

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1175

H. P. 839

House of Representatives, February 10, 1965

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

JEROME G. PLANTE, Clerk

Presented by Mr. Edwards of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT Relating to the Retail Sale of Wine.

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

Sec. 1. R. S., T. 28, § 2, sub-§ 24, amended. Subsection 24 of section 2 of Title 28 of the Revised Statutes is amended to read as follows:

'24. Wholesaler. "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, but not for consumption on the premises of said wholesaler.'

Sec. 2. R. S., T. 28, § 55, sub-§§ 3, 6 & 8, amended. Subsections 3, 6 and 8 of section 55 of Title 28 of the Revised Statutes are amended to read as follows:

'3. Spirituous liquor 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.'

'6. 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~~ **spirituous liquor** and spirits of all kinds for consumption off the premises at state stores to be operated under the direction of the commission.'

'8. Rules and regulations. To adopt rules, requirements and regulations, not inconsistent with this Title or other laws of the State, the observance of which shall be conditions precedent to the granting of any license to sell liquor, includ-

ing 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 this section.'

Sec. 3. R. S., T. 28, § 56, amended. The 2nd sentence of section 56 of Title 28 of the Revised Statutes is amended to read as follows :

'The commission is authorized to keep and have on hand a stock of ~~wines~~ **spirituous liquor** and spirits for sale, the value of which, computed on less carload price quotations F. O. B. warehouse filed by liquor ~~and wine~~ vendors, shall not at any time exceed the amount of working capital authorized.'

Sec. 4. R. S., T. 28, § 101, amended. Section 101 of Title 28 of the Revised Statutes is amended by adding a new question 4-A to read as follows :

'4-A. **Shall licenses be granted in this city or town for sale herein of wine not to be consumed on the premises?'**

Sec. 5. R. S., T. 28, § 151, amended. Section 151 of Title 28 of the Revised Statutes is amended to read as follows :

§ 151. Location of facilities

The commission is authorized to lease and equip in the name of the State, such store, warehouses and other merchandising facilities for the sale of **spirituous** liquor as are necessary to carry out this Title but any lease or contract made pursuant hereto shall be approved by the Attorney General before becoming effective. The state warehouses and wholesale stores shall be located in places designated by the commission. Leases may be for seasonal occupancy.'

Sec. 6. R. S., T. 28, § 153, amended. Section 153 of Title 28 of the Revised Statutes is amended to read as follows :

§ 153. 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. 7. R. S., T. 28, § 204, amended. Section 204 of Title 28 of the Revised Statutes is amended to read as follows :

§ 204. Liquor bought from commission; sale to government agencies

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. 8. R. S., T. 28, § 303, amended. The 2nd sentence of the 2nd paragraph of section 303 of Title 28 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 mentally ill 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. 9. R. S., T. 28, § 451, amended. The first 2 sentences of section 451 of Title 28 of the Revised Statutes are amended to read as follows:

'All ~~spirits and wines~~ spirituous liquor 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 spirituous liquor sold at wholesale under section 204 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 501 shall be based on minimum truck load delivery prices F. O. B. warehouse as the same are filed with the Public Utilities Commission.'

Sec. 10. R. S., T. 28, § 452, amended. The first paragraph of section 452 of Title 28 of the Revised Statutes is amended by adding before the last sentence the following:

'Wholesale wine licensees shall pay an excise tax on all wine purchased by them for sale to retail wine licensees as follows: American dessert wines, 25c per gallon; imported dessert wines, 75c per gallon; Vermouths, 40c per gallon; table wines, 25c per gallon; and champagnes, 90c per gallon.'

Sec. 11. R. S., T. 28, § 501, amended. The last sentence of the next to the last paragraph of section 501 of Title 28 of the Revised Statutes is amended to read as follows:

'In the case of wine bottlers and wineries, the license shall authorize sale and delivery of wine to holders of sacramental wine permits issued by the commission, wholesale wine licensees and persons authorized to purchase wine under section 1052.'

