

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1943--1944

November 6, 1942

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

*Subject: Wholesale Licenses in Dry Towns*

This is in reply to your request for an opinion as to whether or not a wholesaler's license can be issued to a wholesaler whose place of business is in a so-called "dry" town or city.

Section 8 of Chapter 268 of the Public Laws of 1933 as amended provide for licenses for the sale and distribution of malt liquors at wholesale. No reference is made in this Act to the provisions of the so-called Local Option Law.

Section 17 of Chapter 177 of the Public Laws of 1939 as amended provides for local option with respect to (1) State Stores; (2) the sale of wine and spirits to be consumed on the premises; (3) the sale of malt liquors to be consumed on the premises; (4) the sale of malt liquors not to be consumed on the premises. A majority negative vote prohibits the issuance of any of these licenses in that particular city or town for a period of two calendar years.

Rule 15 of the Commission provides: "No wholesale licensee shall sell malt liquors to any person, firm or corporation who is not the holder of a license."

I am of the opinion that our laws permit the issuance of a wholesaler's license even though the place of business of the wholesaler may be located in the so-called "dry" town or city. In other words, the result of local option election in no way affects the right to issue a wholesaler's license.

November 17, 1942

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

*Subject: Transfer of Malt Liquor Licenses*

This is with reference to your inquiry regarding the transfer of a Retail Malt Liquor License and a Restaurant Malt Liquor License. Section 13 of Chapter 237 of the Public Laws of 1937 provides for the transfer of certain licenses from one place to another within the same municipality. This section provides as follows: "The Liquor Commission, upon application in writing, may transfer any liquor license of any hotel or club or the Vinous liquor license of any restaurant from one place to another within the same municipality \*\*\*." The law, however, does not include retail malt licenses nor restaurant malt licenses.

The Liquor Commission derives its authority from the Legislature. The Legislature has not seen fit to legislate for the transfer of retail malt licenses or restaurant malt licenses. In other words, the Legislature has made provisions only for the transfer of any liquor license of a hotel or club or the Vinous liquor license of a restaurant.