

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)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 897

H. P. 656

House of Representatives, February 16, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Lizotte of Biddeford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Retail Sale of Fortified Wine.

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

Sec. 1. R. S., T. 28, § 2, sub-§ 25-B, additional. Section 2 of Title 28 of the Revised Statutes, as amended, is further amended by adding a new subsection 25-B to read as follows:

25-B. Fortified wine. "Fortified wine" means any wine containing more than 14% alcohol by volume.

Sec. 2. R. S., T. 28, § 9, amended. The first sentence of section 9 of Title 28 of the Revised Statutes, as enacted by section 53 of chapter 513 of the public laws of 1965, and as amended by section 2 of chapter 360 of the public laws of 1969, is further amended to read as follows:

Notwithstanding any other statute or rule or regulation of the commission to the contrary, no person, firm or corporation shall be denied a license for the retail sale of malt liquor ~~or~~, table wine or fortified wine solely because the retail store premises of the applicant has entrances, doorways or other apertures which are not securely and permanently sealed leading from the retail store premises of the applicant to other premises where other types of business are carried on, provided that the retail store premises of the applicant and the nonlicensed portions of the other premises are under a common roof and all merchandising in the building is done on a single floor having common entranceways into which all persons enter for both the proposed licensed premises and any unlicensed premises.

Sec. 3. R. S., T. 28, § 55, sub-§ 3, amended. The first sentence of subsection 3 of section 55 of Title 28 of the Revised Statutes, as amended by section

3 of chapter 360 of the public laws of 1969, is further amended to read as follows:

To buy and have in their possession wine, except table wine **and fortified wine**, and spirits for sale to the public.

Sec. 4. R. S., T. 28, § 55, sub-§ 6, amended. Subsection 6 of section 55 of Title 28 of the Revised Statutes, as amended by section 4 of chapter 360 of the public laws of 1969, is further amended to read as follows:

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, except table wine **and fortified wine**, and spirits of all kinds for consumption off the premises at state stores to be operated under the direction of the commission.

Sec. 5. R. S., T. 28, § 55, sub-§ 8, amended. The first sentence of subsection 8 of section 55 of Title 28 of the Revised Statutes, as amended by section 5 of chapter 360 of the public laws of 1969, is further amended to read as follows:

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, including malt liquor ~~or~~, table wine **or fortified wine**.

Sec. 6. R. S., T. 28, § 56, amended. The 2nd sentence of section 56 of Title 28 of the Revised Statutes, as amended, is further amended to read as follows:

The commission is authorized to keep and have on hand a stock of wines, except table wines **and fortified wines**, and spirits for sale, the value of which, when priced for resale, shall be computed on less carload price quotations f.o.b. warehouse filed by liquor and wine vendors.

Sec. 7. R. S., T. 28, § 101, sub-§ 6-B, additional. Section 101 of Title 28 of the Revised Statutes, as repealed and replaced by section 1 of chapter 49 of the public laws of 1967, and as amended, is further amended by adding a new subsection 6-B to read as follows:

6-B. Shall licenses be granted in this city or town for the sale herein of fortified wines not to be consumed on the premises?

Sec. 8. R. S., T. 28, § 101, amended. The 5th paragraph from the end of section 101 of Title 28 of the Revised Statutes, as least repealed and replaced by section 42 of chapter 590 of the public laws of 1969, is amended to read as follows:

Where a city or town has voted in favor of accepting or not accepting questions 1, 2, 3, 4, 5, 6, 6-A, **6-B**, 7, 8, 9, 10 and 11, said vote shall be effective until repealed in the manner hereinafter provided.

Sec. 9. R. S., T. 28, § 204, amended. The first 3 sentences of section 204 of Title 28 of the Revised Statutes, as last repealed and replaced by section 44 of chapter 590 of the public laws of 1969, are amended to read as follows:

All persons, except public service corporations operating interstate, licensed to sell spirituous or vinous liquor, except table wine **and fortified wine**, shall purchase all such liquor from the commission. The commission shall sell to such licensees spirituous and vinous liquor, except table wine **and fortified wine**, 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, except table wine **and fortified wine**, 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. 10. R. S., T. 28, § 303, amended. The 2nd sentence of the 2nd paragraph of section 303 of Title 28 of the Revised Statutes, as last repealed and replaced by section 46 of chapter 590 of the public laws of 1969, is amended to read as follows:

No licensee, by himself, clerk, servant or agent entitled to sell malt liquor ~~or~~, table wine **or fortified wine** not to be consumed on the premises shall sell, furnish, give or deliver such malt liquor ~~or~~, table wine **or fortified 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 20 years.

