale or service of alcoholic liquor.

(k) Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(l) Nothing in this section shall prevent a licensed importer from employing a person who is 18, 19 or 20 years of age to:

- (1) Work in an office, warehouse or other facility used by the importer in the operation of its business;
- (2) Make or assist in deliveries of alcoholic liquors to licensed establishments in this State;
- (3) Transport or assist in the transporting of alcoholic liquors to or from the importer's warehouse.

Such person may enter any licensed establishment in this State for the purpose of making or assisting the delivery of alcoholic liquors thereto or for any purpose related to such delivery.

No such person shall be employed by a licensed importer as a salesperson or sales representative.

(m) Nothing in this section shall prevent the employment in a store by a retailer of anyone who has reached the age of 18 years, under such conditions as the Commission may by rule prescribe; provided, however, that no such minor shall sell or serve alcoholic liquors.

(n) Nothing in this section shall prohibit or prevent persons under the age of 21 years from entering or remaining in a premises licensed as a tavern or taproom for the purpose of a social event, including, but not limited to, events exclusively for persons under the age of 21 years, provided that the premises licensed as a taproom or tavern is closed for business (including any Sunday); and provided further, that during any such social event, no alcoholic liquor shall be sold, furnished or given to any person at any time before, during or after the social event. All alcoholic liquor must be either removed from the licensed premises or placed under lock and key at all times during the social event and any time before or after the social event when persons under the age of 21 years are present on the licensed premises.

(o) Any person who was convicted of a first offense under subsections (e) and (f) of this section or the same offense under any county or municipal code, ordinance, or regulation and who was under the age of 21 at the time of the offense may, upon reaching the age of 21, apply for an expungement of the record of the conviction and any indicia of arrest to the court in which the person was convicted. For violations of subsection (e) or (f) of this section, an order granting such expungement shall issue upon proof that the person has reached the age of 21, unless the person has failed to comply with the sentencing order or the person has another charge under this section, or under the same offense under any county or municipal code, ordinance, or regulation, which remains outstanding. Upon issuance of the order of expungement, the records of the conviction and any indicia of arrest shall be dealt with in accordance with the procedures specified in §§ 4373(c), 4374 and 4375 of Title 11. Nothing in this section shall prohibit the Family Court from expunging a record of conviction as otherwise provided by law. The application for or granting of a pardon pursuant to §§ 4361 through 4363 of Title 11 shall not prohibit an expungement under this section. All sentencing orders for violations of this section by persons under the age of 21 at the time of the offense shall state that the record of the conviction may be expunged upon reaching the age of 21 and thereafter. The civil filing fee shall apply to applications for expungement plus a \$100 fee payable to the State Bureau of Investigation for administrative costs.

(p) [Deleted effective May 17, 2007.]

38 Del. Laws, c. 18, §§ 46, 50; Code 1935, §§ 6174, 6178; 41 Del. Laws, c. 253, §§ 1, 2; 45 Del. Laws, c. 263, § 1; 47 Del. Laws, c. 150, § 1; 4 Del. C. 1953, § 904; 53 Del. Laws, c. 390, §§ 1, 2; 54 Del. Laws, c. 295; 55 Del. Laws, c. 300; 55 Del. Laws, c. 335; 58 Del. Laws, c. 201; 58 Del. Laws, c. 239, § 46; 58 Del. Laws, c. 511, §§ 2-7; 59 Del. Laws, c. 234, § 1; 59 Del. Laws, c. 297, §§ 1-3; 61 Del. Laws, c. 448, § 1; 61 Del. Laws, c. 493, § 3; 61 Del. Laws, c. 511, §§ 1-3; 63 Del. Laws, c. 95, § 1; 64 Del. Laws, c. 216, §§ 3, 4; 64 Del. Laws, c. 435, § 1; 67 Del. Laws, c. 425, § 1; 68 Del. Laws, c. 242, § 1; 70 Del. Laws, c. 123, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 558, §§ 1-3; [72 Del. Laws, c. 134, § 1](#); [72 Del. Laws, c. 348, § 1](#); [72 Del. Laws, c. 349, § 1](#); [72 Del. Laws, c. 350, § 1](#); [74 Del. Laws, c. 237, §§ 1, 2](#); [75 Del. Laws, c. 255, § 2](#); [75 Del. Laws, c. 265, § 1](#);

§ 905. Unlicensed manufacture of alcoholic liquor; possession of still, apparatus, mash, etc., by unlicensed person.

(a) Whoever manufactures any alcoholic liquor without having first obtained from the Commissioner a license authorizing such manufacture, or, not being the holder of a license to manufacture alcoholic liquor, has at any time possession of any still, receptacle, paraphernalia, apparatus, mash, wort or wash, adapted for use in connection with the manufacture of alcoholic liquor, shall, in addition to the payment of costs, be fined not less than \$500 nor more than \$5,000, or imprisoned not less than 6 months nor more than 2 years, or both.

