

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1959 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 2

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**Place in Pocket of Corresponding  
Volume of Main Set**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1959

**Chapter 61.****Laws Relating to Liquor.**

Sections 31 to 31-A. Retail Sale of Liquor; Fees.

**Definitions.****Sec. 1. Definitions.**

“Catering” shall mean service of liquor with or without food by clubs having the catering privilege, to groups of nonmembers at a prearranged function.

“Club member” shall mean a person who, whether as a charter member or admitted in accordance with the by-laws of the club, has become a bona fide member and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with by-laws and whose name and address is entered on the list of members, and no person who does not have full club privileges shall be considered a bona fide member.

“Hotel guest” shall mean a person whose name and address is registered on the registry maintained by the hotel and who is the bona fide occupant of a room of the hotel. A person registering solely for the purpose of obtaining liquor is not to be deemed a hotel guest.

“Licensee” shall mean the person to whom a license of any kind is issued by the commission.

“Liquor” shall mean and include any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquors, intended for human consumption, which contains more than  $\frac{1}{2}$  of 1% of alcohol by volume.

“Malt liquors” shall mean all kinds and types of liquors as herein defined produced by the fermentation of malt wholly or partially or from any substitute therefor.

“Premise” or “premises” except as otherwise by law specifically designated premises shall mean and include all rooms interconnected with rooms where the license privilege is exercised in any building occupied by a licensee over which the licensee has direct or indirect control or interest.

“Class A restaurant” shall mean a reputable place operated by responsible persons of good reputation which is equipped for preparing and serving food on the premises. Year round class A restaurants must do a minimum of \$50,000 per year in sale and service of food to the public on their premises. Part-time licensees must do a minimum of \$30,000 business in sale or service of food to the public on their premises. In the case of both full-time and part-time licenses at least 60% of the total volume of business shall be sale of food. In no case shall the commission renew any licenses for sale of liquor under this section unless they are furnished with proof that the previous year’s business conformed with the restrictions and provisions of this paragraph. In the case of new original licenses, the commission shall be authorized to exercise its judgment in respect to its probable qualifications with the provisions of this paragraph, and the commission is specifically authorized to make such rules and regulations as they deem necessary for carrying out this paragraph.

“Retail sale” shall mean any single sale of liquor in the original package for off the premises consumption less than 20 gallons.

“Sale” or “sell” shall include any transfer or delivery of liquor for a consideration, and any gift thereof in connection with or as a part of a transfer of property.

“Tavern” shall mean a reputable place for men only operated by responsible persons where no food is sold other than prepared packaged bar snacks and no business is carried on except the sale of cigarettes and tobacco products and except the sale of malt liquor at a bar. There shall be no tables, chairs or other seat-

ing accommodations and all persons served shall remain standing at the bar.

"Vinous liquor" shall mean wine.

(1955, c. 217; c. 355, §§ 1, 2. 1957, c. 117, §§ 1-6. 1959, cc. 137, 160; c. 340, § 1; c. 363, §§ 37, 56.)

**Effect of amendments.**—The first 1955 amendment inserted after the word "sold" in line two of the paragraph defining "tavern" the words "other than prepared packaged bar snacks." The second 1955 amendment rewrote the definition of "licensee" and inserted the definition of "malt liquors" in its proper place in alphabetical order in this section.

The 1957 amendment inserted the definitions of "catering", "club member", "hotel guest", "premise" or "premises", "retail sale", "sale" or "sell", and "vinous liquor" in their proper places in alphabet-

ical order.

This section was amended four times in 1959. Chapter 137, which made a change in the definition of "liquor," was repealed by c. 363, § 56. Chapter 160 substituted "20" for "5" in the definition of "retail sale." Chapter 340, § 1, inserted the definition of "Class A restaurant" before the definition of "restaurant." Chapter 363, § 37, substituted "½ of 1%" for "1%" in the definition of "liquor."

Only the paragraphs added or changed by the amendments are set out.

### Local Option.

**Sec. 2. Local option.**—The aldermen of cities, the selectmen of towns and the assessors of plantations are empowered and directed to notify the inhabitants of their respective municipalities to meet, in the manner prescribed by law for the calling and holding of biennial meetings of said inhabitants for the election of senators and representatives, at the time of holding such biennial meeting to give in their votes upon the following questions:

**I.** Shall state stores for the sale of liquor be operated by permission of the state liquor commission in this city or town? (State liquor store)

**II.** Shall licenses be granted in this city or town for the sale herein of wine and spirits to be consumed on the premises? (Hotel and club)

**II-A.** Shall licenses be granted in this city or town for sale herein of wine and spirits to be consumed on the premises of Class A restaurants?

**III.** Shall licenses be granted in this city or town for sale herein of malt liquor (beer, ale and other malt liquors) to be consumed on the premises? (Beer and ale in restaurants, hotels and clubs)

**IV.** Shall licenses be granted in this city or town for the sale herein of malt liquor (beer, ale and other malt liquors) to be consumed on the premises of taverns? (Beer and ale for men only)

**V.** Shall licenses be granted in this city or town for the sale herein of malt liquor (beer, ale and other malt liquors) not to be consumed on the premises? (Beer and ale to take out)

Upon receipt of a petition of electors resident in that city or town in writing addressed to the secretary of state and signed by at least 15% of the number of voters voting for the gubernatorial candidates at the last state-wide election in that city or town, which petition shall be filed with the secretary of state on or before the 1st day of July preceding the day of the biennial election, the ballots for that city or town shall carry in accordance with the petition any or all of the following additional questions:

**VI.** Shall licenses be granted in this city or town for sale herein of wine and spirits to be consumed on the premises of part-time hotels and clubs?

**VII.** Shall licenses be granted in this city or town for the sale herein of wine and spirits to be consumed on the premises of a club only?

**VIII.** Shall licenses be granted in this city or town for the sale herein of malt liquor (beer, ale and other malt liquors) to be consumed on the premises of a club only?

**IX.** Shall licenses be granted in this city or town for the sale herein of malt liquor to be consumed on the premises of part-time motels only?

The secretary of state shall prepare and furnish to the several cities, towns and plantations ballots in manner and form as prescribed in section 5 of chapter 5 for constitutional amendment or other questions, together with all such other forms including those for instructions and returns as are prescribed in said chapter 5.

The inhabitants of the several cities, towns and plantations shall vote by ballot on said questions, those in favor voting "Yes" on their ballots and those opposed "No," and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and return made to the office of the secretary of state in the same manner as votes for governor and members of the legislature, and the governor and council shall canvass the same and the result shall be determined as provided in section 52 of chapter 5.

If a majority of the votes cast in any city or town in answer to any local option question is in the affirmative, the commission may issue licenses of the type authorized by such affirmative vote in such city or town for the 2 calendar years next following, subject to all provisions of law.

If a majority of the votes cast in any municipality in answer to question VI is in the affirmative, the ballots for that municipality at the next biennial general election shall carry such question without petition.

If a majority of the votes cast in any municipality in answer to either of questions VIII or IX is in the affirmative, the ballots for that municipality at the next biennial general election shall carry such question or questions without petition.

If a majority of the votes cast in any municipality in answer to question VII is in the affirmative, the ballots for that municipality at the next biennial general election shall carry such question without petition.

If a majority of the votes cast in any city or town in answer to any local option question is in the negative, no licenses for sale of the type denied by such negative vote shall be issued in such city or town for the 2 calendar years next following.

If a majority of the votes cast in any municipality in answer to question VI is in the negative, the ballots for that municipality at the next biennial general election shall carry such question only after the petition required by this section.

If a majority of the votes cast in any municipality in answer to either of questions VIII or IX is in the negative, the ballots for that municipality at the next biennial general election shall carry such question or questions only after the petition required by this section.

If a majority of the votes cast in any municipality in answer to question VII is in the negative, the ballots for that municipality at the next biennial general election shall carry such question only after the petition required by this section.

In case of a tie vote on any of the preceding questions, the law shall remain as it was before the voting.