Sec. 11. R. S., T. 28, § 304, amended. The 3rd sentence of section 304 of Title 28 of the Revised Statutes, as amended by section 12 of chapter 360 of the public laws of 1969, is further amended to read as follows:

No Maine retail liquor licensee shall have any interest, direct or indirect, in any Maine manufacturer's or wholesaler's license or certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor ~~or~~, table wine **or fortified wine**; and no out-of-state manufacturer or foreign wholesaler having a state certificate of approval, nor any state wholesale or manufacturing licensee, shall have any interest, direct or indirect, in any state retail liquor license.

Sec. 12. R. S., T. 28, § 304, amended. The last sentence of section 304 of Title 28 of the Revised Statutes, as amended by section 12 of chapter 360 of the public laws of 1969, is further amended to read as follows:

This section shall not prohibit a wholesaler from receiving normal credits for the purchase of malt liquor ~~or~~, table wine **or fortified wine** from the manufacturer thereof within or without the State.

Sec. 13. R. S., T. 28, § 451, amended. The first sentence of section 451 of Title 28 of the Revised Statutes, as repealed and replaced by section 65 of chapter 544 of the public laws of 1967, and as amended by section 14 of chapter 360 of the public laws of 1969, is further amended to read as follows:

All spirits ~~and wines, except table wines~~ 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 75% based on the less carload cost f.o.b., State Liquor Commission warehouse, and in addition thereto there shall be levied and im-

posed in excise tax of 75¢ per gallon on wines ~~containing more than 14% alcohol by volume~~; except that spirits ~~and wines~~ sold at wholesale under section 204 may be sold at wholesale prices established pursuant to the provisions thereof.

Sec. 14. R. S., T. 28, § 452, amended. The second paragraph of section 452 of Title 28 of the Revised Statutes, as amended by section 15 of chapter 360 of the public laws of 1969, is further amended to read as follows:

There shall be levied and imposed an excise tax of 30¢ per gallon, or fraction or multiple thereof, on all table wine ~~and fortified wine containing 14% or less alcohol by volume~~ imported into this State; except the excise tax shall be 20¢ per gallon or fraction or multiple thereof on all still wine ~~containing 14% or less alcohol by volume~~ which is manufactured or bottled in this State; and an excise tax of \$1 per gallon or multiple or fraction thereof on all sparkling wines manufactured in or imported into this State. Such taxes shall be paid by the Maine manufacturer or the importing wholesaler.

Sec. 15. R. S., T. 28, § 452, amended. The 5th paragraph of section 452 of Title 28 of the Revised Statutes, as amended by section 15 of chapter 360 of the public laws of 1969, is further amended to read as follows:

The commission is authorized to give such proper credits and to make such proper tax adjustments as they may from time to time deem the wholesale licensee to be entitled to upon the filing of affidavits in such form as they may **prescribe and shall refund all excise tax paid by the wholesale licensee on all malt liquor or table wine or fortified wine returned to the manufacturer in original containers, if credit is issued and allowed for same by the manufacturer, upon the filing of affidavits in such form as they may prescribe.**

Sec. 16. R. S., T. 28, § 452, amended. The first 2 sentences of the last paragraph of section 452 of Title 28 of the Revised Statutes, as amended by section 15 of chapter 360 of the public laws of 1969, are further amended to read as follows:

A refund shall be granted for the excise tax imposed by this State on malt beverages or table wines **or fortified wines** sold by wholesalers to any instrumentality of the United States or any Maine National Guard state training site accredited with exemption by the commission. A refund shall be granted for the excise tax imposed by this State on malt beverages or table wines **or fortified wines** sold to any vessel of foreign registry.

Sec. 17. R. S., T. 28, § 501, amended. The 2nd sentence of the 2nd paragraph of section 501 of Title 28 of the Revised Statutes, as amended by section 16 of chapter 360 of the public laws of 1969, is further amended to read as follows:

In the case of breweries and wineries producing table wine **or fortified wine, or both**, the license shall authorize sale to licensed Maine wholesalers.

Sec. 18. R. S., T. 28, § 501, amended. The last paragraph of section 501 of Title 28 of the Revised Statutes, as enacted by chapter 179 of the public laws of 1967, and as amended by section 17 of chapter 360 of the public laws of 1969, is further amended to read as follows:

Licensed Maine wine bottlers and wineries are authorized to sell to licensed Maine wholesalers, to purchasers outside of the State, and to any instrumentality of the United States, table wines and fortified wines, ~~containing no more than 14% alcohol by volume~~ imported into the State in sealed bottles upon the express condition that the importation of said wine in sealed bottles is authorized by the commission.

Sec. 19. R. S., T. 28, § 601, amended. Section 601 of Title 28 of the Revised Statutes, as amended by section 18 of chapter 360 of the public laws of 1969, is further amended to read as follows:

§ 601. Manufacturer of malt liquor, table wine or fortified wine; 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 liquor or table wine or fortified wine 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 liquor or table wine or fortified wine is sold, excepting only the usual and customary commercial credit for malt liquor or table wine or fortified wine 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 liquor or table wine or fortified wine sold and delivered.

