

MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 1009

H. P. 1848

House of Representatives, April 9, 1937.

Reported by Mr. Sleeper from Committee on Temperance and laid on table to be printed under joint rules.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Relating to Licenses of Importers of Malt Liquors; Emergency.

Emergency preamble. Whereas, the importation of malt liquors by persons within the state from vendors of such liquors without the state has created a traffic hazardous to the peace, health and safety of the public; and

Whereas, such importation materially reduces the most effective functioning of the provisions of chapter 300 of the public laws of 1933 and acts additional thereto and amendatory thereof, thereby causing hardship and suffering to many of the aged people of the state; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of article XXXI of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. P. L., 1933, c. 268, amended. Sections 19, 20 and 21 of chapter 268 of the public laws of 1933 are hereby repealed and the following enacted in place thereof.

‘Sec. 19. Manufacturers and foreign wholesalers. No manufacturer or foreign wholesaler of malt liquors shall hold for sale, sell, offer for sale,

in intrastate commerce, malt liquors or transport or cause the same to be transported into the state of Maine for resale unless such manufacturer or foreign wholesaler has obtained from the state liquor commission a certificate of approval. The fee for a certificate of approval issued shall be \$500 per annum, which sum shall accompany the application for such certificate.

(a) All manufacturers or foreign wholesalers to whom a certificate of approval has been granted shall furnish the commission with a copy of every invoice sent to Maine wholesale licensees. They shall also furnish a monthly report on or before the 10th day of each calendar month in such form as may be prescribed by the commission, and, further, shall not ship or cause to be transported into the state of Maine malt liquors until the commission has certified that the excise tax has been paid to the commission.

(b) The purposes of this section are to regulate the importation, transportation and sale of malt liquors, also in addition thereto, to regulate and control the collection of excise taxes.

(c) The fees received under this section shall be used by said commission for carrying out the purposes of this section.'

'Sec. 20. Wholesalers. No Maine wholesale licensee shall purchase or cause to be transported into this state malt liquors from an individual, partnership, or corporation, manufacturer of malt liquors or foreign wholesaler of said malt liquors, to whom a certificate of approval has not been granted.

(a) All purchase order forms are to be furnished by the commission and all orders are to be executed in quintuplet. The original copy is to be sent direct to the brewery or foreign wholesaler. Three copies of the order are to be mailed to the commission with a check for the amount of excise taxes required to cover the amount of the order. The commission shall mail one copy, after having certified thereon that the excise taxes thereon have been paid, to the brewery or foreign wholesaler with whom the order has been placed. One copy shall be mailed to the Maine wholesale licensee with a notation that the excise taxes have been paid. The brewery or foreign wholesaler may ship upon receipt of the original order upon permission being granted to do so by the commission.

(b) No Maine wholesale licensee shall sell malt liquors to another Maine wholesale licensee, which were not purchased from a brewery or foreign wholesaler holding a certificate of approval.

(c) Maine wholesale licensees shall furnish a monthly report of all malt liquor purchased to the commission on or before the 10th day of each calendar month, in such form as may be prescribed by the commission.'

'Sec. 21. Fee, when paid. The fee herein stated shall be payable on a pro rata basis for the remaining months from date of issuance of said certificate to the beginning of the next licensing period, July 1st, 1937.'

Sec. 2. Excise taxes. There shall be levied and imposed an excise tax on all malt liquors manufactured in this state of 5 $\frac{1}{3}$ cents per gallon to be paid by the manufacturer in addition to the fee herein provided by law. A wholesale licensee who imports malt liquors shall pay an excise tax on the following basis: case containing 24 12-ounce bottles, 9c; case containing 24 16-ounce bottles, 12c; case containing 12 24-ounce bottles, 9c; case containing 12 32-ounce bottles, 12c; \$1.24 for a barrel, 62c for a half barrel, and 31c for a quarter barrel.

(a) The commission shall open an excise tax account with all wholesale licensees.

(b) The commission is hereby authorized to give proper credits and to make proper tax adjustments as it may deem from time to time the wholesale licensee may be entitled to upon the filing of affidavits in such form as the commission may prescribe.

Sec. 3. Transportation of malt liquors. It shall be prima facie evidence of illegal transportation of malt liquors into this state if **any** shipment be not accompanied by an invoice with the wholesale licensee's name and purchase order number thereon.

Sec. 4. Penalty. Whoever is convicted of illegal transportation of malt liquors into this state shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 5. Eighty-eighth legislature, H. P. 1475, L. D. 697, § 2, amended. Section 2 of House Paper 1475, L. D. 697, entitled: "An Act Appropriating Moneys for Overdrafts Already Incurred Due to Insufficient Appropriations and Anticipated Overdrafts and Other Obligations for Which no Legislative Appropriations Have Been Made," approved February 25, 1937, is hereby amended to read as follows:

'Sec. 2. Emergency deficiency tax. There is hereby levied and imposed, in addition to any other taxes now in effect thereon, an excise tax to be known as the 1936-7 Deficiency Tax on all malt liquor sold in the state of \$3.72 on each and every barrel containing not more than 31 gallons and at a like rate for any other quantity or for the fractional parts of each barrel. ~~The payment of said tax shall be evidenced by a stamp affixed to each barrel, bottle or other container containing malt liquor.~~ Said stamp

shall express the amount of the tax paid evidenced thereby. No malt liquor shall be sold in or from a container unless said stamp be affixed thereto.'

Sec. 6. Eighty-eighth legislature, H. P. 1475, L. D. 697, §§ 3, 4, repealed. Sections 3 and 4 of House Paper 1475, L. D. 697, entitled; "An Act Appropriating Moneys for Overdrafts Already Incurred Due to Insufficient Appropriations and Anticipated Overdrafts and Other Obligations for Which no Legislative Appropriations Have Been Made," approved February 25, 1937, are hereby repealed.

Sec. 7. Eighty-eighth legislature, H. P. 1475, L. D. 697, § 7, amended. Section 7 of House Paper 1475, L. D. 697, entitled: "An Act Appropriating Moneys for Overdrafts Already Incurred Due to Insufficient Appropriations and Anticipated Overdrafts and Other Obligations for Which no Legislative Appropriations Have Been Made," approved February 25, 1937, is hereby amended to read as follows:

'Sec. 7. Penalties. Whoever violates any of the provisions of this act, ~~other than making or uttering false stamps as hereinbefore provided,~~ shall be punished by a fine of not more than \$500, or by imprisonment for ~~a term of~~ not more than 11 months, or by both **such** fine and imprisonment.'

Sec. 8. Constitutionality. The unconstitutionality of any section or provision of this act shall not invalidate the remainder of the act.

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.