Upon this ballot no other referendum question shall be printed. (R. S. c. 57, § 2 1947, c. 273, § 1, c. 322, §§ 1-A, 1-B, 1-C. 1949, c. 349 § 97. 1951, c. 356, §§ 16, 17. 1955, c. 355, § 3; c. 427. 1957, c. 58; c. 218, § 1; c. 397, § 39. 1959, c. 139, §§ 1, 2; c. 140, §§ 1, 2; c. 141; c. 274, § 1; c. 327, §§ 1-3; c. 340, § 2.)

**Effect of amendments.**—The first 1955 amendment substituted the present fifth and ninth paragraphs for sixteen paragraphs relating to the results of the election. The second 1955 amendment added the question numbered IX at the end of the second paragraph.

The first 1957 amendment deleted the words "cities, towns and plantations" and

substituted the word "municipalities" therefor in the first paragraph, and also added the parenthetical statements at the end of subsections I to V. The second 1957 amendment substituted the word "wine" for "wines" in subsection VI. The third 1957 amendment re-enacted subsection IX without change.

This section was amended six times by

the 1959 legislature. Chapter 139, § 1, inserted the present sixth paragraph. Chapter 139, § 2, inserted the present tenth paragraph. Chapter 140, § 1, inserted the present seventh paragraph. Chapter 140, § 2, inserted the present eleventh paragraph. Chapter 141 added subsection II-A, but this chapter was repealed by section 3 of chapter 327. Chapter 274, § 1, amended subsection III by adding the words "and

clubs" after the word "hotels" in the parenthetical statement at the end of the subsection. Chapter 327, § 1, inserted the present eighth paragraph. Chapter 327, § 2, inserted the present twelfth paragraph. Chapter 340, § 2, again added subsection II-A.

**Cited in** *State v. Ouellette*, 150 Me. 44, 103 A. (2d) 785.

### Commission; Powers and Duties.

**Sec. 4. Eligibility of members and employees.**—No person shall be eligible for appointment as a member of the commission or as an employee of the commission in any capacity including the business administrator, who has any connection with, official, professional or otherwise, or who owns any stock in a corporation interested either directly or indirectly in the manufacture or sale of liquor or who has been convicted of the breach of any state or federal law regulating the manufacture, sale or transportation of intoxicating liquor. (R. S. c. 57, § 4 1953, c. 396, § 1 1955, c. 294, § 1.)

**Effect of amendment.**—The 1955 amendment deleted the words "and the director of licensing and enforcement" after the word "administrator" in line three.

**Sec. 5. Salaries and expenses.**—The salary of the chairman of the commission shall be \$7,875 per year and the salary of each of the other members shall be \$5,625 per year, and in addition each member shall be allowed his reasonable expense incurred in the performance of his duties. Such expense shall not include travel between his place of residence and the commission office, or board and lodging in the city or town where such office is located or in the city of Augusta. (R. S. c. 57, § 5. 1945, c. 373. 1951, c. 412, § 16. 1957, c. 296; c. 418, § 19; c. 429, § 53.)

**Effect of amendments.**—The first 1957 amendment made a former proviso into a separate sentence and inserted the words "or in the city of Augusta" at the end of such sentence. The second 1957 amendment, effective July 1, 1957, which did not refer to or give effect to the first amendment, increased the salary of the chairman from \$7,000 to \$7,875 and of the other members from \$5,000 to \$5,625. The third 1957 amendment, which became effective on its approval, October 31, 1957, referred and gave effect to both prior 1957 amendments.

**Sec. 7.** Repealed by Public Laws 1955, c. 294, § 2.

### Sec. 8. Powers and duties.

**I.** To have general supervision of manufacturing, importing, storing, transporting and sale of all liquors and to make such rules and regulations as they deem necessary for such purpose and to make rules and regulations for the administration, clarification, carrying out, enforcing and preventing violation of all laws pertaining to liquor which rules and regulations shall have the force and effect of law, unless and until set aside by some court of competent jurisdiction or revoked by the commission. (1953, c. 396, § 3. 1959, c. 274, § 2)

**III.** Repealed by Public Laws 1959, c. 274, § 3.

**V.** Repealed by Public Laws 1957, c. 125.

**V-A.** The commission shall display in state stores, authorized under the provisions of sections 10 and 11, a separate list of all alcoholic beverage products manufactured or bottled in this state and listed by the commission, suitably marked to indicate that the same are Maine products. Such display shall be in addition to the regular listing of all the products sold by the commission. (1957, c. 258)

**X.** Repealed by Public Laws 1959, c. 274, § 4.

**XII.** To assign to the business administrator under its supervision all powers and duties relating to all phases of the merchandising of liquor through state stores. (1953, c. 396, § 4. 1959, c. 274, § 5)

**XIII.** Repealed by Public Laws 1955, c. 294, § 3.

**XIV.** To act as a review board and on all appeals from the decisions of municipal officers, and except as provided by section 57 the decisions of the commission shall be final. All decisions of the commission acting as a review board must be approved by at least 2 members. (1953, c. 396, § 4. 1955, c. 294, § 4. 1957, c. 218, § 2)

**XV.** To publish at least annually on or before August 31st in a convenient pamphlet form all regulations then in force and to furnish copies of such pamphlets to every licensee authorized by law to sell liquor. (1957, c. 120)

**XVII.** To appoint, subject to the personnel law, a chief inspector and as many inspectors as may from time to time be found necessary. The inspectors shall be under the direct supervision and control of the chief inspector. They shall have the same powers and duties throughout the several counties of the state as sheriffs have in their respective counties relating to liquor. Their power and duties shall include the duty to inquire into and arrest for violations of any of the provisions of this chapter, and to arrest for impersonation of or interference with liquor inspectors and to serve all processes necessary for and pertaining to enforcement of any of the provisions of this chapter. All complaints, records and reports of the enforcement division created by this section relating to licensing and enforcement of liquor laws, rules and regulations are declared to be confidential. (1947, c. 88. 1949, c. 246. 1959, c. 161; c. 274, § 6)

**XIX.** Any member of the commission may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any question in dispute before them or to any matter involved in a hearing. Witness fees in all proceedings shall be the same as for witnesses before the superior court. Whoever, having been summoned as a witness by any member of the commission to appear before the commission without reasonable cause fails to appear at the time and place designated in the subpoena or summons shall be punished, on complaint or indictment, by a fine of not more than \$100 or by imprisonment for less than one year. (1945, c. 61. 1953, c. 396, § 5. 1955, c. 294, § 5. 1957, c. 218, § 2)

**XXI.** The expenses for the administration of the state liquor commission in carrying out the duties as set forth in this chapter shall be paid from such amounts as the legislature may allocate from the revenues derived from the operations of the commission. Such amounts shall become available in accordance with the provisions of chapter 15-A. [1955, c. 401, § 1. 1957, c. 340, § 4]. (R. S. c. 57, § 6. 1945, c. 61. 1947, c. 88. 1949, cc. 246, 313. 1951, c. 355. 1953, c. 253; c. 255, §§ 1, 2; c. 286; c. 396, §§ 3, 4, 5. 1955, c. 294, §§ 3-5; c. 401, § 1. 1957, c. 120; c. 125; c. 218, § 2; c. 258; c. 340, § 4. 1959, c. 161; c. 274, §§ 2-6.)

**Effect of amendments.**— The first 1955 amendment repealed subsection XIII, relating to assignment of powers and duties to the director of licensing and enforcement, and deleted references to the director of licensing and enforcement in subsections XIV and XIX.

The second 1955 amendment, which became effective July 1, 1955, added subsection XXI. Section 2 of the second

1955 amendatory act allocated specified amounts for the operation of the liquor commission for the years 1955-56 and 1956-57 and section 3 provided: "It is the intent of the legislature that the allocation of funds by the legislature, as provided by this act, shall apply to the administrative expenses only of the liquor commission and that such allocations shall be allotted and approved under provisions of Chapter

16 of the revised statutes of 1954. It is not intended to affect the use of the working capital, provided for by section 13 of chapter 61 of the revised statutes of 1954, or other activities required of the state liquor commission by chapter 61 of the revised statutes of 1954."

