

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1370

H. P. 936

House of Representatives, February 13, 1963

Referred to Committee on Liquor Control. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Philbrick of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Relating to the Retail Sale of Vinous Liquors.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 61, § 1, amended. Section 1 of chapter 61 of the Revised Statutes, as amended, is further amended by adding before the 2nd paragraph from the end, the following new paragraphs:

“**Vinous liquors**”; all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar contents of fruits, or other agricultural product, containing sugar, the alcoholic content of which is not less than 1% nor more than 14% by volume at 60° Fahrenheit.

Spirituous liquors include vinous beverages as defined having an alcoholic content of more than 15% by volume at 60° Fahrenheit.’

Sec. 2. R. S., c. 61, § 1, amended. The 2nd paragraph from the end of section 1 of chapter 61 of the Revised Statutes is amended to read as follows:

‘“Wholesaler” shall mean and include persons licensed by the commission to engage in the purchase and resale of **wine or** malt or brewed beverages in the original containers **or bottles**, as prepared for the market by the manufacturer at the place of manufacture, but not for consumption on the premises of said wholesaler.’

Sec. 3. R. S., c. 61, § 8, sub-§§ I, IV, VII & IX, amended. Subsection I of section 8 of chapter 61 of the Revised Statutes, as repealed and replaced by section 2 of chapter 274 of the public laws of 1959 and subsections IV, VII and IX of section 8 of chapter 61 of the Revised Statutes, are amended to read as follows:

I. General supervision; rules and regulations. To have general supervision of manufacturing, importing, storing, transporting and sale of all **spirituous** liquors and to make such rules and regulations as they deem necessary for such purpose and to make rules and regulations for the administration, clarification, carrying out, enforcing and preventing violation of all laws pertaining to liquor **and vinous liquor** which rules and regulations shall have the force and effect of law, unless and until set aside by some court of competent jurisdiction or revoked by the commission.'

IV. Wine and spirits for sale. To buy and have in their possession ~~wine~~ **spirituous liquor** and spirits for sale to the public. Such ~~wine~~ **spirituous liquor** and spirits shall be purchased by the commission directly and not through the State Purchasing Agent and shall be free from adulteration and misbranding. The commission shall in their purchases of liquors give priority, wherever feasible, to those made from the agricultural products of this State.'

VII. Sell at retail. To sell at retail in state stores in original packages and for cash, either over the counter or by shipment to points within the State, ~~wine and spirits~~ **spirituous liquor** of all kinds for consumption off the premises at state stores to be operated under the direction of the commission.'

IX. Rules and regulations. To adopt rules, requirements and regulations, not inconsistent with this chapter or other laws of the State, the observance of which shall be conditions precedent to the granting of any license to sell liquor, including malt **and vinous** liquor. In issuing or renewing licenses the commission shall give consideration to the character of any applicant, the location of the place of business and the manner in which it has been operated. The commission may refuse to issue licenses to corporations when any of its officers, directors or stockholders do not possess the qualifications required of unincorporated persons under ~~the provisions of~~ this section.'

Sec. 4. R. S., c. 61, § 10, amended. The first sentence of section 10 of chapter 61 of the Revised Statutes is amended to read as follows:

'The commission is authorized to lease and equip in the name of the State, such stores, warehouses and other merchandising facilities for the sale of **spirituous** liquor as are necessary to carry out ~~the provisions of~~ this chapter but any lease or contract made pursuant hereto shall be approved by the Attorney General before becoming effective.'

Sec. 5. R. S., c. 61, § 11, amended. Section 11 of chapter 61 of the Revised Statutes is amended to read as follows:

'**Sec. 11. Special stores.** The commission shall have authority to establish in cities and towns, which vote in favor of the operation of state stores under local option provisions and where there is no state store, special or temporary stores to be occupied exclusively for the purpose in such cities or towns of selling **spirituous** liquor in sealed bottles, containers or original packages for consumption off the premises under such regulations as they may determine.'

