

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(Transmitted by Director of Legislative Research pursuant to joint order.)

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

Legislative Document

No. 1281

H. P. 1919

House of Representatives, March 4, 1949

Referred to the Committee on Temperance, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. DeSanctis of Madison.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT to Regulate the Sale of Wine.

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

Preamble. The purpose of this act is to authorize and direct the state liquor commission to issue licenses to qualified persons for the sale and purchase of wine, having an alcoholic content not greater than 24% by volume, at wholesale and retail.

Sec. 1. R. S., c. 57, § 1, amended. The 3rd from the last paragraph of section 1 of chapter 57 of the revised statutes which relates to the definition of "Spirits" is hereby repealed and the following enacted in place thereof:

'"Spirits" or "spirituous liquor" shall mean any liquor produced by distillation.'

Sec. 2. R. S., c. 57, § 1, amended. The last paragraph of section 1 of chapter 57 of the revised statutes which relates to the definition of "Wine" is hereby repealed and the following enacted in place thereof:

'"Wine" shall mean any liquor produced by natural fermentation or any liquor produced by fermentation and fortified but not having an alcoholic content in excess of 24% by volume.'

Sec. 3. R. S., c. 57, § 2, sub-§ IV-A, additional. Section 2 of chapter 57 of the revised statutes, as amended by section 1 of chapter 273 and by sections 1-A, 1-B and 1-C of chapter 322, both of the public laws of 1947, is hereby further amended by adding after subsection IV a new subsection to be numbered IV-A, to read as follows:

‘IV-A. Shall licenses be granted in this city or town for sale herein of wine not to be consumed on the premises?’

Sec. 4. R. S., c. 57, § 2, amended. Section 2 of chapter 57 of the revised statutes, as amended by section 1 of chapter 273 and by sections 1-A, 1-B and 1-C of chapter 322, both of the public laws of 1947, is hereby further amended by inserting before the 13th paragraph from the last a new paragraph to read as follows:

‘If a majority of such votes in answer to question IV-A is in the affirmative, the commission may issue licenses for the sale therein of wine not to be consumed on the premises, subject to all the provisions of law.’

Sec. 5. R. S., c. 57, § 2, amended. Section 2 of chapter 57 of the revised statutes, as amended by section 1 of chapter 273 and by sections 1-A, 1-B and 1-C of chapter 322, both of the public laws of 1947, is hereby further amended by inserting before the 5th paragraph from the last a new paragraph to read as follows:

‘If a majority of such votes in answer to question IV-A is in the negative, licenses shall not be issued for the sale of wine not to be consumed on the premises for the 2 calendar years next following.’

Sec. 6. R. S., c. 57, § 6, sub-§§ III, XII, amended. Subsections III and XII of section 6 of chapter 57 of the revised statutes are hereby amended to read as follows:

‘III. To adopt rules and regulations for the administration of the law relating to wine and malt liquor and for the supervision and regulation of the manufacture, sale and transportation of wine and malt liquor throughout the state; the manufacture, sale and transportation of which is permitted and authorized.’

‘XII. To establish prices for retail sale in state stores which shall be uniform throughout the state.’

Sec. 7. R. S., c. 57, § 12, amended. The 1st sentence of section 12 of chapter 57 of the revised statutes is hereby amended to read as follows:

‘All spirits and wines sold by the commission shall hereafter be sold by the commission at a price to be determined by the commission which will pro-

duce a state liquor tax of not less than 61% based on the less carload cost f.o.b, state liquor commission warehouse, excepting only that spirits and wines sold at wholesale under the provisions of sections 41, may be sold at wholesale prices established pursuant to the provisions thereof.'

Sec. 8. R. S., c. 57, § 13, amended. The next to the last paragraph of section 13 of chapter 57 of the revised statutes, as repealed and replaced by chapter 92 of the public laws of 1947, is hereby amended to read as follows:

'All licenses issued under the provisions of this section shall authorize the licensees to sell their finished product to the commission, to other licensed Maine manufacturers and to purchasers outside of the state. In the case of breweries **and bottlers**, the license shall authorize sale to licensed Maine wholesalers; and all manufacturers' licenses shall authorize the transportation within the state for the purposes herein provided and to the state border for delivery to out of state purchasers.'