(b) Nothing in this section shall apply to the making of beer, cider or wine for personal consumption and not for the purpose of sale, nor to fermented liquids used in the manufacture of vinegar exclusively; however, no pipe, conductor or contrivance of any description whatsoever whereby vapor might in any manner be conveyed away and converted into distilled spirits, shall be used or employed or be fastened to or connected with any apparatus used for the manufacture of beer, cider, wine or vinegar except in the case of a duly licensed manufacturer. Any violation of this subsection shall carry the same penalties as provided in subsection (a) of this section. (Code 1935, § 6174A; 45 Del. Laws, c. 261, § 1; 4 Del. C. 1953, § 905; 71 Del. Laws, c. 315, § 1; 72 Del. Laws, c. 486, § 11.)

§ 906. Transportation and shipment.

(a) Whoever transports or ships alcoholic liquor in violation of the requirements of § 718 of this title, or, in connection with such transportation or shipment, knowingly has in his or her possession a waybill giving a false name or a false address, or transports by any vehicle any alcoholic liquor upon which the taxes provided by § 581 of this title have not been paid, shall, in addition to the payment of costs, be fined not less than \$100 nor more than \$1,000, or imprisoned not less than 30 days nor more than 6 months, or both.

(b) In any trial for an offense under this section, the burden shall be upon the defendant to prove that the taxes provided by § 581 of this title have been paid. Nothing in this section shall apply to any alcoholic liquor purchased from a legal source and being transported by the purchaser.

(c) In addition to the penalties provided by this section, any vehicle used to transport alcoholic liquor manufactured in violation of § 905 of this title shall be deemed confiscated and shall be delivered to, retained by and disposed of by the Commissioner and/or Division as provided in Chapter 11 of this title. A vehicle used to transport alcoholic liquor in violation of other sections of this title shall be seized or confiscated under this section only if it can be proved beyond a reasonable doubt that the transported alcoholic liquor was for some use other than personal consumption by the person or his or her passengers transporting it. This section shall not apply to vehicles operated by common carriers over scheduled routes, or to vehicles in which the sale of alcoholic liquor is licensed.

(d) Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section. (Code 1935, § 6172A; 45 Del. Laws, c. 263, § 2; 4 Del. C. 1953, § 906; 55 Del. Laws, c. 82, § 10; 58 Del. Laws, c. 108; 58 Del. Laws, c. 208; 58 Del. Laws, c. 239, § 47; 67 Del. Laws, c. 109, § 30; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 10.)

§ 907. Interference with officer or inspector.

Whoever interferes with or hinders any officer or inspector authorized by the Director to investigate any infringements of this title or to make any search, examination or seizure, in the performance of the officer's or inspector's duties to that end, shall, in addition to any other penalty which may be imposed upon him or her under this title, and in addition to payment of costs, be fined \$100 for each offense, and on failure to pay such fine and costs, shall be imprisoned for a term of 1 month. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

38 Del. Laws, c. 18, § 48; Code 1935, § 6176; 4 Del. C. 1953, § 907; 58 Del. Laws, c. 239, § 48; 70 Del. Laws, c. 186, § 1; [72 Del. Laws, c. 486, § 12.](#)

§ 908. Failure of licensee to file report.

Whoever, being the holder of a license for the sale of alcoholic liquor, neglects or refuses to make a return to the Commissioner, within 10 days immediately following the date indicated by the Commissioner, of his or her purchases and sales of alcoholic liquor as provided in this title, shall be fined \$10 per day for each day's delay, to run from the expiration of such 10 days.

Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

38 Del. Laws, c. 18, § 49; Code 1935, § 6177; 4 Del. C. 1953, § 908; 58 Del. Laws, c. 239, § 49; 70 Del. Laws, c. 186, § 1; [72 Del. Laws, c. 486, § 11.](#)

§ 909. Violation of rules respecting liquor taxes.

Whoever violates any rule or regulation made and published by the Commissioner respecting the collection and payment of taxes, as provided in § 581(d) of this title, shall be fined not more than \$1,000 and the costs of prosecution.

38 Del. Laws, c. 18, § 16; Code 1935, § 6145; 43 Del. Laws, c. 274, § 1; 4 Del. C. 1953, § 909; [72 Del. Laws, c. 486, § 11.](#)

§ 910. Offenses without specific penalty.

Whoever violates any provision of this title or any regulation of the Commissioner adopted and published under the authority of this title, for which no penalty is provided in this chapter, shall, in addition to the payment of costs, be fined or imprisoned, or both.