Sec. 6. R. S., c. 61, § 14, amended. Section 14 of chapter 61 of the Revised Statutes, as amended, is further amended to read as follows:

'Sec. 14. Consumers' tax on spirituous and vinous liquor. All ~~spirits and wines spirituous liquors~~ shall be sold by the commission at a price to be determined by the commission which will produce a state liquor tax of not less than 65% based on the less carload cost f.o.b., State Liquor Commission warehouse, ~~and in addition thereto there shall be levied and imposed an excise tax of 24c per gallon on wines containing 10% to 14% alcohol by volume, 75c per gallon on wines containing 15% to 21% alcohol by volume and \$1 per gallon on sparkling wines; except that spirits and wines and spirituous liquor~~ sold at wholesale under section 43 may be sold at wholesale prices established pursuant to the provisions thereof. Prices for sale of ~~spirits and wines spirituous liquor~~ bought by the commission from Maine licensees to manufacture liquor under section 15 shall be based on minimum truck load delivery prices f. o. b. warehouse as the same are filed with the Public Utilities Commission. Special orders by the commission for unstocked merchandise shall be priced at not less than 65% over actual cost delivered f. o. b. warehouse. In all cases the commission is authorized to round off costs to the next highest 5 cents. Any increased federal taxes levied on or after November 1, 1941 shall be added to the established price without markup. All net revenue derived from such tax **and all taxes on liquor** shall be deposited to the credit of the General Fund of the State. Notwithstanding the other provisions of this section, the commission with approval of the Commissioner of Finance and Administration may reduce the price of discontinued items of liquor by an amount of 10% of the listed selling price and no item shall be discontinued by the commission for a period of at least 6 months after such item has been listed and on sale in state stores.'

Sec. 7. R. S., c. 61, § 15, amended. The last sentence of the next to the last paragraph of section 15 of chapter 61 of the Revised Statutes, as amended by section 4 of chapter 218 of the public laws of 1957, is further amended to read as follows:

'In the case of wine bottles and wineries, the license shall authorize sale and delivery of wine to holders of sacramental wine permits issued by the commission and persons authorized to purchase wine under ~~the provisions of section 63 and to wholesale wine licensees.~~

Sec. 8. R. S., c. 61, § 17, amended. Section 17 of chapter 61 of the Revised Statutes, as amended by section 1 of chapter 148 of the public laws of 1959, is amended to read as follows:

'Sec. 17. Manufacturers and officers not interested in wholesalers; commercial credit. No officer, director or stockholder of a corporation which is the holder of a manufacturer's certificate of approval shall in any way be interested, either directly or indirectly, as a director, officer or stockholder in any other corporation which is the holder of a wholesale license for the sale of malt **or vinous** liquor granted by this State; nor shall a manufacturer or holder of a certificate of approval, either directly or indirectly, loan any money, credit or equivalent thereof to any wholesaler for equipping, fitting out, maintaining or conducting, either in whole or in part, a business establishment where malt **or vinous** liquor is sold, excepting only the usual and customary commercial credit for malt **or vinous** liquor sold; excepting that a manufacturer or holder

of a certificate of approval may furnish a wholesale licensee materials and equipment for the use of the wholesale licensee or his employees such as painting the wholesale licensee's vehicles, and furnishing legal advertising signs used by the wholesale licensee in the course of his business, and furnishing the wholesale licensee uniforms for his employees, excepting only the usual and customary commercial credit for malt **or vinous** liquor sold and delivered.'

Sec. 9. R. S., c. 61, § 18, amended. The first and 2nd paragraphs of section 18 of chapter 61 of the Revised Statutes, as amended, and the 3rd paragraph of section 18 of chapter 61 of the Revised Statutes are amended to read as follows:

'No manufacturer or foreign wholesaler **or bottler** of malt liquor **or wine** shall hold for sale, sell or offer for sale, in intrastate commerce, any malt liquor **or wine** or transport or cause the same to be transported into this State for resale unless such manufacturer or foreign wholesaler **or bottler** has obtained from the commission a certificate of approval. The fee therefor shall be \$300 per year, which sum shall accompany the application for such certificate.

