

MAINE STATE LEGISLATURE

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MEMBERS OF THE
LIQUOR STUDY COMMITTEE

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Senator Margaret Sproul

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R E P O R T

L I Q U O R S T U D Y C O M M I T T E E

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INTRODUCTION

This committee, in pursuit of its objectives, has attempted to obtain the views of the general public, the liquor industry, licensees, the liquor commission, law enforcement personnel, and all other interested persons by holding advertised public hearings at the City Hall in Portland on November 10, 1965, the City Hall in Waterville on November 22, 1965, the City Hall in Bangor on January 5, 1966, the City Hall in Lewiston on April 12, 1966, and the City Hall in Rockland on July 6, 1966.

In addition thereto, numerous committee meetings were held at the State House in Augusta where groups and individuals known to be interested were invited. The advertised public hearings were sparsely attended.

This committee as a result of study, research, public hearings, and conferences has carefully evaluated the information received. This committee has spent nearly two years in its study and evaluation of all statutes, rules and regulations pertaining to intoxicating liquors, and has reached certain conclusions as to what it believes are required changes in the best interests of the public. The lack of attendance at the public hearings leads the committee to the conclusion that there is no widespread public dissatisfaction with the present liquor laws and regulations in our State. This report does not represent the unanimous opinion of the members of the committee. The recommendations herein made do represent the view of a majority of the members signing hereto.

The Liquor Study Committee therefore respectfully submits to the 103rd Legislature the following recommendations and proposed drafts of recommended legislation.

RECOMMENDATIONS

1. Monopoly state control vs. open license system. It has been proposed from time to time that our monopoly state control of spirituous and vinous liquors be abolished and replaced by an open license system used by some other states such as Massachusetts. This committee is of the opinion that revenue and profits realized by the State of Maine from retail sales in state stores and that monopoly state control of spirituous and vinous liquors are in the best interests of the people of the State of Maine. Therefore, this committee recommends that monopoly state control of spirituous and vinous liquors be preserved.

2. Restaurants - malt liquor licenses. This committee finds that many licensed restaurants in fact serve little or no food in their normal course of business. This committee is of the opinion that these establishments should be licensed under the "Class A Tavern" category which is intended for establishments not serving food. This committee recommends legislation to require 10% of the total volume of business of the establishment be sale of food in addition to present requirements in order to qualify for a restaurant malt liquor license. (See proposed drafts of recommended legislation number 1.)

3. Adult identification and retail sales. Proper identification of age is one of the hardest problems for the licensee in retail sales. Identification cards are often borrowed, altered, not issued by an authenticated body, or without descriptive data.

The Legislature has provided for adult identification cards to be issued by the liquor commission. However, this committee is of the opinion that because of its voluntary nature, it will be only a partial solution to the problem.

This committee is of the opinion that if driver licenses issued to minors were of a different color from those issued to adults, this would be a further aid in adult identification. (See proposed drafts of recommended legislation number 2.)

4. Discounts, spirituous and vinous liquors. This committee finds that persons licensed to sell spirituous or vinous liquor, and who are entitled to a discount on their purchases, may purchase these liquors at any state store they choose. Anticipating the demands of these discount purchases poses an inventory problem to the state stores which order once a week.

It is the recommendation of this committee that the liquor commission prescribe by rule and regulation the procedure to be followed by licensees for discount purchases of spirituous and vinous liquors to avoid the present inventory problem.

5. Excise tax exemption for military bases. This committee, as a result of its study of taxes imposed on liquor, is of the opinion that sufficient justification does not exist for continuing to exempt military bases from the excise tax imposed by the State on malt beverages. Therefore, it is recommended that legislation eliminate the present excise tax exemption granted military bases. (See proposed drafts of recommended legislation number 3.)

This committee also recommends that approved government instrumentalities within the State be given the same discount applicable to other discount purchasers of spirituous and

vinous liquor. (See proposed drafts of recommended legislation number 3A.)

6. Retail store licenses. All applications for license to sell liquor to be consumed on the premises must first be approved by the municipal officers of the city or town where located after public notice and hearing. It is the opinion of this committee that applications for the sale and distribution of malt liquor in retail stores should also be subject to approval by the municipal officers of the city or town where the store is located, and this committee recommends legislation therefor. (See proposed drafts of recommended legislation number 4.)

7. Hotel licenses. This committee is of the opinion that bona fide hotels should derive a reasonable proportion of their gross income from rental of rooms. Establishments which derive income only from sale of food and do not in fact derive income from rental of rooms, should not be classified as hotels for liquor license purposes. These establishments should, in the opinion of this committee, be licensed under the restaurant category for liquor license purposes.

Therefore, this committee recommends legislation to require 10% of the total volume of business be derived from rental of rooms in addition to present requirements in order to qualify as a hotel for liquor license purposes. (See proposed drafts of recommended legislation number 5.)

