

# 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

Army Air Force Base, Houlton  
 Army Air Force Base, Presque Isle

The Army Exchange has indicated that all malt liquors purchased for Army Exchanges in Maine will be purchased through a Maine wholesaler and orders will be issued from the above exchanges.

Proper affidavits should be submitted by the wholesaler on his request for rebate of these taxes on malt liquors sold to an Army Exchange and he should further submit proper proof of such sale before rebate is allowed. This, of course, applies only to the sale of 3.2 beer as the sale of malt liquor to an Army Exchange in excess of 3.2 would be in violation of Federal law.

March 30, 1943

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

*Subject: Rebate of Taxes on Malt Liquors Sold to Navy's Ship Service Departments*

The opinion forwarded to you March 11, 1943, with respect to Rebate of Taxes on Malt Liquors Sold to Army Exchanges applies equally to Navy's Ship's Service Departments.

The Navy is entitled to the same immunity of the payment of these taxes as the Army.

June 30, 1943

W. Howard Mann  
 Lieut., (jg) U. S. N. R.  
 Ship Service Officer  
 Fleet Club, 40 Elm Street  
 Portland, Maine

Dear Lieutenant Mann:

This will acknowledge receipt of your letter of June 24 requesting authorization from the State Liquor Commission to deliver beer on Sunday from the National Distributors' Warehouse, 128 Middle Street, Portland, Maine, to the U. S. Navy Fleet Club at 40 Elm Street, Portland, Maine.

Under our statutes a delivery constitutes a sale and is expressly prohibited on Sunday. It would be unlawful for the National Distributors to either make delivery themselves or permit delivery to be made from their licensed premises on Sunday.

I discussed this matter with the Commission and they took the position that even if it were not a violation of the law they would not grant this authority to any licensed distributor. They are of the opinion that the Fleet Club should be able to stock up the necessary beer required on Saturday.

The Commission is ready at all times to cooperate fully with the Navy but feels that in this request it would not be a wise policy to grant any exceptions to any wholesale licensee even if it were not in violation of the law.

I am sorry that this matter cannot be worked out as you request and hope that you will be able to make the necessary arrangements that will enable you to get your supply of beer on Saturday.

July 26, 1943

Hillard H. Buzzell  
County Attorney  
Belfast, Maine

Dear Hillard:

This will acknowledge receipt of your letter of July 19. I was out of the office for several days and this accounts for the delay in my reply. You propound four questions for consideration and I shall attempt to dispose of them in that order.

Question 1. Whether or not the operator of a cocktail lounge must serve any person who sees fit to enter his portals providing they are not under the influence of liquor and are not creating a disturbance of any kind at the time? A licensee is responsible under the law to the State Liquor Commission and I can find no law which compels the licensee to serve any person. The licensee being responsible for what may occur on the licensed premises, I think has the authority to determine to whom he will serve intoxicating drinks.

Question 2. Has the operator the right to refuse any such person and after requesting them to leave the premises and they refuse, to call a police officer for the purpose of evicting such a person and just what is the legal status of the police officer under those conditions? The first part of this question is answered in the answer to the first question. I know of no authority that a police officer has of evicting anyone from the premises unless he is doing so in making an arrest. Under the law, the owner may use as much force as is reasonably necessary to evict a trespasser from his premises.

Question 3. Has the operator a right to refuse to sell liquor to any person who has formerly created a disturbance or under the influence of liquor? It is my opinion that the operator has a perfect right to refuse to sell to anyone any liquor and needs no reason for refusing to do so. It might be quite apparent that on a previous occasion he had had trouble on account of a particular person drinking, and does not want to have a reoccurrence of that situation.

Question 4. Has the operator a right to discriminate and serve those he desires to serve and refuse those he does not desire to serve with the exception of discrimination relative to the color in the Armed Forces? Chapter 129—Section 21 of the Revised Statutes prohibits discrimination by an inn-keeper against any soldier or sailor enlisted in the service of the United States except for good cause. This, I take it, refers only to the business in connection with the operator of the hotel. It is not necessary to have a cocktail lounge in order to operate a hotel. If the discrimination against the man in service is for cause, the licensee has the right to discriminate against him.

We must differentiate between the duties and liability of an inn-keeper and those of an operator of a cocktail lounge which happens to