

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**

*Opinion: Importing for Personal Use
28 M.R.S.A. 1052
28 M.R.S.A. 1053*

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

March 8, 1978

To: Keith H. Ingraham, Director, Bureau of Alcoholic Beverages
From: Stephen C. Clarkin, Assistant Attorney General, Department
of Attorney General
Subject: Interpretation of Title 28, Sections 1052 and 1053.

I am writing in reply to your request for an opinion as to the proper interpretation of 28 M.R.S.A. Secs. 1052 and 1053.

FACTS:

The State Liquor Commission has received various requests from individuals for permission to import intoxicating liquors into the state solely for personal use and consumption.

QUESTION PRESENTED:

Whether the State Liquor Commission is empowered to authorize the importation of intoxicating liquors solely for personal use and consumption.

ANSWER:

Subject to certain statutory exceptions permitting the importation of small quantities of liquor, such importation is prohibited and the State Liquor Commission has no discretionary power to authorize the importation of quantities larger than those provided by statute.

REASONING:

28 M.R.S.A. Sec. 1052 provides, in pertinent part, as follows:

"Sec. 1052. Importation of Liquor

No person, other than the commission, shall import spiritous or vinous liquor into this

To: Keith H. Ingraham, Director, Bureau of Alcoholic Beverages
Re: Interpretation of Title 28, Sections 1052 and 1053.

Page two

State, except wholesalers of table wine may import table wine containing not more than 14% alcohol by volume . . . It shall be lawful for an individual to transport into this State and to transport from place to place within the State such spiritous or vinous liquor for his personal use in a quantity not to exceed 4 quarts." (Emphasis added)

Similarly, with respect to malt liquor and table wine, 28 M.R.S.A. Sec. 1053 subsec. 2 provides, in part:

"No person, other than a wholesale licensee of the commission under and subject to this Title, shall transport or cause to be transported malt liquor or table wine into this State in a greater quantity than one case for malt liquor and 4 quarts for table wine, unless said beverages were legally purchased in the State." (Emphasis added)

Subject to the exceptions described in those sections and to other exceptions not pertinent here, therefore, it is evident that importation for personal use or otherwise is prohibited. Nevertheless, you have inquired as to whether certain language contained in 28 M.R.S.A. Sec. 1053, subsection 1, confers discretionary authority upon the commission to permit importation for personal use. That section provides, in part, as follows:

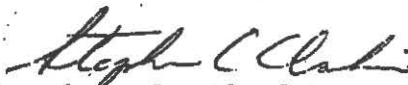
"No person shall knowingly transport from place to place in this State any intoxicating liquor with intent to sell the same in violation of law . . . and no person shall transport or cause to be transported any spiritous or vinous liquor, containing more than 14% alcohol by volume, in this State in a greater quantity than 4 quarts, unless such liquor was purchased from a state store or the commission. The commission in its discretion may grant to an individual, upon his application, a permit to transport liquor purchased for his own personal use." (Emphasis added)

From the language of this section, it is readily apparent that it regulates transportation within the state, rather than importation from another state or a foreign country. From the context in which the emphasized portion appears, therefore, it is clear that the discretionary authority conferred therein relates solely to intrastate transportation.

To: Keith H. Ingraham, Director, Bureau of Alcoholic Beverages
Re: Interpretation of Title 28, Sections 1052 and 1053.
Page three.

Therefore, as no corresponding authority exists with respect to importation, the commission has no power to authorize importation for personal use.

Sincerely,


Stephen C. Clarkin
Assistant Attorney General

SCC:gr