Sec. 9. R. S., c. 57, § 15, amended. Section 15 of chapter 57 of the revised statutes is hereby amended to read as follows:

'**Sec. 15. Manufacturers and officers not to be interested in wholesalers; commercial credit permitted.** No officer, director or stockholder of a corporation which is the holder of a manufacturer's certificate of approval shall in any way be interested, either directly or indirectly, as a director, officer or stockholder in any other corporation which is the holder of a wholesale license for the sale of **wine or** malt liquor granted by this state; nor shall a manufacturer or holder of a certificate of approval either directly or indirectly loan any money, credit or equivalent thereof to any wholesaler for equipping, fitting out, maintaining or conducting, either in whole or in part, a business establishment where **wine or** malt liquor is sold, excepting only the usual and customary commercial credit for **wine or** malt liquor sold and delivered.'

Sec. 10. R. S., c. 57, § 16, repealed and replaced. Section 16 of chapter 57 of the revised statutes, as amended by chapter 96 of the public laws of 1947, is hereby repealed and the following enacted in place thereof:

'**Sec. 16. No foreign manufacture, wholesaler or bottler of malt liquor or wine to transport without permit; fees; reports. No foreign manufacturer, wholesaler or bottler of wine or malt liquor shall hold for sale, sell or offer for sale in intrastate commerce any wine or malt liquor or cause the same to be transported into this state, for resale, unless such foreign manufacturer, wholesaler or bottler has obtained from the commission a**

certificate of approval. The fee therefor shall be \$100 per year, which shall accompany the application for such certificate.

All foreign manufacturers, wholesalers or bottlers to whom certificates of approval have 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 this state any wine or malt liquor until the commission has certified that the excise tax has been paid.

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

The fees received under the provisions of this section shall be deposited in the general fund of the state.

The provisions of this section shall not apply to wine sold, offered for sale or transported to the commission.'

Sec. 11. R. S., c. 57, § 18, amended. Section 18 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Sec. 18. Licenses for wholesalers of wine and malt liquor. Licenses for the sale and distribution of malt liquor or wine and malt liquor at wholesale under such regulations as the commission may prescribe may be issued by the commission upon an application in such form as they may prescribe and upon payment of ~~an~~ the prescribed annual fee of \$300 for the principal place of business, and \$300 for each additional warehouse maintained by such wholesale licensee, except that the commission may issue special permits, upon application in writing, for the temporary storage of malt liquors under such terms and upon such conditions as the commission may prescribe.

The prescribed fees shall be as follows:

Each principal place of business (malt liquor only), \$300.

Each additional warehouse (malt liquor only), \$300.

Each principal place of business (wine and malt liquor), \$600.

Each additional warehouse (wine and malt liquor), \$600.

Such wholesalers' licenses may be transferable as to premises in the town originally specified or to premises in another town.'

Sec. 12. R. S., c. 57, § 19, amended. Section 19 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Sec. 19. Interstate purchase or transportation of wine and malt liquor by wholesalers. No Maine wholesale licensee shall purchase or cause to be transported into this state any **wine or** malt liquor from any person to whom a certificate of approval has not been granted by the commission.

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~~ **foreign holder of certificate of approval**. Three copies 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~~ **holder of certificate of approval** 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~~ **holder of certificate of approval** may ship upon receipt of the original order upon being granted permission to do so by the commission.

No Maine wholesale licensee shall sell any **wine or** malt liquor to another Maine wholesale licensee, which has not been purchased from a ~~brewery or foreign wholesaler~~ **holding holder of** a certificate of approval.

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

Sec. 13. R. S., c. 57, § 20, amended. Section 20 of chapter 57 of the revised statutes, as amended by chapter 133 of the public laws of 1945 and by chapter 195 of the public laws of 1947, is hereby further amended to read as follows:

'Sec. 20. Excise taxes; deficiency account; credits. There shall be levied and imposed an excise tax on all malt liquor manufactured in this state of 5 1/3c per gallon to be paid by the manufacturer in addition to the fee provided by law. A wholesale licensee who imports malt liquor shall pay an excise tax on the following basis: case containing 24 12-ounce bottles, 36c; case containing 24 16-ounce bottles, 48c; case containing 12 24-ounce bottles, 36c; case containing 12 32-ounce bottles, 48c; \$4.96 for a barrel; \$2.48 for a half-barrel; and \$1.24 for a quarter-barrel.

All wholesale licensees who purchase wine from Maine wineries or bottlers or from foreign holders of certificates of approval shall pay an excise tax of 40c per gallon on each gallon of wine purchased for sale and for the purposes of this excise tax bottles of wine containing 1/5th gallon shall be considered the same as though they contained 1 quart.

