

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

ated the retail selling price per bottle during that month. In every case but one the vendors have cooperated fully by notifying the Commission that they would revert to the prevailing prices of March so that the Commission would be able to obtain their 61%. On June 16, the retail prices in all liquor stores were adjusted so that they did not exceed the price higher than the same merchandise sold for during March. These prices conformed to O. P. A. regulations as well as the State Law.

In this adjustment there was one brand of merchandise on which the selling price was lowered and on which the vendor had not guaranteed the prevailing cost price during March. This matter was corrected July 1, and the prices at the liquor stores adjusted so that the State would receive the 61% markup. This company has advised the Commission that they are now able to sell this brand of merchandise at the lower price due to a change in formula, and upon receiving this merchandise the retail price will be maintained at the higher level until the State has been compensated for the loss on the bottles sold between June 16 and June 30. In the final analysis, the net loss will be nil and the Commission over a period of time will have obtained the 61% in the aggregate on the merchandise handled.

I have impressed upon the Commission and Mr. Berry the importance of complying strictly with the Statute in every detail in the administration of the law.

July 14, 1942

To: Wilbur H. Towle, Chairman Dept. State Liquor Commission

From: William H. Niehoff, Asst. Dept. State Liquor Commission

Attorney-General

Subject: Payment of Excise Taxes

This is with reference to your memorandum of July 8, 1942, concerning the letter from Jacob Agger, Esq. addressed to Mr. Berry, Administrative Assistant to the Commission.

It apparently appears that the wholesale beer distributors are seeking some system whereby the difficulties attending the advance payment of excise taxes is to be overcome. It has been suggested that a bond may be given to secure the payment of the excise taxes, and also that they be paid in a lump sum in advance of sending the orders.

Section 20 of Chapter 268, Public Laws of 1933, as amended by Chapter 236, Section 1, Public Laws of 1937, in reference to the method of purchasing malt liquors, among other things, provides: "Three copies of the order are to be mailed to the Commission *with a check* for the amount of the excise taxes required to cover the amount of the order." (underscoring mine.)

The foregoing statute is mandatory. It expressly provides the method of procedure in both ordering the malt liquor and the payment of the excise taxes. This statute must be adhered to strictly. It provides the only method of payment of the excise taxes. Any other system that would not be in strict compliance with this law would be illegal.

I appreciate the necessity for a change caused by present market conditions, but request for such a change in the law should be addressed to the Legislature and not the Liquor Commission. The former has the power to amend or repeal, but not so the latter. The Commission can only administer the law as it has been enacted by the Legislature.

July 14, 1942

To: W. H. Towle, Chairman Dept. State Liquor Commission
From: William H. Niehoff, Asst. Dept. State Liquor Commission
Attorney-General

Subject: Credits for the sale of malt liquor to post exchanges

The question has arisen as to whether or not a wholesaler may legally extend credit for the sale of malt liquors to so-called "post exchanges."

Chapter 250, Sec. 12-C, Public Laws of 1941, among other things, provides: "No licensee shall sell, or offer to sell, any malt liquors, wine or spirits, except for cash, excepting credits extended by a hotel or club to bona fide registered guests or members."

The prohibition of the extension of credit for the sale of malt liquors is directed to the licensee. If he extends credit for such sale, he clearly violates the law.

August 25, 1942

To: State Liquor Commission
From: William H. Niehoff, Asst. Dept. State Liquor Commission
Attorney-General

Subject: Sale of malt liquor on Naval Reservations by civilians

Request has come to us from A. G. Hillberg, Lieutenant Commander, United States Navy Reservation at Portland, Maine, for information in regard to what steps should be taken to enable commissary contractors to sell beer in the construction camps. Particular request has been directed in reference to the construction camp on Long Island, Casco Bay, Maine.

Our laws provide that no malt liquor intended for sale shall be manufactured in this State or sold at wholesale or at retail within the State without a license therefor issued by the State Liquor Commission.

These laws would not apply to territory ceded by the State of Maine to the United States government in accordance with the acts of Congress and the Laws of Maine. Such property would be federal property over which the State would have no jurisdiction. If the Navy or any part of the Navy, being an instrumentality of the federal government, wants to sell malt liquor on any of its territory they could do so without a license from the State Liquor Commission. However, as I understand the circumstance of this particular request, Lieutenant Commander Hillberg wants to give authority to some civilian to sell beer on the Naval territory to civilian workmen. It is my opinion that he is without such authority. Under Naval Regulation General Order No. 59, the sale of alcoholic beverages is expressly limited to officers' quarters, officers' messes, and officers' clubs. Exceptions to this rule can be