

license therefor, as herein provided, he shall upon conviction pay a fine of not less than fifty nor more than two hundred dollars for each offense, and on failure to pay the same, together with the costs of prosecution, shall be committed to jail and confined therein until such fine and costs are paid or for a period of forty days, whichever shall first occur.

Since the act of 1858, ch. 414, repealed the law under which prior to the adoption of said act, an indictment had been found, no conviction could be had on such indictment. *Keller v. State*, 12 Md. 325.

See notes to section 1, 60, 72 and 90.

1904, art. 56, sec. 94. 1888, art. 56, sec. 85. 1860, art. 56, sec. 89. 1858, ch. 414, sec. 7. 1872, ch. 430.

94. If any person shall barter or sell any goods, wares or merchandise or spirituous or fermented liquors or lager beer in quantities not less than a pint without taking out license therefor as hereinbefore provided, he shall on conviction pay a fine of not less than twenty dollars nor more than one hundred dollars for each offense, and upon failure to pay said fine and the costs of prosecution shall be committed to jail and confined therein until such fine and costs are paid or for a period of twenty days, whichever shall first occur.

See notes to sec. 60.

*Ibid.* sec. 95. 1888, art. 56, sec. 86. 1860, art. 56, sec. 90. 1858, ch. 414, sec. 9. 1864, ch. 345. 1888, ch. 428. 1890, ch. 304.

95. If any person shall sell or barter any spirituous or fermented liquors or larger beer to any person who is a minor or under twenty-one years of age, or shall sell or barter to any person such spirituous or fermented liquors or lager beer to be drunk by such person who is a minor or under twenty-one years of age, he shall on conviction pay a fine of not less than fifty nor more than two hundred dollars, together with the costs of prosecution, and upon failure to pay the same shall be committed to jail and confined therein until such fine and costs are paid, or for the period of forty days whichever shall first occur.

The fact that the sale was made without the traverser's knowledge and contrary to his directions, is no defense. The act of the agent is the act of the principal; it is not necessary to prove the *scienter*. *Carroll v. State*, 63 Md. 552.

An indictment under this section which charges that the traverser had previously been convicted of a similar offense is bad on demurrer, since the section does not provide for a second offense. The defect is not cured by instructing the jury to make no reference in their verdict to the previous conviction. *Selck v. State*, 94 Md. 72.

Cited but not construed in *State v. Cahen*, 35 Md. 237.

*Ibid.* sec. 96. 1890, ch. 304, sec. 86 A.

96. If any person having a license to sell spirituous or fermented liquors or lager beer shall give to any person who is a minor or under twenty-one years any such spirituous or fermented liquors or lager beer, or having such license shall allow upon the premises occupied by him any such person who is a minor or under twenty-one years of age to drink any such spirituous or fermented liquors or lager beer sold or