All money received by the commission under the provisions of this section shall be forthwith turned over to the treasurer of state and shall be credited to the general fund of the state. ~~Of this amount \$100,000 annually shall be considered to apply against the deficiency incurred in 1937, but no separate account need be maintained on the books of the state controller. The balance of the "1937 deficiency account" as of June 30, 1945 shall be closed to unappropriated surplus.~~

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

The commission is authorized to give such proper credits and to make such proper tax adjustments as they may from time to time deem the wholesale licensee to be entitled to upon the filing of affidavits in such form as they may prescribe and shall refund all excise tax paid by the wholesale licensee on all **wine or** malt liquor returned to the manufacturer in original containers, if credit is issued and allowed for same by the manufacturer, upon the filing of affidavits in such form as they may prescribe.

All taxes, excise and deficiency, on **wine or** malt beverages imposed by the state shall not apply to **wine or** malt beverages sold by wholesalers holding licenses from the commission to any instrumentality of the United States.'

Sec. 14. R. S., c. 57, § 22-A, amended. Section 22-A of chapter 57 of the revised statutes, as enacted by chapter 243 of the public laws of 1947, is hereby amended to read as follows:

'**Sec. 22-A. Notice of application for license to be published.** No new license for the sale of liquor shall be issued, except licenses for malt liquor **or wine** not to be consumed on the premises, until notice of application for same has been published by the commission in the official state paper and a 10-day period has elapsed from the date of such publication.'

Sec. 15. R. S., c. 57, § 23, amended. The 1st paragraph of section 23 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Licenses for the sale and distribution of malt liquor **and wine** at retail under such regulations as the commission may prescribe may be issued by

the commission upon an application in such form as they may prescribe and upon payment of a fee as hereinafter provided. No person licensed to sell at retail shall sell malt liquor **and wine** for consumption on the premises where sold except as hereinafter provided.'

Sec. 16. R. S., c. 57, § 25, repealed and replaced. Section 25 of chapter 57 of the revised statutes is hereby repealed and the following enacted in place thereof:

'**Sec. 25. Retail license fees; wine and malt liquor. Fees for hotel and restaurant male licenses shall be \$200 per year; restaurant wine, \$200 per year; club malt liquor, \$100; retail stores, not to be consumed on the premises, malt liquor, \$100 per year, wine, \$100 per year.**'

Sec. 17. R. S., c. 57, § 27, amended. The next to the last sentence of section 27 of chapter 57 of the revised statutes is hereby amended to read as follows:

'No person, having had his or its license for the manufacture or sale at wholesale or retail of malt liquor **or wine** revoked for cause, shall be granted a license until the expiration of 5 years from the date of such revocation.'

Sec. 18. R. S., c. 57, § 28, amended. The 1st, 4th and 5th sentences of section 28 of chapter 57 of the revised statutes, as amended by sections 2 and 5 of chapter 322 of the public laws of 1947, are hereby further amended to read as follows:

'No license to sell malt liquor **or wine** to be consumed on the premises where sold shall be issued to any person for any premises except a bona fide hotel, restaurant, tavern or club, nor unless the application therefor be approved by the municipal officers of the city or town where such hotel, restaurant, tavern or club is located, and if such hotel, restaurant, tavern or club is located in an unorganized place, the application shall be approved by the county commissioners of the county within which such unorganized place is located.'

'No licensee under the provisions of this section, except taverns, shall maintain a bar where malt liquor **or wine** is consumed.'

'Licensed clubs shall not sell malt liquor **or wine** for consumption on the premises except to its members and their guests accompanying them.'

Sec. 19. R. S., c. 57, § 29, amended. Section 29 of chapter 57 of the revised statutes is hereby amended to read as follows:

'**Sec. 29. Part-time wine and malt liquor license for hotels, clubs and**

restaurants. The commission may also grant to any person upon written application in such form as they may from time to time prescribe a 6 months' license which will permit the person to whom the license is granted to sell **wine and** malt liquor for consumption on the licensed premises during the months of May, June, July, August, September and October. The fee therefor shall be \$125 for each hotel and restaurant, and \$50 for each club. The person licensed shall not sell **wine or** malt liquor or conduct any other business on the licensed premises during the months of November, December, January, February, March and April.'

Sec. 20. R. S., c. 57, § 34, amended. Section 34 of chapter 57 of the revised statutes is hereby amended to read as follows:

'**Sec. 34. Unlawful to peddle; penalty.** It shall be unlawful for any wholesale or retail licensee of malt liquor **or wine**, either directly or indirectly, by any agent or employee, to go from town to town, **or from** place to place in the same town selling or bartering or carrying for sale or exposing for sale any malt liquor **or wine** from any vehicle. All sales of such malt liquor **or wine** where transportation and delivery are required shall be made only upon orders actually received at the principal place of business or warehouse or distributing center, if licensed, of the seller prior to shipment thereof. An invoice stating the names of the purchaser and the seller, and the kind and quantity of malt liquor **or wine** ordered by the sale, together with the date of the sale, shall be carried by the driver or any other employee of the seller.