The first 1957 amendment changed the date of publication in subsection XV from "June 30th" to "August 31st". The second 1957 amendment repealed subsection V. The third 1957 amendment deleted the words "on the decision of the administrator" which formerly appeared following the word "board" in the first sentence of subsection XIV, deleted the words "and the administrator" which formerly appeared following the word "commission" in the first sentence of subsection XIX and deleted the words "or the administrator" which formerly appeared in two places following the word "commission" in the last sentence of subsection XIX. The fourth 1957 amendment inserted subsection V-A. The fifth

1957 amendment substituted "chapter 15-A" for "chapter 16" in subsection XXI. Section 12 of such amendatory act provided that it should be retroactive to July 1, 1957.

This section was amended twice by the 1959 legislature. P. L. 1959, c. 274, amended this section five times. Section 2 of P. L. 1959, c. 274, added the provisions as to making rules and regulations in subsection I. Section 3 repealed subsection III. Section 4 repealed subsection X. Section 5 added the words "through state stores" to subsection XII. Section 6 added the last sentence to subsection XVII. P. L. 1959, c. 161 deleted the words "the provisions of", formerly appearing in the first sentence of subsection XVII, and added all of the language after the word "inspectors" to the next to last sentence.

Only the subsections added or changed by the amendments are set out.

Cited in *Cross v. Guy Gannett Pub. Co.*, 151 Me. 491, 121 A. (2d) 355.

### State Stores.

**Sec. 10. State stores.**—The commission is authorized to lease and equip in the name of the state, such stores, warehouses and other merchandising facilities for the sale of liquor as are necessary to carry out the provisions of this chapter but any lease or contract made pursuant hereto shall be approved by the attorney general before becoming effective. The state warehouses and wholesale stores shall be located in places designated by the state liquor commission. Leases may be for seasonal occupancy. No such store shall be established within 300 feet of any public or private school, church, chapel or parish house. (R. S. c. 57, § 8. 1947, c. 144. 1953, c. 330, § 1. 1959, c. 274, § 7.)

**Effect of amendment.**—The 1959 amendment pluralized the words "warehouse", "store" and "place", and struck out the ar-

ticle "a", formerly appearing after the word "in" and before the word "places" in the second sentence of this section.

**Sec. 12. Business hours; sale to minors, etc.**—State stores shall not be open on Sundays, court holidays, or on the day of the holding of a general election or state-wide primary or between the hours of 8 P. M. and 9 A. M., except during the time when Eastern daylight time is in effect, state liquor stores may be opened at 8 A. M., standard time, and also except on Saturdays when, if open, they may be kept open until 10 P. M., and the commission is authorized to regulate the opening and closing hours of each store within the provisions of this chapter. No sales shall be made therein to minors or persons under the influence of liquor. (R. S. c. 57, § 10. 1947, c. 95. 1957, c. 218, § 3.)

**Effect of amendment.** — The 1957 amendment substituted the words "except during the time when Eastern daylight time is in effect" for the words "except that in municipalities operating on daylight saving time."

### Working Capital.

**Sec. 13. Working capital.** — The net profits of the commission shall be general revenue of the state. The commission is authorized to keep and have on hand a stock of wines and spirits for sale, the value of which, computed on less carload price quotations f. o. b. warehouse filed by liquor and wine vendors, shall

not at any time exceed the amount of working capital authorized. The maximum permanent working capital of the liquor commission is established at \$3,000,000 and permanent advances up to this amount may be authorized by the governor and council upon recommendation of the commission with the approval of the commissioner of finance and administration. The permanent working capital of the commission may be supplemented by temporary loans from other state funds upon recommendation of the commission and by approval of the commissioner of finance and administration and the governor and council. (R. S. c. 57, § 11. 1945, c. 92, § 1. 1953, c. 265, § 6. 1957, c. 218, § 3-A.)

**Effect of amendment.** — The 1957 tence relative to return of excess working amendment repealed the former last sen- capital to the general fund.

### State Liquor Tax.

**Sec. 14. Consumers' tax on spirituous and vinous liquor.**—All spirits and wines shall be sold by the commission at a price to be determined by the commission which will produce a state liquor tax of not less than 61% based on the less carload cost f. o. b., state liquor commission warehouse, and in addition there- to there shall be levied and imposed an excise tax of 24¢ per gallon on wines containing 10% to 14% alcohol by volume, 75¢ per gallon on wines containing 15% to 21% alcohol by volume and \$5 per gallon on sparkling wines; except that spirits and wines sold at wholesale under the provisions of section 43, and may be sold at wholesale prices established pursuant to the provisions thereof and provided further, that prices for sale of spirits and wines bought by the commission from Maine licensees to manufacture liquor under the provisions of section 15 shall be based on minimum truck load delivery prices f. o. b. warehouse as the same are filed with the public utilities commission, and provided further, that special orders by the commission for unstocked merchandise shall be priced at not less than 61% over actual cost delivered f. o. b. warehouse. In all cases the commission is authorized to round off costs to the next highest 5 cents. Any increased federal taxes levied on or after November 1, 1941 shall be added to the established price without markup. All net revenue derived from such tax shall be deposited to the credit of the general fund of the state. (R. S. c. 57, § 12. 1953, c. 255, § 3. 1955, c. 359, § 9.)

**Effect of amendment.**—The 1955 amend- on wines in the first sentence. It also sub- ment, which became effective July 1, 1955, stituted "November" for "April" in the inserted the provisions for additional taxes next to the last sentence.

### Liquor; Manufacture.

**Sec. 15. Licenses to manufacture liquor; sales; transportation; fees.**

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, 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. In the case of wine bottlers and wineries, the license shall authorize sale and delivery of wine to holders of sacramental wine permits issued by the commission and persons authorized to purchase wine under the provisions of section 63.

(1957, c. 218, § 4.)

**Effect of amendment.** — The 1957 the next to the last paragraph of this section. As the rest of the section was not amendment added the words "and per- changed by the amendment, it is not set sons authorized to purchase wine under the provisions of section 63" at the end of out.

### Malt Liquor; Manufacture.

**Sec. 17. Manufacturers and officers not interested in wholesalers; commercial credit; furnishing materials and equipment.**—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 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 malt liquor is sold, excepting only the usual and customary commercial credit for malt liquor sold; excepting that a manufacturer or holder of a certificate of approval may furnish a wholesale licensee materials and equipment for the use of the wholesale licensee or his employees such as painting the wholesale licensee's vehicles, and furnishing legal advertising signs used by the wholesale licensee in the course of his business, and furnishing the wholesale licensee uniforms for his employees, excepting only the usual and customary commercial credit for malt liquor sold and delivered. (R. S. c. 57, § 15. 1959, c. 148, § 1.)

**Effect of amendment.**—The 1959 amendment struck out the words "and delivered" immediately preceding the last semicolon in the section and added all the language which follows such semicolon.

**Editor's note.** — The repetition of the words "excepting only the usual and customary commercial credit for malt liquor sold" appears in P. L. 1959, c. 148, § 1.

### Malt Liquor. Wholesalers. Excise Tax.

**Sec. 21. Interstate purchase or transportation of malt liquor by wholesalers.**

All purchase order forms are to be furnished by the commission and all orders are to be executed in quintuplet. First, the wholesaler ordering malt liquor shall mail 3 copies to the commission with a check for the amount of excise taxes required to cover the amount of the order. Thereafter, the wholesaler may mail the original copy of the order to the qualified brewery or wholesaler with whom he wishes to place his order. On receipt of the 3 copies and check for excise taxes, the commission shall promptly receipt 2 copies and return one copy to the wholesaler and send one to the brewery or foreign wholesaler designated to receive the order and no brewery or foreign wholesaler shall ship or release malt liquor for delivery in Maine until notified by the commission that the excise tax has been paid thereon in accordance with the provisions of this section and shall ship only to a licensed Maine wholesaler.