8. Club licenses. This committee is of the opinion that private clubs which do not have any bona fide activities other than the consumption of intoxicating liquors and those which are essentially run by and profitable to a small group of individuals should not be entitled to liquor licenses. It is the recommendation of this

committee that the liquor commission promulgate more stringent rules and regulations requiring a club to produce evidence prior to any issuance of a liquor license to establish that the club is in fact operating in a bona fide manner solely for objects of recreational, social, patriotic or fraternal nature and not for pecuniary gain or for another's profit.

9. Liquor served on licensed premises. This committee recommends that the Liquor Commission consider relaxation of its rule forbidding persons to stand or walk around with liquor so as to permit patrons in self-service type licensed premises to carry their drink from the bar to their seat.

10. Liquor License fees. Although licensed establishments vary greatly in size and capacity to do business, fees for liquor licenses are uniform within each category. This committee recommends that fees for liquor licenses for hotels, restaurants, "Class A" taverns, and retail stores be scaled according to the gross sale of liquor by the establishment.

11. Part-time Class A restaurants. Many restaurants in this state operate on a seasonal basis not exceeding three consecutive months. Under current law they are required to do a minimum of \$30,000 business in sale of food to the public on their premises as one of the requirements for a part-time Class A restaurant license. Year round Class A restaurants are only required in this requirement to do a minimum of \$50,000 per year in sale and service of food to the public on their premises.

This committee recommends legislation providing for part-time Class A restaurant licenses not to exceed three consecutive months to restaurants which do a minimum of \$20,000 business in sale or service of food to the public on their premises. (See

proposed drafts of recommended legislation number 6.)

12. Administrative code. It is the opinion of this committee that the liquor commission's rule-making powers should be subject to the administrative code and this committee recommends legislation therefor. (See proposed drafts of recommended legislation number 7.)

13. Full time attorney for the liquor commission. This committee recommends that the Attorney General's staff include a full time attorney to render advice and assistance to the liquor commission.

14. Probationary licenses. Under the present law, the observance of the rules, requirements and regulations of the liquor commission are conditions precedent to the granting of any license to sell liquor.

This committee is of the opinion that the liquor commission should have the authority to issue licenses on a probationary basis not to exceed 90 days to establishments which are not completely but which are substantially in compliance with its rules, requirements and regulations. (See proposed drafts of recommended legislation number 8.)

/s/ Emile Jacques, Chairman
Senator Jon Lund
Senator Margaret Sproul
Rep. Mildred F. Wheeler
Rep. J. Richard Roy
A. Vernon Lent

PROPOSED DRAFTS OF RECOMMENDED LEGISLATION

Draft No. 1. Be it enacted by the People of the State of Maine, as follows: R.S., T. 28, sec. 2, sub-sec. 17, amended. Sub-section 17 of section 2 of Title 28 of the Revised Statutes is amended to read as follows:

17. Restaurant. "Restaurant" shall mean a reputable place operated by responsible persons of good reputation and habitually and regularly used for the purpose of providing food for the public, and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for the public. In the case of both full-time and part-time licenses at least 10% of the total volume of business shall be sale of food. In no case shall the commission renew any license for the sale of liquor under this subsection unless they are furnished with proof that the previous year's business conformed to the income provision of this subsection. The commission is specifically authorized to make such rules and regulations as they deem necessary for carrying out this subsection.

Draft No. 2. Be it enacted by the People of the State of Maine, as follows: R.S., T. 29, sec. 540, amended. Section 540 of Title 29 of the Revised Statutes is amended to read as follows:

540. Contents of license

Each license shall state the name, age, place of residence of the licensee and the distinguishing numbers or marks assigned to him and may contain a brief description of the licensee for the purpose of identification and such other information as the said Secretary of State shall deem necessary. All licenses issued to persons under the age of 21 years shall be of a different color

from the licenses issued to persons 21 years of age or over. Every licensee shall indorse his usual signature upon the margin of the license before using it and no license shall be valid until so indorsed.

Draft No. 3. Be it enacted by the People of the State of Maine, as follows: R.S., T. 28, sec. 452, amended. The 4th paragraph of section 452 of Title 28 is amended to read as follows:

A refund shall be granted for the excise tax imposed by this state on malt beverages sold by wholesalers to any vessel of foreign registry. Any wholesaler selling to such vessel shall present proof of such sale to the commission and shall thereupon receive from the Treasurer of State a refund of all state excise taxes paid in connection with such sale.

3A. Be it enacted by the People of the State of Maine, as follows: R.S., T. 28, sec. 204, amended. Section 204 of Title 28 of the Revised Statutes is amended to read as follows:

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 also sell at the same discount price spirituous and vinous liquor to approved government instrumentalities within the State.