Sec. 12. R. S., T. 28, § 601, amended. Section 601 of Title 28 of the Revised Statutes is amended to read as follows:

'601. Manufacturer of malt or vinous liquor; credit; furnishing materials and equipment

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. 13. R. S., T. 28, § 603, amended. Section 603 of Title 28 of the Revised Statutes is amended to read as follows:

§ 603. Invoices and reports

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 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 652.'

Sec. 14. R. S., T. 28, § 604, amended. The first paragraph of section 604 of Title 28 of the Revised Statutes is 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.'

Sec. 15. R. S., T. 28, § 651, repealed and replaced. Section 651 of Title 28 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 651. 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	\$300.00
Each additional warehouse	300.00
Wine only—Principal place of business	300.00
Each additional warehouse	300.00
Malt liquor and wine—Principal place of business	500.00
Each additional warehouse	500.00

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 precribe.

Wholesalers' licenses may be transferred by the commission from premises in the municipality originally specified to other premises in the same or other municipalities.'

Sec. 16. R. S., T. 28, § 652, amended. The first 5 paragraphs of section 652 of Title 28 of the Revised Statutes are amended to read as follows:

'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 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 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 Maine 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 452 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 wholesale 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.'

Sec. 17. R. S., T. 28, § 701, amended. Section 701 of Title 28 of the Revised Statutes is amended by adding at the end of the 2nd paragraph after "Retail store—Malt liquor only" the following:

'Retail store—Wine only	100.00
Retail store—Malt liquor and wine	200.00'

Sec. 18. R. S., T. 28, § 751, amended. The first paragraph of section 751 of Title 28 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 or wines at retail and no person licensed to sell malt liquor or wine under this section shall sell malt liquor or wine for consumption on the premises where sold.'

Sec. 19. R. S., T. 28, § 751, amended. The last sentence of section 751 of Title 28 of the Revised Statutes is amended to read as follows:

'No merchandise shall be considered to be reasonably compatible with a stock of malt liquor or wine, for the purpose of licensing a retail store, which consists of gasoline and oil; used or new cars, parts or accessories; clothing; hardware; paints or building materials; electric appliances or equipment; household furniture or furnishings; or such other items of stock as may be equally incompatible in nature.'

Sec. 20. R. S., T. 28, § 756, amended. The first paragraph of section 756 of Title 28 of the Revised Statutes is amended to read as follows:

'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.'

Sec. 21. R. S., T. 28, § 1052, amended. The first 2 sentences of section 1052 of Title 28 of the Revised Statutes are amended to read as follows:

'No Except as provided in section 751 no person, other than the commission, shall import spirituous or vinous liquor into this State. ~~Any~~ **Except as provided in section 751** 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.'

Sec. 22. R. S., T. 28, § 1052, sub-§ 2, amended. Subsection 2 of section 1052 of Title 28 of the Revised Statutes is amended to read as follows:

'2. Distillers, rectifiers, bottlers and manufacturers. To duly licensed distillers, **rectifiers, bottlers** and manufacturers of spirituous or vinous liquors in this State for use as an ingredient in distilling, **rectifying, bottling** or manufacturing spirituous or vinous liquors and such other spirituous or vinous products as may be authorized by Federal Regulations 26 CFR:'

Sec. 23. R. S., T. 28, § 1053, sub-§ 1, amended. Subsection 1 of section 1053 of Title 28 of the Revised Statutes is amended to read as follows:

'1. 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 section 751**, no person shall transport or cause to be transported any spirituous or vinous liquor in this State in a greater quantity than 4 quarts, unless such liquor was purchased from a state store or the commission **or a licensed wine retail store**. 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 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 liquors, to persons authorized under section 1052 and 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. 24. R. S., T. 28, § 1054, amended. The first sentence of section 1054 of Title 28 of the Revised Statutes is amended to read as follows:

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