(1955, c. 188; c. 355, § 4. 1957, c. 397, § 40.)

**Effect of amendments.**—The first 1955 amendment added the words "and shall ship only to a licensed Maine wholesaler" at the end of the second paragraph. The second 1955 amendment rewrote the second paragraph.

The 1957 amendment re-enacted the second paragraph of this section as changed by the 1955 amendments.

As the first, third and fourth paragraphs were not changed by the amendments, they are not set out.

**Sec. 22. Excise taxes; deficiency account; credits.**—There shall be levied and imposed an excise tax on all malt liquor manufactured in this state of  $5\frac{1}{3}\phi$  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 of  $16\phi$  per gallon and at a like rate for any multiple or fraction thereof. 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.

Excise taxes on malt beverages imposed by the state shall not apply to malt beverages sold by wholesalers holding licenses from the commission to any instrumentality of the United States, or to any vessel of foreign registry. (R. S. c. 57, § 20. 1945, c. 133. 1947, c. 195. 1949, c. 349, § 99. 1955, c. 443. 1957, c. 218, § 5. 1959, c. 355.)

**Effect of amendments.** — The 1955 amendment rewrote the second sentence of the first paragraph. The 1957 amendment substituted the words "excise taxes" for "all taxes, excise and deficiency" at the beginning of the last paragraph.

The 1959 amendment added the words, "or to any vessel of foreign registry" at the end of the last paragraph. As the second and third paragraphs were not changed by the amendments, they are not set out.

### Provisions for All Licensees.

#### Sec. 23. Liquor licenses in unincorporated places.

If the total number of persons shown by returns of the state tax assessor in such unincorporated place is less than 20 or the number signing any petition for local option vote is less than 20, the secretary of state shall not hold any election in such unincorporated place and in event no such vote is taken, the county commissioners or the commission may refuse approval of such application on the basis that such license is not warranted for any substantial public convenience, necessity or demand.

(1957, c. 218, § 6.)

**Effect of amendment.** — The 1957 amendment deleted the words "Provided, however, that" formerly appearing at the beginning of the fourth paragraph, deleted the words "if their approval of application is required" formerly appearing

following the word "commissioners" and deleted the word "liquor" formerly preceding the word "commission" in such paragraph. As the rest of the section was not changed by the amendment, only the fourth paragraph is set out.

#### Sec. 25. Repealed by Public Laws 1955, c. 355, § 14.

**Sec. 27. Sale on certain days and hours.**—No liquor shall be sold in this state on Sundays and no licensee by himself, clerk, servant or agent shall between the hours of midnight and 6 A. M. sell or deliver any liquors, except no liquors shall be sold or delivered on Saturdays after 11:45 P. M. Liquor may be sold on January 1st of any year from midnight to 2 A. M. unless January 1st falls on Sunday. Liquor may be sold in any municipality on the day of holding a general election or state-wide primary only after the closing of the polls in such municipality. No licensee shall permit the consumption of liquors on his premises on Sundays or after 15 minutes past the hours prohibited for sale thereof, except by bona fide guests in their rooms. No liquor shall be sold in this state on May 30 prior to 12 noon. The hours of selling or delivering above referred to shall be United States Eastern standard time. Any person, except an officer in performance of his duties, who purchases liquor on Sunday, in any retail store, shall be guilty of a misdemeanor and shall be subject to the same penalty provided in this section for Sunday sale of liquor.

Any licensee by himself, clerk, servant or agent who sells liquor on Sunday shall be punished by a fine of not less than \$100 nor more than \$500, and costs, and a penalty of not less than 2 months nor more than 6 months, in jail, at the discretion of the court, and in default of fine and costs an additional penalty by imprisonment for 6 months. Any clerk, servant, agent or other person in the employment of a licensee, who violates or in any manner aids or assists in violating the law relating to Sunday sale of liquor, shall suffer like penalties.

If any licensee or any clerk, servant or agent of a licensee is convicted of a violation of the provisions of this section and appeals from the judgment and sentence of the trial court, the licensee's license to sell liquor shall be suspended during the time such appeal is pending in the appellate court unless the trial

court shall otherwise order and no new or renewal license to sell liquor shall be granted to the licensee during the time of such appeal. (1949, c. 349, § 102. 1951, c. 252. 1953, c. 261; c. 392, § 1. 1955, c. 71, § 1; c. 355, § 4-A; c. 403, § 2. 1957, c. 218, § 7. 1959, c. 311.)

**Effect of amendments.**—The first 1955 amendment added the last paragraph. The second 1955 amendment added the last sentence of the first paragraph. The third 1955 amendment, which became effective on its approval, May 20, 1955, deleted a former proviso relating to daylight saving time at the end of the first sentence, deleted the words "Eastern standard time" at the end of the fifth sentence, and added the sixth sentence of the first paragraph.

The 1957 amendment rewrote the last paragraph which was added in 1955.

The 1959 amendment rewrote the first sentence and added the present second and third sentences of the first paragraph.

The provision "that liquor may be sold on January 1st of any year from midnight to 2 A. M." controls the hours of sale by a licensee and does not authorize a sale in 1953 upon a 1952 license. *State v. Ouellette*, 150 Me. 44, 103 A. (2d) 785.

**Sec. 28. Applications for license.**—All applicants for license shall be required to file applications in such form as the commission shall require and every application shall disclose the complete and entire ownership or any interest in the establishment for which a license is sought and if applicant is a purchaser by contract, in addition, the terms of the contract. All questions required to be answered in applications for licenses shall be sworn to, and intentionally untruthful answers shall constitute the crime of perjury. All applications shall be signed by the owner, if a natural person, who shall be at least 21 years of age, or in the case of a partnership by the partners thereof, or in the case of a corporation by an executive officer thereof or any person thereto specifically authorized by the corporation, except a bona fide prospective purchaser may apply. No applicant whose application is denied by the commission shall be eligible to apply for a liquor license of the same type again for a period of 6 months from the date of such denial unless the commission denial is overruled by the court under appeal provided by section 57, and no license for the same premises shall be issued to the husband, wife, father, mother, child or other close relation by blood or marriage of a person whose license has been denied by the commission or revoked by the hearing examiner for a period not exceeding 6 months after such denial or revocation.

Every applicant for a license for sale of liquor to be consumed on the premises where sold shall include in his application a description of the premises for which he desires license and shall further set forth such other material information, description or plan of that part of the premises where it is proposed to keep or sell liquor as the commission may require. (1949, c. 264, § 1. 1951, c. 356, § 4. 1953, c. 366. 1955, c. 355, § 5. 1957, c. 127. 1959, c. 274, §§ 8, 9.)

**Effect of amendments.**—The 1955 amendment repealed the former second paragraph, relating to the contents of hotel or club applications, and the former third paragraph, which required retail store licensees to maintain an adequate stock of merchandise compatible with a stock of liquor, and enacted in lieu thereof the present second paragraph.

The 1957 amendment added the provisions relative to issuance of licenses to relatives at the end of the last sentence of the first paragraph.

This section was amended twice by P. L. 1959, c. 274. Section 8 of P. L. 1959, c. 274, added the words "or any interest" after the word "ownership" and before the word "in" in the first sentence of the first paragraph. Section 9 deleted the words "or revoked," formerly appearing after the word "denied" and before the word "by", and added the words "or revoked by the hearing examiner" after the word "commission" and before the word "for" in the last sentence of the first paragraph.

