

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

STATE OF MAINE

Inter-Departmental Memorandum Date January 29, 1969

To Keith H. Ingraham, Chairman

Dept. Liquor Commission

From Phillip M. Kilmister, Assistant

Dept. Attorney General

Subject Sale of tax free liquors by licensee

SYLLABUS:

The Liquor Commission has no authority to regulate the sale of tax free imported liquors.

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

PMK: vbw

~~2-13-69~~
2-13-69
Curren

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.