

MAINE STATE LEGISLATURE

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March 30, 1967

C. L. Stimpson, Chairman

Maine State Liquor Commission

James S. Erwin, Attorney General

Attorney General

Fairview Wine Company

This is in reply to your memorandum dated March 22, 1967.

Based on conflicting opinions issued by a member of this Department in 1966, Fairview Wine Company was authorized to import a bottled wine known as "Scuppernong" and was even furnished a list number. After a shipment of the wine was actually in the State of Maine, the Liquor Commission told the Fairview Wine Company that the importation and warehousing of that particular wine was illegal and that it couldn't be sold. The Liquor Commission has placed the Fairview Wine Company in an untenable position.

Fairview Wine Company, acting in good faith upon the authorization of the Maine State Liquor Commission, now holds a substantial quantity of Scuppernong wine and is unable to do anything with it. If the Fairview Wine Company had imported the wine without Liquor Commission authorization, it would have been guilty of a serious violation of law. (Title 28, Section 1052.) If the Liquor Commission should not have issued the import authorization, the violation was technical and in any event cannot be ascribed to the Fairview Wine Company.

Leaving unanswered the question of whether or not the present shipment of Scuppernong wine is technically illegally present in the State, it is my opinion that the Liquor Commission is estopped now from either revoking its authorization to the Fairview Wine Company or refusing to list and sell the wine presently being held in the State as a result of its authorization. To revoke the authorization makes an innocent party subject to criminal sanctions. To refuse to list and sell the wine on hand causes a considerable financial loss to the same innocent party and puts the Liquor Commission in the position of having misled the Fairview Wine Company into financial hardship.

No human being is infallible. State officials are capable of error as well as anyone else. We have the especial obligation, however, to correct what we may have done in error because the aggrieved has no redress in civil action.

March 30, 1967

If there has been a violation of the law, it is technical and depends upon certain definitions such as the meaning of liquor industry terms like "manufacture", "rectify", and "bottle." No intent to do wrong is discernible in this matter.

In summary, it is my opinion that the Liquor Commission is estopped by its own action to refuse to list and sell the quantity of Scuppernong wine presently in the State and brought here as a result of Liquor Commission authorization. Therefore, said Scuppernong wine should be listed and sold by the Commission.

All future importations should be considered without reference to this ruling and be made subject to a careful review of existing law. This Department suggests that the Liquor Commission establish some workable and useful definitions of the critical terms of Title 28, Sections 1051 and 1052.

James S. Erwin
Attorney General

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