**Sec. 29. Persons to whom licenses not granted.**—No license shall be issued to any natural person unless such person is at least 21 years of age and is a citizen of the United States and of this state; provided, however, that a part-time or 6 months' license, as authorized by law, may be issued to any natural per-

son who is at least 21 years of age and is a citizen of the United States. No license shall be issued to a partnership or to an association unless all persons having an interest therein are at least 21 years of age and are citizens of the United States and of this state; provided, however, that a part-time or 6 months' license, as authorized by law, may be issued to a partnership or association if all persons having an interest therein are at least 21 years of age and are citizens of the United States. No license shall be issued to any corporation unless it shall be incorporated under the laws of this state, or authorized to transact business in this state. No license shall be issued to a corporation any of the principal officers of which would not personally be eligible for a liquor license because such officer had had a license for sale of liquor revoked. No person, who is not at the time of the offense the holder of a liquor license, convicted of violating any of the laws of this state or the United States with respect to manufacture, transportation, importation, possession or sale of intoxicating liquor shall be granted a license for sale of liquor for a period of 5 years from the date of such conviction, and no person who sells liquor of a greater alcoholic content than authorized by his license shall be considered the holder of a license for the purpose of this sentence. No person whose license for sale of liquor expires pending an appeal from conviction of a violation of law forbidding sale of intoxicating liquor on Sunday, by himself or his clerk, servant or agent, on his licensed premises, shall, after subsequent final conviction of himself, clerk, servant or agent be eligible for a liquor license for a period not exceeding 5 years from the date of such final conviction. No clerk, servant or agent of a licensee, who is convicted of sale of liquor on Sunday, shall himself be granted a license for sale of liquor for a period not exceeding 5 years from the date of such conviction. No license shall be issued in which any law enforcement official benefits financially either directly or indirectly. (1949, c. 259, § 1. 1951, c. 87; c. 356, § 5. 1953, c. 64, § 1; c. 255, § 4. 1955, c. 71, § 2. 1957, c. 202; c. 218, §§ 8, 9.)

**Effect of amendments.** — The 1955 inserted the sixth sentence. The second amendment rewrote the fifth sentence of 1957 amendment rewrote the fourth sentence. The first 1957 amendment inserted the seventh sentence.

**Retail Sale of Liquor; Fees.**

**Sec. 31. Fees for retail licenses, renewals, filing fee.**—Fees for full-year licenses shall be:

Hotel—Spirituous and vinous, in cities or towns having population of 10,000 or more .....	\$600.00
Hotel—Spirituous and vinous, in cities or towns having population of less than 10,000 .....	\$300.00
Population shall be determined according to each federal decennial census as shown by any official report authorized by the federal census act and shall apply to the licensing period next following such official report.	
Hotel—Malt liquor .....	\$200.00
Club—Spirituous and vinous .....	200.00
Club—Malt liquor .....	100.00
Public service—Spirituous and vinous .....	200.00
Public service—Malt liquor .....	100.00
Restaurant, class A—Spirituous and vinous .....	750.00
Restaurant—Malt liquor only .....	200.00
Restaurant—Vinous liquor only .....	200.00
Tavern—Malt liquor only .....	300.00
Retail store—Malt liquor only .....	100.00

Any club maintaining a dining room and catering either privately or for functions to a group of nonmembers of the club, and any club with dining rooms letting rooms to nonmembers, must pay the same fee as required by a hotel located in the same municipality.

The commission may grant part-time licenses for a period not in excess of 6 consecutive months in any calendar year. A part-time hotel licensee shall conduct his hotel business on the premises only during the time when such part-time license is in effect.

Fees for part-time licenses shall be:

Part-time—Hotels and Clubs—Spirituous and vinous—½ full-time fee at their location.	
Part-time—Restaurant, class A—Spirituous and vinous .....	\$375.00
Part-time—Hotel or restaurant—Malt liquor only .....	125.00
Part-time—Club—Malt liquor only .....	50.00
Part-time—Tavern—Malt liquor only .....	150.00

One public service license shall be sufficient to cover all steamboats and cars operated by any one owner.

All full-year licenses shall be issued for the license year and on a calendar year basis and the prescribed fee shall accompany the application for license.

Licenses may be renewed upon application therefor and payment of the annual fee, subject to commission rules and regulations.

Every applicant for an original or renewal malt liquor license shall remit with his application a filing fee of \$10, except in unorganized places the filing fee of \$10 shall be paid to the county treasurer of the county in which the unincorporated place is located, and all such applications for license in unincorporated places shall be accompanied by evidence of payment of filing fee to the county treasurer.

Any licensee applying for license to operate more than one premise shall pay the fee prescribed for the type of license to be exercised at each such premise. (1949, c. 85, § 1. 1951, c. 356, § 6. 1953, c. 373. 1955, c. 355, §§ 6, 7, 8. 1957, c. 144. 1959, c. 340, § 3.)

**Effect of amendments.** — The 1955 amendment deleted the word “public” before the words “dining room” in line 20, added at the end of the next to the last paragraph the requirement that applications for licenses in unincorporated places be accompanied by evidence of payment of filing fee, and added the last paragraph.

The 1957 amendment rewrote the third paragraph.

The 1959 amendment substituted “and” for “also” in line 21 and added the provisions as to full-year and part-time license fees for restaurants, class A.

**Section has no bearing on period covered by license.**—The “hours of sale” statute, this section, controls the hours of sale by a licensee. It has no bearing upon the period covered by the license to sell. State v. Ouellette, 150 Me. 44, 103 A. (2d) 785.

**Sec. 31-A. Payments to the commission by check.**—The commission may accept personal checks of licensees and persons applying for license for fees, excise taxes and permits authorized to be collected by them under the provisions of this chapter and for liquor sold to licensees through its wholesale store. If any such checks are not honored on presentation by the state, the commission shall withhold licenses not issued and immediately take back licenses already issued voiding them until such check, together with all costs of check failure, have been paid by the person paying by such personal check. The commission may further order that all payments made to it by such person for a period not to exceed 1 year shall be only by cash, certified check or money order. (1955, c. 355, § 9.)

**Retail Sale of Malt Liquor; Licenses.**

**Sec. 32 Retail licenses.**

All retail store licensees must have and maintain an adequate stock of merchandise reasonably compatible with a stock of liquor in no case less than \$1,000 wholesale value. No merchandise shall be considered to be reasonably compatible with a stock of malt liquor, for the purposes of licensing a retail store, which consists of gasoline and oil; used or new cars, parts or accessories; clothing; hardware; paints or building materials; electric appliances or equipment; or house-

hold furniture or furnishings or such other items of stock as may be equally incompatible in nature. (R. S. c. 57, § 23. 1945, c. 345. 1947, c. 164; c. 372, § 2. 1949, c. 216. 1951, c. 13, § 2; c. 356, § 18. 1953, c. 255, § 5. 1955, c. 355, § 10.)

**Effect of amendment.**—The 1955 amendment added the above paragraph at the end of this section. As the rest of the section was not changed, it is not set out.

**Sec. 39. Licenses; transfer; death; bankruptcy; receivership; guardianship; corporations.**—Except as otherwise provided in this section, no license privilege nor any interest in a license privilege shall be sold, transferred, assigned or otherwise subject to control by any person other than the licensee, and in case of sale, transfer or assignment of the business or any interest in the business in connection with which a licensed activity is conducted the license holder shall immediately send in his license to the commission and submit a statement under oath showing the name and address of the purchaser or any other person directly or indirectly interested in the enterprise.

**I.** The commission upon application in writing may transfer any retail liquor license from one place to another within the same municipality, provided such transfer shall be made only with approval of municipal officers of such municipality in all cases which required such approval originally. No such transfer shall be made to premises for which the license could not have been originally lawfully issued.

**II.** In the case of death, bankruptcy or receivership of any licensee, the duly appointed executor or administrator of the deceased licensee or the duly appointed trustee or receiver of the bankrupt licensee or licensee in receivership may retain the license for the balance of the license year or transfer the license without additional fee. Personal representatives, receivers or trustees may operate the premise themselves or through a duly appointed manager for a year from the date of their appointment for the benefit of the estate but must renew the license on January 1st of any year at the regular license fee, and if the license or renewal thereof is not transferred during the year from date of appointment it shall be void and returned to the commission for cancellation. No personal representative, receiver, trustee or manager appointed by them, shall be eligible to operate under license unless and until approved by the commission, and in event of suspension or revocation of the license by the commission for any violation, such suspension or revocation shall apply against both the manager and the personal representative, receiver or trustee. In case of decease of a license holder with express written permission and approval of the commission, any widow or widower or person who has filed a petition for appointment as executor or administrator for the estate of the deceased licensee or any sole heir of the deceased licensee or any person designated by all of the heirs of the licensee may continue the operation of the license for a period not to exceed 60 days pending appointment of a personal representative of the estate.

