

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

Keith H. Ingraham, Chairman

Sale of tax free liquors by licensee

*SYLLABUS:*

A licensee who sells malt liquor is not precluded by the terms of 28 M.R.S.A. § 1(16) from selling tax free liquors on premises owned or leased by a corporation duly qualified to engage in the sale of said liquor.

*FACTS:*

A malt liquor licensee is in the employ of the Ammex Corporation, which sells tax free liquors pursuant to the terms of the U.S. Tariff Act 19 U.S.C.A. § (1-1991). The sale of liquor is consummated at a retail outlet proximate to the licensee's duly licensed premises on which malt beverages are sold at retail to the public. The licensee admits the sale of liquor for the Ammex Corporation, and refuses to display to enforcement officials of the Maine State Liquor Commission books and records relative to the sales of said liquor. The licensee seeks a renewal of his license to sell malt liquor.

*ISSUE:*

Is a malt liquor licensee precluded from selling tax free liquors on premises which are contiguous to his licensed malt liquor retail business ?

*ANSWER:*

No.

*REASONING:*

A licensee who sells malt liquor is not precluded from selling tax free liquors on premises owned or leased by a corporation duly qualified to engage in the sale of said liquors. The first and third paragraphs of 28 M.R.S.A. § 1(16) read as follows:

"Premise or premises. 'Premise' or 'premises' shall mean and include all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest *and which the licensee uses in the operation of the licensed business and which have been approved by the commission as proper places therein for the exercise of the license privilege.*" (emphasis supplied)

"The commission shall establish rules and regulations for the separation of areas where the license privilege may be exercised from areas where it may not be exercised, but complete non-access between the areas controlled by the licensee need not be required."

The selling of tax free liquor on behalf of Ammex Corporation by the licensee above-described is in no manner a use of contiguous premises in the operation or furtherance of the licensee's business, to wit: sale of malt beverages.

The Liquor Commission has no authority to license or regulate in any manner the sale of tax free intoxicating liquors and the records and books relative to said sales are not a proper subject for investigation by enforcement officials of the Commission. The manner

in which a person or corporation conducts the sale of tax free liquor, cigarettes, or any other duty free commodity is a matter for regulation by Customs Officials.

PHILLIP M. KILMISTER  
Assistant Attorney General

March 4, 1969  
State Board of Registration  
of Land Surveyors

Richard A. Coleman, Chairman

Non Citizens as Land Surveyors

*SYLLABUS:*

Persons who are not citizens of the United States may be registered as Land Surveyors in Maine.

*FACTS:*

A person who is not a citizen of the United States seeks to register as a Land Surveyor in Maine under the provisions of 32 M.R.S.A. §1661 et seq.

*QUESTION:*

Does an applicant have to be a citizen of the United States to qualify for registration as a Land Surveyor in the State of Maine?

*ANSWER:*

No.

*REASONS:*

Section 1681 of Title 32 states in part that the minimum satisfactory evidence to the board of qualification for registration is the:

“ . . . holding a certificate of registration to engage in the practice of land surveying issued to him on the basis of a written examination by the proper authority of a state, territory, possession of the United States, the District of Columbia *or of any foreign country*, based on requirements and qualifications, as shown by his application which, in the opinion of the board, are equal to or higher than the requirements of this chapter, may be registered at the discretion of the board.” (Emphasis supplied).

The board is to give primary concern in complying with the above quoted section to the written examination of the geographical and political areas described. Foreign country examinations are specifically included. Persons taking such a written examination in a foreign country could well be non-citizens of the United States. Inasmuch as the quoted section bases that particular minimum on the examination taken and there being no provision elsewhere in the statute specifically precluding non-citizens of the United States from registering in Maine, the board may in its discretion register such persons as it determines are qualified.

GARTH K. CHANDLER  
Assistant Attorney General