Draft No. 4. Be it enacted by the People of the State of Maine, as follows: R.S., T. 28, sec. 751, amended. Section 751 of Title 28

of the Revised Statutes is amended by adding at the end, a new paragraph to read as follows:

No license for sale and distribution of malt liquor in retail stores shall be issued unless the application therefor be approved by the municipal officers of the city or town where such store is located, and if such store 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.

Draft No. 5. Be it enacted by the People of the State of Maine, as follows: R.S., T. 28, sec. 2, sub-sec. 9, amended. Subsection 9 of section 2 of Title 28 of the Revised Statutes is amended to read as follows: 9. Hotel. "Hotel" shall mean any reputable place operated by responsible persons of good reputation, where the public, for a consideration, obtains sleeping accommodations and meals under one roof and which has a public dining room or rooms either operated by the same management or by a lessee, open and serving food during the morning, afternoon and evening, and a kitchen, apart from the public dining room or rooms, in which food is regularly prepared for the public on the same premises. Each such hotel shall be equipped with at least 10 adequate sleeping rooms when it is located in a municipality of 3,000 or less population, 20 such sleeping rooms when located in municipalities having population of from 3,000 to 7,500 and 30 such sleeping rooms when located in municipalities having more than 7,500 population. All such rooms shall be in addition to rooms used by the owner or his employees. Each such hotel shall be open for the convenience of the traveling public 7 days per week and a reasonable proportion of the gross income of each such hotel shall be derived from rental of rooms and sale of food; except that a reasonable proportion of the gross income of each

hotel for which a part-time license has been issued shall be derived from rental of rooms and sale of food. In the case of both full-time and part-time licenses at least 10% of the gross income of each hotel shall be derived from rental of rooms. Increase in population as shown by the 1950 and any subsequent Federal Census shall not effect the eligibility for license of premises licensed prior to any such census.

Nothing in this section shall be held to prevent the commission from issuing summer or part-time licenses to bona fide summer hotels where accommodations and meals are not provided under one roof, provided such hotel can in no way be classed as overnight camps, and provided no liquor shall be served or delivered by the licensee, his servants or agents to guests in rooms outside of the main building.

Draft No. 6. Be it enacted by the People of the State of Maine, as follows: R.S., T. 28, sec. 2, sub-sec. 18 amended. The third sentence of sub-section 18 of section 2 of Title 28 of the Revised Statutes is amended to read as follows:

Part-time licensees must do a minimum of \$30,000 business in sale or service of food to the public on their premises as a requirement for a part-time license not in excess of 6 consecutive months, and \$20,000 business in sale or service of food to the public on their premises as a requirement for a part-time license not in excess of 3 consecutive months.

Draft No. 7. Be it enacted by the People of the State of Maine, as follows: R.S., T. 5, sec. 2302, repealed. Section 2302 of Title 5 of the Revised Statutes is repealed.

Draft No. 8. Be it enacted by the People of the State of Maine, as follows: R.S., T. 28, sec. 55, sub-sec. 8, amended. Sub-section 8 of section 55 of Title 28 of the Revised Statutes is amended to read as follows:

8. Rules and regulations. To adopt rules, requirements and regulations, not inconsistent with this Title or other laws of the State, the observance of which shall be conditions precedent to the granting of any license to sell liquor, including malt liquor; provided, however, that the commission may issue a license on a probationary basis not to exceed 90 days, and nothing in this sub-section shall be held to prevent the commission from issuing such licenses. In issuing or renewing licenses the commission shall give consideration to the character of any applicant, the location of the place of business and the manner in which it has been operated. The commission may refuse to issue licenses to corporations when any of its officers, directors or stockholders do not possess the qualifications required of unincorporated persons under this section.

O R D E R

"WHEREAS, the Legislature requires for its use, comprehensive factual information concerning both spirituous and vinous liquor and malt industries as they affect the State of Maine in order to make complete study of the liquor laws and the State Liquor Commission rules and regulations relating to these industries and in addition, to study the licensing of persons operating licensed premises and the penalties for liquor law or commission rule and regulation violations in connection therewith; and

WHEREAS, such study shall embrace the Liquor Commission structure of sales through state stores and taxes imposed on all liquor; and WHEREAS, such study shall be comprehensive with a view of codifying, clarifying and modernizing such law, commission rules and regulations and the committee shall report back to the 103rd Legislature with recommendations together with proposed drafts of recommended legislation; now, therefore, be it

ORDERED, the Senate concurring, that there shall be a committee of eight appointed to carry out the purposes of this order, as follows: The Attorney General, 3 Senators appointed by the President of the Senate and 4 Representatives appointed by the Speaker of the House; and be it further

ORDERED, that there is appropriated from the Legislative Appropriation the sum of \$5,000 to carry out the purposes of this Order."