In cases where no administration of the estate of a deceased licensee is contemplated, the widow or widower or person designated by all of the heirs of the deceased licensee may take over the license under the same conditions as are provided for operation and transfer by executors and administrators.

**III.** Duly appointed and qualified guardians and conservators of the estate of a licensee may take over, operate and renew licenses of their wards during their term of office, provided they or their managers are approved by the commission, and in all cases, except retail store licenses approved by the municipal officers in their municipality, they shall have no privilege of transferring their wards' licenses and must renew licenses each year. Penalty for violations shall apply to both guardians or conservators and their managers in the same manner provided in the case of executors or administrators and their managers. Any sale of stock of a corporate licensee which effects a change of control of

the licensed premises shall be considered a transfer within the meaning of this section, and a new license must be purchased. (R. S. c. 57, § 35. 1945, c. 179. 1947, c. 90. 1951, c. 356, § 7. 1953, c. 255, § 7. 1957, c. 218, § 10. 1959, c. 274, § 10.)

**Effect of amendments.** — The 1957 amendment rewrote this section. The 1959 amendment substituted “60 days” for “one month” in the last sentence of the first paragraph of subsection II of this section.

**Sec. 40. Music, dancing or entertainment on licensed premises.**—No licensee for sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, 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 fee of \$10. The commission is 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. 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. (R. S. c. 57, § 37. 1945, c. 184. 1951, c. 356, § 8. 1955, c. 355, § 11.)

**Effect of amendment.**—The 1955 amendment inserted the words “for sale of liquor to be consumed on his licensed premises” and substituted the words “his licensed premises” for the words “the licensed premises or premises contiguous or adjacent thereto, under his control” near the beginning of the first sentence. The amendment also deleted the words “for the sale of malt liquor” at the end of the third sentence.

### Sale of Liquor to Be Consumed on the Premises; Licenses.

**Sec. 43. Liquor bought from commission; commission may sell to approved government instrumentalities.**—All persons, except public service corporations operating interstate, licensed to sell spirituous or vinous liquor shall purchase all such liquor from the commission. The commission shall sell to such licensees spirituous and vinous liquor for a price of 10% less than the retail price in state retail stores provided that such discount shall not apply to federal taxes levied on and after November 1, 1941. The commission may sell spirituous and vinous liquor to approved government instrumentalities within the state at a price to be set by the commission which shall be approved by the governor and council. (R. S. c. 57, § 41. 1949, c. 200. 1955, c. 72; c. 359, § 10. 1959, c. 274, § 11.)

**Effect of amendments.** — The first 1955 amendment added the last sentence. The second 1955 amendment, which became effective July 1, 1955, substituted “November” for “April” near the end of the second sentence. The second amendment did not refer to or give effect to the first; however, both amendments have been given effect in the section as set out above. The 1959 amendment rewrote the last sentence of this section.

**Sec. 50. Licensee to keep record.**—Every retail licensee shall keep for 2 years, in each premise for which he has a license, complete records separate and apart from records relating to any other transactions engaged in by the licensee showing the date of all purchases, the actual prices paid therefor and the fact that the licensee paid cash for all liquor bought by him at the time of or prior to delivery of such liquor together with the name and address of every person from whom such liquor was purchased. In the case of wholesalers records shall be kept for 2 years in the principal licensed establishment of the wholesale licensee showing that all sales and purchases are in accordance with the law relating to cash sales including detailed accounts of all its transactions with brewers, other wholesalers and retailers. All such records shall be open to the commission for its representatives at any time and the commission or its representatives shall have the

right to make copies thereof which may be used as evidence of violations of this section.

No licensee shall refuse the commission or its representatives the right at any time completely to inspect the entire licensed premises or to audit the books and records of the licensee. (R. S. c. 57, § 54. 1955, c. 355, § 12.)

**Effect of amendment.**—The 1955 amendment rewrote the first paragraph.

**Sec. 51. Credit sales; sales to certain persons.**

Any person under the age of 21 years who purchases any intoxicating liquor, or any person under the age of 21 years who consumes any intoxicating liquor in any on-sale premises, or who presents or offers to any licensee, his agent or employee, any written or oral evidence of age which is false, fraudulent or not actually his own, for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any intoxicating liquor, or who has any intoxicating liquor in his possession except in the scope of his or her employment on any street or highway, or in any public place or in any automobile, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$50. (R. S. c. 57, § 55. 1945, c. 194. 1949, c. 88. 1951, c. 77. 1955, c. 196. 1957, c. 218, § 11.)

**Effect of amendments.** — The 1955 amendment rewrote the last paragraph of this section. The 1957 amendment substituted the words "intoxicating liquor" for the words "alcoholic beverages" in four

places in such last paragraph.

As the first two paragraphs were not changed by the amendments, they are not set out.

**Sec. 52. Licensee not to be indebted, obligated or involved.**—Except as provided by section 17, no person shall be issued a license or a renewal of a license if he shall be indebted in any manner, directly or indirectly, to any other person for liquor. It shall be unlawful for any licensee or any applicant for license, directly or indirectly, to receive any money, credit, thing of value, indorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person, association or corporation within or without the state if such person, association or corporation shall be engaged, directly or indirectly, in the manufacture, distribution, sale, storage or transportation of liquor; or if such person, association or corporation shall be engaged in the manufacture, distribution, sale or transportation of any commodity, equipment, material or advertisement used in connection with the manufacture, distribution, sale, storage or transportation of liquor. No Maine retail liquor licensee shall have any interest, direct or indirect, in any Maine manufacturer's or wholesaler's license or certificate of approval issued to an out of state manufacturer or foreign wholesaler of malt liquor; and no out of state manufacturer or foreign wholesaler having a state certificate of approval, nor any state wholesale or manufacturing licensee, shall have any interest, direct or indirect, in any state retail liquor license. Minor investment in securities of a corporation engaged in liquor business not amounting to more than 1% shall not be held to be an interest forbidden by the foregoing sentence. This section shall not prohibit a wholesaler from receiving normal credits for the purchase of malt liquor from the manufacturer thereof within or without the state. (R. S. c. 57, § 56. 1951, c. 99. 1959, c. 148, § 2.)

**Effect of amendment.**—The 1959 amendment added the words "Except as provided

by section 17," to the beginning of the first sentence of this section.

**Sec. 53. Premiums and rebates.**—Except as provided by section 17, no licensee shall, directly or indirectly, offer or give any liquor, or any price premium, gift or inducement of any sort to other trade or consumer buyers, ex-

cept such advertising novelties of nominal value as the commissioner may approve.

(1959, c. 148, § 3.)

**Effect of amendment.**—The 1959 amendment added the words “Except as provided by section 17,” at the beginning of the first paragraph. As the second paragraph was not affected by the amendment, it is not set out.

**Sec. 54-A. Obstructions in windows.**—No licensee of a malt liquor licensed restaurant shall place any object in the street floor windows of his premises that would obstruct in a material or substantial manner a clear view of the interior of said premises. The license of any person violating the provisions of this section shall be suspended until such obstruction has been removed. (1957, c. 335.)

**Sec. 54-B. Lighting.**—All premises licensed for sale of liquor to be consumed on the premises shall be adequately lighted. The license of any person violating this section shall be suspended until such lighting has been installed. (1959, c. 261.)