All manufacturers or foreign wholesalers **or bottlers** to whom certificates of approval have been granted shall furnish promptly the commission with a copy of every invoice sent to Maine wholesale licensees, with the licensee's name and purchase number thereon. They shall also furnish a monthly report on or before the 10th day of each calendar month in such form as may be prescribed by the commission and shall not ship or cause to be transported into this State any malt liquor **or wine** until the commission has certified that the excise tax has been paid or that the Maine wholesale licensee, to whom shipment is to be made, has filed a bond to guarantee payment of the excise tax as provided in section 21.

The purposes of this section are to regulate the importation, transportation and sale of malt liquor **or wine**, ~~also~~ and in addition thereto, to regulate and control the collection of excise taxes.'

Sec. 10. R. S., c. 61, § 20, repealed and replaced. Section 20 of chapter 61 of the Revised Statutes is repealed and the following enacted in place thereof:

'**Sec. 20. Licenses for wholesalers of malt liquor and wine.** Licenses for the sale and distribution of malt liquor and wine at wholesale, under such regulations as the commission may prescribe, may be issued by the commission upon an application in such form as they may prescribe and payment of the following annual license fees:

| | |
|--|-------|
| Malt liquor only—Principal place of business | \$300 |
| Each additional warehouse | 300 |
| Wine only—Principal place of business | 300 |
| Each additional warehouse | 300 |
| Malt liquor and wine—Principal place of business | 500 |
| Each additional warehouse | 500 |

The commission may issue special permits, upon application in writing, for the temporary storage of malt liquors or wines under such terms and upon such conditions as the commission may prescribe.'

Sec. 11. R. S., c. 61, § 21, amended. Section 21 of chapter 61 of the Revised Statutes, as amended, is further amended to read as follows:

Sec. 21. Interstate purchase or transportation of malt liquor or wine by wholesalers. No Maine wholesale licensee shall purchase or cause to be transported into this State **or buy in this State** any malt liquor **or wine** from any person **not a Maine licensee or a person** to whom a certificate of approval has not been granted by the commission.

All purchase order forms are to be furnished by the commission and all orders **whether from in or outside of this State** are to be executed in quintuplet. First, the wholesaler ordering malt liquor **or wine** shall mail 3 copies to the commission with a check for the amount of excise taxes required to cover the amount of the order. Thereafter, the wholesaler may mail the original copy of the order to the qualified brewery, **winery, bottler** or wholesaler with whom he wishes to place his order. On receipt of the 3 copies and check for excise taxes, the commission shall promptly receipt 2 copies and return one copy to the wholesaler and send one to the brewery, **winery, bottler** or foreign wholesaler designated to receive the order and no brewery, **winery, bottler** or foreign wholesaler shall ship or release malt liquor **or wine** for delivery in Maine until notified by the commission that the excise tax has been paid thereon in accordance with ~~the provisions of~~ this section and shall ship only to a licensed Maine wholesaler.

No Maine wholesale licensee shall sell any malt liquor **or wine** to another Maine wholesale licensee, which has not been purchased from a brewery, **winery, bottler** or foreign wholesaler holding a certificate of approval, **or a Maine licensed brewery, winery or bottler**. No wholesale licensee shall sell malt liquor **or wine** to any person, firm or corporation not the holder of a Maine license authorizing purchase and sale at retail of such malt liquor or wine, except malt liquor to approved government instrumentalities.

Maine wholesale licensees shall furnish to the commission, in such form as may be prescribed, a monthly report, on or before the 10th day of each calendar month, of all malt liquor **or wine** purchased and sold during the preceding month.

By filing the bond hereafter required, a Maine wholesale licensee may pay monthly the excise tax imposed by section 22 on all malt liquor **or wine** shipped into this State as shown by invoice of the shipment by the out-of-state wholesaler or holder of certificate of approval. The tax shall be paid by the wholesaler licensee on or before the 10th day of the calendar month following that in which shipment occurs. Each Maine wholesale licensee shall, at the time of payment of the excise tax on or before the 10th day of each month, furnish to the commission in such form as may be prescribed a verified monthly report of all malt liquor **or wine** purchased or imported based on the date of shipment invoice during the preceding calendar month and all such additional information as may be deemed necessary to compute and assure the accuracy of the excise tax payment accompanying the report.