Sec. 20. R. S., T. 28, § 602, amended. Section 602 of Title 28 of the Revised Statutes, as amended by section 19 of chapter 360 of the public laws of 1969, is further amended to read as follows:

§ 602. Purpose of regulations

The purposes of sections 602 to 605 are to regulate the importation, transportation and sale of malt liquor, ~~and~~ table wine and fortified wine, and in addition thereto, to regulate and control the collection of excise taxes.

Sec. 21. R. S., T. 28, § 603, amended. The last sentence of section 603 of Title 28 of the Revised Statutes, as amended by section 19 of chapter 360 of the public laws of 1969, is further amended to read as follows:

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 table wine or fortified 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. 22. R. S., T. 28, § 604, amended. This first 2 sentences of section 604 of Title 28 of the Revised Statutes, as amended, are further amended to read as follows:

No manufacturer or foreign wholesaler of malt liquor ~~or~~, table wine or **fortified wine** shall hold for sale, sell or offer for sale, in intrastate commerce, any malt liquor ~~or~~, table wine or **fortified wine** or transport or cause the same to be transported into this State for resale unless such manufacturer or foreign wholesaler has obtained from the commission a certificate of approval. The fee therefor shall be \$500 per year for malt liquor only and \$300 for table wine only and **\$300 for fortified wine only**, which sum shall accompany the application for such certificate.

Sec. 23. R. S., T. 28, § 651, amended. The first sentence of section 651 of Title 28 of the Revised Statutes, as amended by section 21 of chapter 360 of the public laws of 1969, is further amended to read as follows:

Licenses for the sale and distribution of malt liquor or table wine or **fortified 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 upon payment of an annual fee of \$300 for the principal place of business, and \$300 for each additional warehouse maintained by such wholesale licensee, except that the commission may issue special permits, upon application in writing, for the temporary storage of malt liquors or table wine or **fortified wine** under such terms and upon such conditions as the commission may prescribe.

Sec. 24. R. S., T. 28, § 652, amended. The first 5 paragraphs of section 652 of Title 28 of the Revised Statutes, as amended by section 22 of chapter 360 of the public laws of 1969, are further amended to read as follows:

No Maine wholesale licensee shall purchase or cause to be transported into this State any malt liquor or table wine or **fortified 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 are to be executed in quintuplet. First, the wholesaler ordering malt liquor or table wine or **fortified 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 or winery 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 or foreign wholesaler designated to receive the order and no brewery, winery or foreign wholesaler shall ship or release malt liquor or table wine or **fortified 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 table wine or **fortified wine** to another Maine wholesale licensee, which has not been purchased from a brewery, winery or foreign wholesaler holding a certificate of approval.

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 table wine or **fortified 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 table wine or **fortified 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 table wine or **fortified 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. 25. R. S., T. 28, § 701, amended. Section 701 of Title 28 of the Revised Statutes, as amended, is further amended by adding at the end of the 2nd paragraph the following :

Retail store—Fortified wine only	
If merchandise is groceries only	\$200.00
If other stock of merchandise	\$300.00
Retail store—Table wine and fortified wine	
If merchandise is groceries only	\$400.00
If other stock of merchandise	\$600.00

Sec. 26. R. S., T. 28, § 751, amended. Section 751 of Title 28 of the Revised Statutes, as amended, is further amended to read as follows :

§ 751. Issuance of licenses ; stock of merchandise

Licenses for sale and distribution of malt liquor or table wine, or both, or **fortified wine** or malt liquor or **fortified 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 or licenses shall be issued to any person who is not engaged in a bona fide retail business other than the sale of malt liquors or table wine or **fortified wine** or malt liquor or **fortified wine**, or both at retail and no person licensed to sell malt liquor or table wine or **fortified wine** or malt liquor or **fortified wine**, or both under this section shall sell malt liquor or table wine or **fortified wine** or malt liquor or **fortified wine**, or both for consumption on the premises where sold.

Licenses in an unincorporated place, where no local option vote is taken under section 103, shall require the approval of the county commissioners of the county.

No licenses shall be issued to any new retail premise under this section unless it has been in operation as such for a period of at least 3 months next prior to the date of the application, or unless such applicant proves to the satisfaction of the commission that all proper standards and requirements of laws and rules and regulations of the commission have been met and said applicant has been a resident of the State for at least 6 months prior to filing his application, except that anyone who formerly held a Maine malt liquor or table wine or fortified wine or malt liquor or fortified wine, or both license or who formerly was owner of a retail store within the State of Maine, shall not be subject to this sentence.