### Licenses; Revocation.

#### Sec. 56. Revocation of licenses.—

**I.** The office of hearing examiner for the state liquor commission, as heretofore established, shall be under the supervision of a hearing examiner. The hearing examiner, as heretofore appointed, shall be appointed by the governor by and with the advice of the council, for a term of 4 years. The hearing examiner shall be an attorney-at-law duly admitted to practice before the courts of Maine. He may be removed from office by the governor for misfeasance, malfeasance and nonfeasance in office. He shall receive an annual compensation of \$6,000 and shall be entitled to actual and necessary expenses in the performance of his duties. The hearing examiner shall conduct hearings on all matters concerning violations by licensees of any federal or state law or regulation relating to intoxicating liquor or infractions of any rule or regulation issued by the state liquor commission after notice of such violation or infraction has been reported to him on a signed complaint by a duly designated enforcement officer of said commission. The hearing examiner shall thereupon notify the licensee by serving on him a copy of the complaint and a notice stating the time and place of hearing and that he may appear in person or by counsel at the hearing. Service of such complaint and notice shall be sufficient if sent by registered mail or certified mail to the address given by the licensee at the time of his application for a license, 7 days at least before the date of hearing. The hearing examiner shall thereupon conduct a hearing limited to the facts and law, and rules and regulations of the state liquor commission, as specified in said complaint. The hearing examiner is authorized to subpoena and examine witnesses and to administer oaths. In the conducting of hearings, no hearsay testimony shall be admissible and the licensees named in the complaint shall have the right to have all witnesses testify in person at the hearing. The hearing examiner shall state in writing his findings and decision in each case, based upon the facts and the law, and the rules and regulations of the state liquor commission. Said findings shall specify the facts found and the law, rules or regulations found to be violated. The hearing examiner shall conduct hearings in such designated place or places as may be most convenient and economical for all parties concerned in said hearing.

The hearing examiner may suspend or revoke licenses. Except as provided by subsection II, paragraph C, suspensions must be for a definite period of time. If the hearing examiner revokes a license, he shall specify that no license

shall issue to the person whose license is revoked for a period of not less than one year nor more than 5 years from the date of such revocation.

**II.** Licenses may be revoked or suspended by the hearing examiner for the following causes:

**A.** Violation of any federal or state law or regulation relating to intoxicating liquor or substantial infraction of any rule or regulation issued by the commission; except that licensees selling to minors furnishing fraudulent proof of age may be held not administratively liable by the hearing examiner;

**B.** Knowingly making a false material statement of fact in the application for the license;

**C.** Failure to have and maintain throughout the entire license period all of the requirements of definitions, laws, rules and regulations, necessary to qualify for a license. For this particular offense the hearing examiner shall be authorized to suspend licenses for an indefinite period of time until he is satisfied that the licensee has conformed to all qualifications required for licensing.

**III.** Whenever violations by licensees occur in one year's license period and remain undiscovered or carry over into the next license year pending investigation of [or] final disposition either in criminal courts or before the hearing examiner, any license issued subsequent to violation for a new license year may be suspended or revoked by the hearing examiner.

**IV.** After hearing, the hearing examiner may suspend the operation of a penalty or in lieu of imposing any penalty at all he may place a case on file. Upon the written recommendation of the duly designated enforcement officer of the commission the hearing examiner, in lieu of notifying a licensee against whom a complaint is pending to appear for hearing, may send such licensee a warning. Warnings shall be sent by registered or certified mail and contain a copy of the complaint. A licensee to whom a warning is sent may demand a hearing by so notifying the hearing examiner by registered or certified mail within 10 days from the date the warning was mailed.

In cases of ownership, direct or indirect, in more than one license, suspensions shall apply only to the premise where the violation occurs. The hearing examiner may order that a revocation shall apply to any premises in which the licensee is, directly or indirectly, interested.

In cases of corporations the officers, directors and substantial stockholders shall be treated in the same manner as though they were partners in a partnership. (R. S. c. 57, § 60. 1947, c. 163, §§ 1, 2, 3; c. 194. 1949, c. 192, §§ 1, 2. 1951, c. 38; c. 266, § 83. 1953, c. 19; c. 64, § 3; cc. 99, 100; c. 255, § 9; c. 259; c. 392, §§ 2, 3. 1955, c. 355, § 13. 1957, c. 218, §§ 12, 13; c. 410, §§ 1-5; c. 429, §§ 54, 55. 1959, c. 218; c. 274, § 12.)

**Effect of amendments.** — The 1955 amendment added an exception at the end of the last sentence of former subsection I.

Section 12, c. 218, P. L. 1957, also made changes in former subsection I. Section 13 of chapter 218, P. L. 1957, deleted an exception at the end of former paragraph D, subsection II, relating to sales to minors.

Chapter 410, P. L. 1957, which did not refer to or give effect to the first 1957 amendment, rewrote subsection I, made changes in former paragraph D of subsection II and in former subsection IV,

and substituted "hearing examiner" for "commission" throughout this section, except in the first paragraph. Chapter 429, which became effective on its approval, October 31, 1957, and which referred to the 1955 and both 1957 amendments, re-enacted subsection I and former paragraph D of subsection II, giving effect to the changes made by the second 1957 amendment.

The first 1959 amendment rewrote the entire section. The substance of the former first paragraph of the section now constitutes the second paragraph of subsection I. The second 1959 amendment,

which did not refer or give effect to the first, made changes in the former first paragraph of the section, causing it to read substantially as it now appears in subsection I.

**Sec. 56-A. Appeal from decision of hearing examiner.**—A full and complete record shall be kept of all proceedings had before the hearing examiner on the revoking and suspending of any license issued by the commission.

If any person is aggrieved by the decision of the hearing examiner in revoking or suspending any license issued by the commission, he may within 10 days thereafter appeal to the commission by presenting to it a petition therefor. The commission shall forthwith fix a time and place for immediate hearing; and after hearing, the commission may affirm, modify or reverse the decision of the hearing examiner. Pending judgment of the commission, the decision of the hearing examiner in revoking or suspending any license shall remain in full force and effect. (1957, c. 410, § 6.)

**Sec. 57. Additional appeal.**

If any person is aggrieved by the decision of the commission in revoking or suspending any license issued by the commission or by refusal of the commission to issue any license applied for, he may within 10 days thereafter appeal to any justice of the superior court, by presenting to him a petition therefor, in term time or vacation. The 10-day period for appeal shall commence on the effective date of any suspension or revocation of a license, and, in the case of refusal of the commission to issue license, on the day when the commission sends by registered or certified mail notice to the applicant at the address of his business given in his application for license. Filing appeal in the superior court shall stop the running of the limitation period. Such justice shall forthwith fix a time and place for immediate hearing, which may be in vacation, and cause notice thereof to be given to the commission; and after hearing, such justice may affirm, modify or reverse the decision of the commission. Pending judgment of the court, the decision of the commission in revoking or suspending any license shall remain in full force and effect. Appeal by such aggrieved person to the law court from such decision may be taken as in equity cases. Upon such appeal the proceedings shall be the same as in appeals in equity procedure, and the law court may, after consideration, reverse or modify any decree so made by a justice based upon an erroneous ruling or finding of law. (1949, c. 419, § 2. 1957, c. 218, § 13-A.)

**Effect of amendment.** — The 1957 amendment inserted the second and third sentences of the last paragraph. As the first paragraph was not changed by the amendment, it is not set out.

**Sec. 58.** Repealed by Public Laws 1955, c. 294, § 6.

**Salesmen.**

**Sec. 60. Salesmen.**—All concerns selling liquor to the state shall furnish to the commission a list of all officers and directors, if a corporation, or a list of all partners, if a partnership, and also the name of the salesman representing the concern within the state.

Such salesman shall apply to the commission for a license disclosing the person, firm or corporation for whom he is employed. The license fee shall be \$10 and shall expire on the last day of December of the year in which it is obtained. It may be renewed annually on payment of \$10.

Licenses so issued by the commission shall be revoked for the violation of the liquor laws or any rule or regulation promulgated by the commission. (1953, c. 396, § 7. 1955, c. 294, § 7.)