38 Del. Laws, c. 18, § 46; Code 1935, § 6174; 41 Del. Laws, c. 254, § 1; 4 Del. C. 1953, § 910; [72 Del. Laws, c. 486, § 11.](#)

§ 911. Penalty for partnerships and associations.

Wherever the penalty for an offense committed consists of imprisonment in whole or in part and the accused is a corporation, partnership or other association of persons, the penalty shall be a fine of \$2,000 in addition to the costs.

38 Del. Laws, c. 18, § 47; Code 1935, § 6175; 4 Del. C. 1953, § 911.

§ 912. Exemption of employees of Commissioner and/or Division.

No officer or inspector employed by the Commissioner and/or Division for the enforcement of this title, when acting in the officer's or inspector's official capacity, shall incur any of the penalties exacted by this chapter for the punishment of those who obtain alcoholic liquor either from a holder of a license granted under this title or from a person who is not the holder of a license.

38 Del. Laws, c. 18, § 52; Code 1935, § 6180; 4 Del. C. 1953, § 912; 70 Del. Laws, c. 186, § 1; [72 Del. Laws, c. 486, § 10.](#)

§ 913. Licensees convicted of violations by the Commissioner may be assessed costs.

Any licensee found guilty by the Commissioner of a violation of the rules of the Commissioner or the provisions of the Liquor Control Act of this State, as amended, may be required by the Commissioner to pay costs incurred by the Commissioner for the hearing, whether there is a plea of guilty or not guilty entered by the licensee. If a licensee fails to pay the costs assessed under the provisions of this section, the Commissioner may suspend or revoke the license or licenses issued by the Commissioner to the licensee.

4 Del. C. 1953, § 913; 57 Del. Laws, c. 404, § 5; [72 Del. Laws, c. 486, § 11.](#)

§ 914. Authority to suspend licenses and/or impose fines.

Whenever the Commissioner has found a licensee to be guilty of a violation of the rules of the Commissioner or the Delaware Liquor Control Act, in addition to the power and authority granted to the Commissioner by this title, the Commissioner shall have the power and authority to suspend a license and/or to impose a fine on the licensee and to require the licensee to pay a fine with regard to such violation. Prior to a license suspension and/or the imposition of any

fine, the Commissioner may cause such investigation to be made as the Commissioner deems desirable and the suspension and/or fine shall only be imposed and required to be paid if the Commissioner is satisfied:

(1) That the public welfare and morals would not be impaired by the suspension and/or imposition of the fine and that the payment of the sum of money will achieve the desired disciplinary purposes; and

(2) That the books and records of the licensee are kept in such a manner that the average monthly gross sales of alcoholic beverages can be determined with reasonable accuracy therefrom. Any fine imposed by the Commissioner, pursuant to this section, shall not exceed 10% of the estimated average gross monthly sales of alcoholic liquor for the operations of the licensee within the 12 months immediately preceding the date of the finding of guilt provided that such amount exceeds \$250. In no case shall the fine imposed by the Commissioner upon a finding of guilt be less than \$250. Each licensee shall maintain financial records that clearly demonstrate the licensee's estimated average gross monthly sale of alcoholic liquor for the operations of the business within the 12 months immediately preceding the date of the licensee's hearing before the Commissioner and, upon a finding of guilt, shall submit such documentation to the Commissioner.

4 Del. C. 1953, § 914; 57 Del. Laws, c. 453, § 1; 70 Del. Laws, c. 186, § 1; [72 Del. Laws, c. 351, § 1](#); [72 Del. Laws, c. 486, § 11](#); [75 Del. Laws, c. 417, § 1](#);

§ 915. Licensees pleading guilty; voluntary fines; limitation.

The Commissioner is authorized to create a "voluntary fine assessment plan," with fines not to exceed \$5,000, available to any licensee who pleads guilty to any violation of the Commissioner rules. Where a licensee chooses to pay a voluntary fine under the plan, such licensee shall have waived the licensee's right to and shall forego a formal hearing before the Commissioner, and shall be deemed to have waived any right to appeal relating to the offense(s). The plan shall be administered by the Executive Secretary or by such other persons as shall be designated by the Commissioner. The plan shall be published as a Commissioner rule.

67 Del. Laws, c. 91, § 1; 70 Del. Laws, c. 93, § 1; 70 Del. Laws, c. 186, § 1; [72 Del. Laws, c. 378, § 1](#); [72 Del. Laws, c. 486, § 11](#);

§ 916. Penalties imposed against licensees who threaten employees.

No licensee or representative thereof may discipline, threaten or otherwise penalize an employee for refusing to violate rules of the Commissioner and/or Division or statutes of the State. Any licensee violating the provisions of this section shall be subject to the penalties described in § 561(b)(10), § 910 and § 913 of this title.

70 Del. Laws, c. 132, § 1; [72 Del. Laws, c. 486, § 10](#);

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