In order to secure payment of the excise tax, each wholesale licensee shall file with the commission a corporate surety bond, in form and amount approved

and determined by the commission, guaranteeing payment of the proper excise tax due the State from him. The commission shall fix the amount and terms of the bond in such manner and subject to such conditions as it deems most appropriate. Said bond shall be equal to double the highest monthly excise tax paid by the wholesale licensee during the period of his prior calendar year license. All such bonds shall be provided and effective only for each calendar licensed year. New licensees desiring to furnish bond under this section shall furnish corporate surety bond in an amount to be determined by the commission. Failure to pay the excise tax when due shall be grounds for the suspension of the license of the Maine wholesale licensee.'

Sec. 12. R. S., c. 61, § 22, amended. Section 22 of chapter 61 of the Revised Statutes, as amended, is further amended by adding at the end a new paragraph to read as follows:

'Wholesale wine licensees shall pay an excise tax of 20c per gallon on all wine purchased by them for sale to retail wine licensees.'

Sec. 13. R. S., c. 61, § 31, amended. Section 31 of chapter 61 of the Revised Statutes, as amended, is further amended by adding at the end of the first paragraph the following:

| | |
|--|----------------|
| 'Retail store—Wine only | 50.00 |
| Retail store—Malt liquor and wine | 150.00' |

Sec. 14. R. S., c. 61, § 31, amended. Section 31 of chapter 61 of the Revised Statutes, as amended, is further amended by adding at the end a new paragraph to read as follows:

'All fees for liquor licenses collected by the commission shall be deposited in the General Fund of the State.'

Sec. 15. R. S., c. 61, § 32, amended. The first paragraph of section 32 of chapter 61 of the Revised Statutes is amended to read as follows:

'Licenses for sale and distribution of malt liquor or wine or both in retail stores may be issued by the commission upon application and under such regulations as the commission may prescribe. No such license shall be issued to any person who is not engaged in a bona fide retail business other than the sale of ~~malt liquors~~ liquor at retail and no person licensed to sell malt liquor or wine under the provisions of this section shall sell ~~malt~~ any such liquor for consumption on the premises where sold.'

Sec. 16. R. S., c. 61, § 38, amended. Section 38 of chapter 61 of the Revised Statutes is amended to read as follows:

'Sec. 38. Unlawful to peddle. It shall be unlawful for any wholesale or retail licensee of malt liquor or wine, either directly or indirectly, by any agent or employee, to go from town to town or from place to place in the same town selling or bartering or carrying for sale or exposing for sale any malt liquor or wine from any vehicle. All sales of such malt liquor or wine where transportation and delivery are required shall be made only upon orders actually received at the principal place of business or warehouse or distributing center,

if licensed, of the seller prior to shipment thereof. An invoice stating the names of the purchaser and the seller and the kind and quantity of malt liquor **or wine** ordered by the sale, together with the date of the sale, shall be carried by the driver or any other employee of the seller.

Whoever violates ~~the provisions hereof~~ **this section** shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both ~~such fine and imprisonment.~~

Sec. 17. R. S., c. 61, § 43, amended. Section 43 of chapter 61 of the Revised Statutes, as amended, is further amended to read as follows:

'Sec. 43. Spirituous liquor bought from commission. All persons, except public service corporations operating interstate, licensed to sell spirituous ~~or vinous~~ liquor shall purchase all such liquor from the commission. The commission shall sell to such licensees spirituous ~~and vinous~~ liquor for a price of 10% less than the retail price in state retail stores provided that such discount shall not apply to federal taxes levied on and after November 1, 1941. The commission may sell spirituous ~~and vinous~~ liquor to approved government instrumentalities within the State at a price to be set by the commission which shall be approved by the Governor and Council.'