Whoever violates the provisions hereof 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. 21. R. S., c. 57, § 35, amended. The 1st paragraph of section 35 of chapter 57 of the revised statutes, as repealed and replaced by chapter 90 of the public laws of 1947, is hereby amended to read as follows:

'The commission, upon application in writing, may transfer the spirituous and vinous liquor license of any hotel or club, or the vinous liquor license of any restaurant **or retail licensee**, or the malt liquor license of any hotel, club, restaurant or retail licensee from one place to another within the same municipality, as the commission may determine, but such transfer of the spirituous and vinous liquor license of any hotel or club, or the vinous liquor license of any restaurant **or retail store**, or the malt liquor license of any hotel, club or restaurant shall only be made with the approval of the

municipal officers thereof; but no transfer shall be made to premises for which the license could not have been originally lawfully issued.'

Sec. 22. R. S., c. 57, § 37, amended. Section 37 of chapter 57 of the revised statutes, as amended by chapter 184 of the public laws of 1945, is hereby further amended to read as follows:

'Sec. 37. Prohibiting music, dancing or entertainment in licensed premises; exception. No **wine or malt restaurant** licensee shall permit on the licensed premises, or premises contiguous or adjacent thereto, under his control, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the commission a special amusement permit for which he shall pay to the commission a filing fee of \$10. The commission is hereby authorized to make whatever rules and regulations governing such dancing and entertainment as it deems necessary. Such permit shall be valid only for the license year of the existing license for the sale of **wine or malt liquor**. The commission shall not issue such a permit unless the applicant shall have first obtained the approval of the municipal officers of the municipality in which the licensed premises are situated.'

Sec. 23. R. S., c. 57, § 41, amended. The last sentence of section 41 of chapter 57 of the revised statutes is hereby amended to read as follows:

'The provisions of this section shall not apply to liquor sold in railroad dining cars moving in interstate commerce **nor to wine purchased by licensees from licensed wholesalers.**'

Sec. 24. R. S., c. 57, § 54, amended. The 1st sentence of section 54 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Every licensee shall keep for a period of at least 2 years complete records separate and apart from records relating to any other transactions engaged in by the licensee showing all transactions of the licensee in liquor and particularly showing the date of all purchases, the actual prices paid therefor, and the fact that the licensee received cash for all liquor sold by him at the time of or prior to delivery of such liquor, also the name and address of every person from whom such liquor was purchased, and in the case of wholesalers, the name and address of every purchaser of malt liquor **or wine.**'

Sec. 25. R. S., c. 57, § 55, amended. The last sentence of the 2nd paragraph of section 55 of chapter 57 of the revised statutes is hereby amended to read as follows:

'No licensee by himself, clerk, servant or agent shall sell, furnish, give, serve or permit to be served any liquor to be consumed on the premises **or wine not to be consumed on the premises** to any person visibly intoxicated, to any insane person, to a known habitual drunkard, to any pauper, to persons of known intemperate habits or to any minor under the age of 21 years.'

Sec. 26. R. S., c. 57, § 63, amended. Section 63 of chapter 57 of the revised statutes is hereby amended by adding at the end thereof a new paragraph to read as follows:

'The provisions of this section shall not apply to wine imported or caused to be shipped into the state by wholesale wine licensees.'

Sec. 27. R. S., c. 57, § 64, sub-§ I, amended. The 1st sentence of subsection I of section 64 of chapter 57 of the revised statutes is hereby amended to read as follows:

'No person shall knowingly transport from place to place in this state any intoxicating liquor with intent to sell the same in this state in violation of law, or with intent that the same shall be so sold by any person, or to aid any person in such sale, and no person shall transport any spirituous or vinous liquor in this state in a greater quantity than 3 quarts, unless such liquor was purchased from a state store or the state liquor commission **or wine purchased from a state wine licensee entitled to sell wine not to be consumed on the premises.'**

Sec. 28. R. S., c. 57, § 64, sub-§ II, amended. Subsection II of section 64 of chapter 57 of the revised statutes is hereby amended to read as follows:

II. It shall be prima facie evidence of illegal transportation of malt liquor **or wine** into this state if any shipment be not accompanied by an invoice with the wholesale licensee's name and purchase order number thereon. Whoever is convicted of illegal transportation of malt liquors **or wines** 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 such fine and imprisonment.'

Sec. 29. R. S., c. 57, § 65, amended. The 1st sentence of section 65 of chapter 57 of the revised statutes is hereby amended by adding at the end thereof the following words:

'or wine purchased from a Maine wine licensee'