

1937, ch. 431.

574. Nothing contained in Section 560 of this Article, however, shall be construed as prohibiting, penalizing or making unlawful the operation of any bowling alley, tenpin alley or duckpin alley in Allegany County, between the hours of 1 P. M. and 6 P. M. and 9 P. M. and 12 P. M. on Sunday, with or without a charge or fee.

An. Code, 1924, sec. 484. 1912, sec. 437. 1904, sec. 385. 1888, sec. 248. 1723, ch. 16, sec. 11. 1866, ch. 66. 1920, ch. 700.

575. No person in this State shall sell, dispose of, barter, or deal in, or give away any articles of merchandise on Sunday, except retailers, who may sell and deliver on said day tobacco, cigars, cigarettes, candy, sodas and soft drinks, ice, ice cream, ices and other confectionery, milk, bread, fruits, gasoline, oils and greases; and any person violating any one of the provisions of this section shall be liable to indictment in any court in this State having criminal jurisdiction, and upon conviction thereof shall be fined a sum not less than twenty nor more than fifty dollars, in the discretion of the court, for the first offense, and if convicted a second time for a violation of this section, the person or persons so offending shall be fined a sum not less than \$50 nor more than \$500, and be imprisoned for not less than 10 nor more than 30 days, in the discretion of the court, and his, her or their license, if any was issued, shall be declared null and void by the judge of said court; and it shall not be lawful for such person or persons to obtain another license for the period of twelve months from the time of such conviction, nor shall a license be obtained by any other person or persons to carry on said business on the premises or elsewhere, if the person, so as aforesaid convicted, has any interest whatever therein, or shall derive any profit whatever therefrom; and in case of being convicted more than twice for a violation of this section, such person or persons on each occasion shall be imprisoned for not less than thirty nor more than sixty days, and fined a sum not less than double that imposed on such person or persons on the last preceding conviction; and his, her or their license, if any was issued, shall be declared null and void by the court, and no new license shall be issued to such person or persons for a period of two years from the time of such conviction, nor to any one else to carry on said business wherein he or she is in anywise interested, as before provided for the second violation of the provisions of this section; all the fines to be imposed under this section shall be paid to the State. This section is not to apply to apothecaries and such apothecaries may sell on Sunday drugs, medicines and patent medicines as on week days; and this section shall not apply to the sale of newspapers and periodicals.

This section is no longer applicable to Baltimore City. See notes to sec. 560. *Ness v. Baltimore*, 162 Md. 531.

There is no constitutional objection to a statute prescribing an increased punishment for a second offense; the indictment must charge the commission of the second offense, and the verdict must show that jury found traverser guilty of a second offense, else he may only be convicted for a first offense. How prior conviction may be proven. The indictment may be read to jury. *Maguire v. State*, 47 Md. 493.

Act 1908, ch. 179, regulating sale of liquors, and granting of licenses therefor, in Baltimore County, held not to repeal this section so far as it applies to persons who are not licensed dealers and who sell liquors on Sunday in violation of this section in Baltimore County; a different punishment is provided by the local law from that provided by this section. Indictment held to have been properly brought under act of 1908, rather than under this section. *Kenny v. State*, 121 Md. 125.

The gravamen of the offense prohibited by this section is selling liquor on Sunday, and not selling with or without a license; hence indictment need not allege that