All retail store licensees must have and maintain an adequate stock of groceries in no case less than \$1,000 wholesale value or a stock of merchandise reasonably compatible with a stock of malt liquor or table wine or fortified wine or malt liquor or fortified wine, or both in no case less than \$1,000 wholesale value, or a combination of both in no case less than \$1,000 wholesale value. No merchandise shall be considered to be reasonably compatible with a stock of malt liquor or table wine or fortified wine or malt liquor or fortified wine, or both, for the purpose of licensing a retail store, which consists of gasoline and oil; used or new cars, parts or accessories; or such other items of stock that may be equally incompatible in nature.

Sec. 27. R. S., T. 28, § 751-A, amended. Section 751-A of Title 28 of the Revised Statutes, as enacted by chapter 91 of the public laws of 1967, and as last repealed and replaced by section 51 of chapter 590 of the public laws of 1969, is amended to read as follows:

§ 751-A. Payment for sales in retail stores

For the purpose of receiving payment at the check-out counters for the sale of malt liquor or table wine or fortified wine in retail stores, the age of such employee receiving the payment shall not be under 17 years of age for malt liquor and 18 years for table wine or fortified wine, provided that an employee who is 20 years of age or older is present in the retail store in a supervisory capacity.

Sec. 28. R. S., T. 28, § 755, amended. The first paragraph of section 755 of Title 28 of the Revised Statutes, as amended by section 26 of chapter 360 of the public laws of 1969, is further amended to read as follows:

No licensee shall advertise or hold out for sale any malt liquor or table wine or fortified wine by trade name or other designation which would indicate the manufacturer or place of manufacture of malt liquor or table wine or fortified wine unless he actually has on hand and for sale a sufficient quantity of the particular malt liquor or table wine or fortified wine so advertised to meet requirements to be normally expected as the result of such advertisement or announcement.

Sec. 29. R. S., T. 28, § 756, amended. The first sentence of section 756 of Title 28 of the Revised Statutes, as repealed and replaced by section 53 of chapter 590 of the public laws of 1969, is amended to read as follows:

It shall be unlawful for any wholesale or retail licensee of malt liquor or table wine or fortified 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, bartering or carrying for sale or exposing for sale any malt liquor or table wine or fortified wine from any vehicle, except all sales of such malt liquor or table wine or fortified 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, and an invoice stating the names of the purchaser and the seller and the kind and quantity of malt liquor or table wine or fortified 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; and except that a wholesale licensee, his agent or employee may go from town to town or from place to place in the same town selling, or carrying for sale or exposing for sale malt liquor or table wine or fortified wine from its vehicle, provided the licensee, his agent or employee has in his possession on said vehicle a manifest bearing a detailed description of the total amount of malt liquor or table wine or fortified wine on the vehicle, and invoices as required as well as invoices drawn up at the time of delivery.

Sec. 30. R. S., T. 28, § 1052, amended. The first sentence of section 1052 of Title 28 of the Revised Statutes, as amended by section 28 of chapter 360 of the public laws of 1969, is further amended to read as follows:

No person, other than the commission, shall import spirituous or vinous liquor into this State except wholesalers of table wine or fortified wine may import ~~table such wine containing not more than 14% alcohol by volume.~~

Sec. 31. R. S., T. 28, § 1053, sub-§ 2, amended. Subsection 2 of section 1053 of Title 28 of the Revised Statutes, as amended by section 30 of chapter 360 of the public laws of 1969, is further amended to read as follows:

2. **Malt liquor and table wine and fortified wine.** 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 or fortified wine into this State in a greater quantity than one case for malt liquor and 4 quarts for table wine or fortified wine, unless said beverages were legally purchased in the State. All shipments of malt liquor or table wine or fortified wine transported or caused to be transported by wholesale licensees into this State shall be accompanied by an invoice with the wholesale licensee's name and purchase number thereon. No person, other than a licensee of the commission, shall transport malt liquor in a quantity greater than one case, and table wine or fortified wine in quantities greater than 4 quarts, from place to place in this State unless the same is purchased from a retail store licensee of the commission. It shall be lawful for common carriers and contract carriers, duly authorized as such by the Public Utilities Commission, to transport malt liquor or table wine or fortified wine both into and within the State to li-

censees of the State Liquor Commission and to purchasers of malt liquor or table wine or **fortified wine** from licensees of the commission and to the state line for transportation outside the State. Whoever is convicted of illegal transportation of malt liquors or table wine or **fortified wine** into or illegal transportation from place to place within 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. 32. R. S., T. 28, § 1054, amended. The first sentence of section 1054 of Title 28 of the Revised Statutes, as amended by section 31 of chapter 360 of the public laws of 1969, is further amended to read as follows:

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 containing more than 14% alcohol by volume~~, except liquors purchased from a state store or the commission.

Sec. 33. Effective date. This Act shall become effective January 1, 1972.

STATEMENT OF FACT

The purpose of this bill is to permit the sale of wine containing more than 14% alcohol by volume to be sold at retail stores rather than state liquor stores.