Sec. 18. R. S., c. 61, § 51, amended. The 2nd sentence of the 2nd paragraph of section 51 of chapter 61 of the Revised Statutes is amended to read as follows:

'No licensee, by himself, clerk, servant or agent entitled to sell malt liquor **or wine** not to be consumed on the premises shall sell, furnish, give or deliver such malt liquor **or wine** to any person visibly intoxicated, to any insane person, to a known habitual drunkard, to any pauper, to persons of known intemperate habits or to any minor under the age of 21 years.'

Sec. 19. R. S., c. 61, § 63, amended. The first paragraph of section 63 of chapter 61 of the Revised Statutes is amended to read as follows:

'No person, other than the ~~state liquor~~ commission, shall import spirituous or vinous liquor into this State. Any person importing, or causing to be shipped into the State, or transporting spirituous or vinous liquor into the State, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both ~~such fine and imprisonment; provided, however, it~~. **It shall be lawful for an individual to transport into this State and to transport from place to place within the State such spirituous or vinous liquor for his personal use in a quantity not to exceed 3 quarts; provided further, that** ~~the~~. The commission, in its discretion and by its written authorization, may permit and authorize the importation of spirituous or vinous liquors into this State and the transportation of the same from place to place within this State to the following, **except as provided in sections 15, 18 and 21:**

Sec. 20. R. S., c. 61, § 64, sub-§ I, amended. Subsection I of section 64 of chapter 61 of the Revised Statutes, as amended by section 14 of chapter 218 of the public laws of 1957, is further amended to read as follows:

I. Intoxicating liquor. No person shall knowingly transport from place to place in this State any intoxicating liquor with intent to sell the same in this State in violation of law, or with intent that the same shall be so sold by any person, or to aid any person in such sale, and, **except as provided by sections 15, 18 and 21**, no person shall transport any spirituous or vinous liquor in this State in a greater quantity than 3 quarts, unless such liquor was purchased from a state store or the ~~state liquor~~ **commission or a licensed wine retail store.** ~~Provided, however, that the~~ **The** commission in its discretion may grant to an individual, upon his application, a permit to transport liquor purchased for his own personal use. It shall be lawful for common carriers and contract carriers duly authorized as such by the Public Utilities Commission to transport liquor to state stores, to state warehouses, to licensees of the State Liquor Commission, to purchasers of liquor at state stores and from manufacturers to state warehouses, state stores and to the state line for transportation outside the State; for licensees of the commission to transport liquor from state stores to their places of business; **for wholesale wine licensees to transport wine to licensed retail wine stores and licensed retail wine stores to transport wine to purchasers subject to all other provisions of law and commission rules and regulations;** and for manufacturers to transport ~~within the state spirituous liquor~~ to state warehouses and ~~state stores~~, to persons authorized under ~~the provisions of~~ section 63 and **wineries and wine bottlers to transport wine to licensed wine wholesalers within the State and for licensed manufacturers, distillers, rectifiers and bottlers to transport spirituous and vinous liquor** to the state line for transportation outside the State. **All shipments of wine by wineries and bottlers to wholesale licensees must be accompanied by an invoice with the wholesale licensee's name and purchase number thereon.** Whoever knowingly violates any of the provisions of this subsection shall be punished by a fine of not less than \$100 nor more than \$1,000, and costs, and by imprisonment for not less than 2 months nor more than 6 months, and in default of payment of fine and costs, by imprisonment for not less than 2 months nor more than 6 months, additional.'

Sec. 21. R. S., c. 61, § 65, amended. The first sentence of section 65 of chapter 61 of the Revised Statutes is amended to read as follows:

~~'No~~ **Except as herein otherwise provided, no** person shall knowingly transport to, or cause to be delivered to any person, other than the ~~state liquor~~ commission, unless upon written permission of the commission, any spirituous or vinous liquor, except liquors purchased from a state store or the ~~state liquor~~ commission **or wine purchased from a state retail store wine licensee.'**

Sec. 22. R. S., c. 61, § 2, amended. Section 2 of chapter 61 of the Revised Statutes, as amended, is further amended by adding thereto a new subsection IV-A, to read as follows:

IV-A. Shall licenses be granted in this city or town for sale herein of wine not to be consumed on the premises? (Wine to Take Out)'