**Effect of amendment.**—The 1955 amendment substituted "commission" for "director of licensing and enforcement" near the beginning of the second and third paragraphs.

**Sec. 61.** Repealed by Public Laws 1955, c. 294, § 8.

**Illegal Importation, Transportation and Delivery.**

**Sec. 63. Importation of liquors.**

**II.** To duly licensed distillers and manufacturers of spirituous or vinous liquors in this state for use as an ingredient in distilling or manufacturing spirituous or vinous liquors and such other spirituous or vinous products as may be authorized by federal regulations 26CFR; (1957, c. 200.)

**Effect of amendment.** — The 1957 amendment added the words “and such other spirituous or vinous products as may be authorized by federal regulations 26CFR” at the end of subsection II. As the rest of the section was not changed by the amendment, only subsection II is set out.

**Sec. 64. Transportation of intoxicating liquor and malt liquor; prima facie evidence of.—**

**I.** 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. Provided, however, that the commission in its discretion may grant to an individual, upon his application, a permit to transport liquor purchased for his own personal use. It shall be lawful for common carriers and contract carriers duly authorized as such by the public utilities commission to transport liquor to state stores, to state warehouses, to licensees of the state liquor commission, to purchasers of liquor at state stores and from manufacturers to state warehouses, state stores and to the state line for transportation outside the state; for licensees of the commission to transport liquor from state stores to their places of business; and for manufacturers to transport within the state to state warehouses and state stores, to persons authorized under the provisions of section 63 and to the state line for transportation outside the state. Whoever knowingly violates any of the provisions of this subsection shall be punished by a fine of not less than \$100 nor more than \$1,000, and costs, and by imprisonment for not less than 2 months nor more than 6 months, and in default of payment of fine and costs, by imprisonment for not less than 2 months nor more than 6 months, additional. (1957, c. 218, § 14.)

**II.** No person, other than a wholesale licensee of the commission under and subject to the provisions of this chapter, shall transport or cause to be transported malt liquor into this state in a greater quantity than 1 case, unless said malt liquor was legally purchased in the state; and all shipments of malt liquor transported or caused to be transported by wholesale licensees into this state shall be accompanied by an invoice with the wholesale licensee's name and purchase number thereon. No person, other than a licensee of the commission, shall transport malt liquor in a quantity greater than one case from place to place in this state unless the same is purchased from a retail store licensee of the commission. However, it shall be lawful for common carriers and contract carriers, duly authorized as such by the public utilities commission, to transport malt liquor both into and within the state to licensees of the state liquor commission and to purchasers of malt liquor from licensees of the state liquor commission and to the state line for transportation outside the state. Whoever is convicted of illegal transportation of malt liquors into or illegal transportation from place to place within the 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. [1949, c. 359. 1957, c. 218, § 15]. (R. S. c. 57, § 64. 1949, c. 359. 1957, c. 218, §§ 14, 15.)

**Effect of amendment.** — The 1957 section I and inserted the words “in a amendment inserted the words “to persons authorized under the provisions of section 63” in the third sentence of sub- quantity greater than one case” in the second sentence of subsection II.

### Illegal Sales.

**Sec. 66. Illegal sale of liquor.**—Any person by himself, his clerk, servant or agent who sells liquor within the state without a license in full force and effect shall be punished for the first offense by a fine of not less than \$300 and costs nor more than \$500 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 30 days in jail at the discretion of the court; and for a 2nd offense by a fine of not less than \$500 and costs nor more than \$1,000 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 60 days in jail at the discretion of the court; and for all subsequent offenses a fine of not less than \$1,000 and costs and 60 days in jail, which fine and costs and jail sentence shall not be suspended, and an additional penalty of 4 months in jail at the discretion of the court. Any clerk, servant, agent or other person in the employment or on the premises of another, who violates or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties. (R. S. c. 57, § 66. 1951, c. 137. 1953, c. 392, § 4. 1957, c. 218, § 16.)

**Effect of amendment.** — The 1957 force and effect” in the first sentence of amendment inserted the words “in full this section.

**Sec. 70. Procuring or furnishing liquor to certain persons.**—Whoever knowingly procures or in any way aids or assists in procuring liquor or whoever furnishes, gives or delivers liquor to a minor who may not legally purchase liquor for himself or for any intoxicated person, pauper, insane person or person of known intemperate habits, except that this provision shall not apply to liquor served to a minor in the home, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 11 months, or by both. (1951, c. 78. 1959, c. 196.)

**Effect of amendment.**—The 1959 amendment added “or whoever furnishes, gives fine and imprisonment” at the end of the or delivers liquor to” and deleted “such section.

### Enforcement.

**Sec. 71. Jurisdiction of courts.**—In prosecutions under the provisions of this chapter, except when otherwise expressly provided, trial justices within their county shall have, by complaint, jurisdiction concurrent with municipal courts and the superior court. (R. S. c. 57, § 71. 1957, c. 208.)

**Effect of amendment.** — The 1957 third and fourth sentences of this section amendment repealed the former second. relative to penal sums of recognizances.

### Intoxication.

**Sec. 94. Intoxication and disturbance.**—Whoever is found intoxicated in any street, highway or other public place, or is found intoxicated in a motor vehicle while said motor vehicle is in any street, highway or other public place, shall be punished for the first offense by a fine of not more than \$20 or by imprisonment for not more than 30 days, or by both, and upon any subsequent conviction by a fine of not more than \$60 or by imprisonment for not more than 90 days, or by both, except that in any county where a county farm for the reformation of inebriates has been established, any male person who has been previously con-

victed of intoxication may be sentenced to such farm for a period of not less than 90 days nor more than 11 months. Whoever is found intoxicated in his own house or in any other building or place, disturbing the peace of his own or any other family or the public peace, shall be punished for the first and any subsequent conviction as provided in the preceding clause of this section. Any such intoxicated person shall be taken into custody by any sheriff, deputy sheriff, liquor inspector, constable, marshal, police officer or watchman and committed to the watchhouse or police station or restrained in some other suitable place, until a complaint can be made and a warrant issued against him, upon which he may be arrested and tried. (R. S. c. 57, § 95. 1945, c. 11. 1947, c. 145. 1955, § 95. 1957, c. 334, § 8.)

**Effect of amendments.** — The 1955 amendment inserted in the first sentence the words “or is found intoxicated in a motor vehicle while said motor vehicle is in any street, highway or other public place.”

The 1957 amendment increased the fine for the first offense from \$10 to \$20, increased the fine for subsequent offenses from \$50 to \$60, and deleted “such fine and imprisonment” following the word “both” in two places.

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## Chapter 62.

### Public Buildings. Building Committee of Eastern States Exposition.

**Secs. 1-7.** Repealed by Public Laws 1957, c. 340, § 3.

**Cross reference.**—See now c. 15-A and sections provided in § 12 thereof that notes thereto. See in particular §§ 24 to 33 of such act should be retroactive to July 1, 1957.

**Editor's note.**—The act repealing these

### Building Committee of Eastern States Exposition.

**Secs. 8, 9.** Repealed by Public Laws 1955, c. 471, § 8.

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## Chapter 63.

### Personnel Law.

**Secs. 7-10.** Repealed by Public Laws 1957, c. 152.

**Sec. 17. Preference in state employment for veterans.**

**II.** Ten-point preference is a term applying to veteran preference which entitles the holder to an addition of 10 points to earned qualifying ratings in examination. The classes of 10-point preference are as follows:

**A.** Disability preference applies to honorably discharged veterans who establish by official records the present existence of a service-connected disability, and who are certified by the veterans administration to be disabled with a disability rating of more than 0%.

**B.** When veterans entitled to disability preference on the basis of service-connected disability cannot be directly benefited thereby because of being disqualified for appointment by reason of the physical disability on which the preference is based. 10-point preference may be granted to their wives instead. This constitutes “wife preference.”

**C.** Ten-point preference is accorded to unmarried widows of deceased veterans who died while in the active service of the armed forces during any war, or who died as the result of service-connected disabilities.