

# 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 SEVENTH LEGISLATURE

---

---

## Legislative Document

No. 1397

H. P. 1101

House of Representatives, March 24, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. McKernan of Bangor.  
Cosponsor: Mrs. Najarian of Portland.

---

---

## STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

---

### AN ACT Relating to Retail Sale of Dessert Wine.

---

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

Sec. 1. 28 MRSA § 2, sub-§ 25-B, is enacted to read:

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

Sec. 2. 28 MRSA § 9, first sentence, as last amended by PL 1971, c. 285, is further amended to read:

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 dessert 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 having common entranceways into which all persons enter for both the proposed licensed premises and any unlicensed premises.

Sec. 3. 28 MRSA § 55, sub-§ 3, first sentence, as last amended by PL 1969, c. 360, § 3, is further amended to read:

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

Sec. 4. 28 MRSA § 55, sub-§ 6, as last amended by PL 1969, c. 360, § 4, is further amended to read:

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 dessert 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. 28 MRSA § 55, sub-§ 8, 1st sentence, as last amended by PL 1969, c. 360, § 5, is further amended to read:

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 dessert wine.

Sec. 6. 28 MRSA § 56, 2nd sentence, is amended to read:

The commission is authorized to keep and have on hand a stock of wines, except table wines and dessert 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. 28 MRSA § 101, sub-§ 6-B is enacted to read:

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

Sec. 8. 28 MRSA § 101, 5th ¶ from the end, as last repealed and replaced by PL 1973, c. 788, § 124, is amended to read:

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, 11, 12 and 13, said vote shall be effective until repealed in the manner hereinafter provided.

Sec. 9. 28 MRSA § 204, first 3 sentences, as last amended by PL 1971, c. 268, § 1, are further amended to read:

All persons, except public service corporations operating interstate, licensed to sell spirituous or vinous liquor, except table wine and dessert wine, shall purchase all such liquor from the commission. The commission shall sell to such licensees spirituous and vinous liquor, except table wine and dessert wine, for a price of 10% less than the retail price established for the state retail store where the purchase is made, 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 dessert 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. 28 MRSA § 303, 2nd ¶, 2nd sentence, as last amended by PL 1971, c. 598, § 57, is further amended to read:

No licensee, by himself, clerk, servant or agent entitled to sell malt liquor ~~or~~, table wine or dessert wine not to be consumed on the premises, shall sell, furnish, give or deliver such malt liquor ~~or~~, table wine or dessert 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 18 years.

**Sec. 11. 28 MRSA § 304, 3rd sentence**, as last amended by PL 1969, c. 360, § 12, is further amended to read:

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 dessert 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. 28 MRSA § 304, last sentence**, as last amended by PL 1969, c. 360, § 12, is further amended to read:

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

**Sec. 13. 28 MRSA § 451, first sentence**, as last amended by PL 1969, c. 360, § 14, is further amended to read:

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. f.o.b.~~, State Liquor Commission warehouse ~~and in addition thereto there shall be levied and imposed an 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. 28 MRSA § 452, 2nd ¶**, as last amended by PL 1969, c. 360, § 15, is further amended to read:

There shall be levied and imposed an excise tax of 30¢ per gallon, or fraction or multiple thereof, on all table wine ~~and dessert 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. 28 MRSA § 452, 5th ¶**, as last amended by PL 1969, c. 360, § 15, is further amended to read:

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 dessert 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. 28 MRSA § 452, last ¶, first 2 sentences**, as last amended by PL 1969, c. 360, § 15, are further amended to read:

A refund shall be granted for the excise tax imposed by this State on malt beverages ~~or~~, table wines **or dessert 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 dessert wines** sold to any vessel of foreign registry.

**Sec. 17. 28 MRSA § 501, 2nd ¶, 2nd sentence**, as last amended by PL 1969, c. 360, § 16, is further amended to read:

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

**Sec. 18. 28 MRSA § 501, last ¶**, as last amended by PL 1969, c. 360, § 17, is further amended to read:

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 dessert 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. 28 MRSA § 601**, as last amended by PL 1969, c. 360, § 18, is further amended to read:

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

**Sec. 20. 28 MRSA § 602**, as last amended by PL 1969, c. 360, § 19, is amended to read:

**§ 602. Purpose of regulations**

The purposes of sections 602 to 605 are to regulate the importation, trans-

portation and sale of malt liquor, ~~and~~ table wine and dessert wine, and in addition thereto, to regulate and control the collection of excise taxes.

**Sec. 21. 28 MRSA § 603, last sentence**, as last amended by PL 1969, c. 360, § 19, is further amended to read:

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 dessert 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. 28 MRSA § 604, first 2 sentences**, as amended by PL 1969, c. 360, § 20, are further amended to read:

No manufacturer or foreign wholesaler of malt liquor ~~or~~, table wine or dessert wine shall hold for sale, sell or offer for sale, in intrastate commerce, any malt liquor ~~or~~, table wine or dessert 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 dessert wine only, which sum shall accompany the application for such certificate.

**Sec. 23. 28 MRSA § 651, first sentence**, as last amended by PL 1969, c. 360, § 21, is further amended to read:

Licenses for the sale and distribution of malt liquor ~~or~~, table wine or dessert 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 dessert wine under such terms and upon such conditions as the commission may prescribe.

**Sec. 24. 28 MRSA § 652, first 2 ¶¶**, as last amended by PL 1969, c. 360, § 22, are further amended to read:

No Maine wholesale licensee shall purchase or cause to be transported into this State any malt liquor ~~or~~, table wine or dessert 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 dessert 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 **dessert 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.

**Sec. 25.** 28 MRSA § 652, 3rd ¶, as last amended by PL 1973, c. 303, § 3, is further amended to read:

No Maine wholesale licensee shall sell any malt liquor ~~or~~, table wine or **dessert wine** to another Maine wholesale licensee, which has not been purchased from a brewery, winery or foreign wholesaler holding a certificate of approval. The Administrative Court Judge shall revoke the license of any Maine wholesale licensee who shall make it a condition in selling malt liquor or wine to another Maine wholesale licensee that such Maine wholesale licensee shall not sell other brand names of malt liquor or wine.

**Sec. 26.** 28 MRSA § 652, 4th and 5th ¶¶, as last amended by PL 1969, c. 360, § 22, are further amended to read:

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 **dessert 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 **dessert 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 **dessert 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. 27.** 28 MRSA § 701 is amended by adding before the 3rd line from the end of the 2nd ¶, the following:

**Retail store—Dessert wine only**

If merchandise is groceries only .....	\$200.
If other stock of merchandise .....	\$300.

**Retail store—Table wine and dessert wine**

If merchandise is groceries only .....	\$400.
If other stock of merchandise .....	\$600.

**Sec. 28.** 28 MRSA § 751, as last amended by PL 1969, c. 500, § 16, is further amended to read:

**§ 751. Issuance of licenses; stock of merchandise**

Licenses for sale and distribution of malt liquor ~~or~~, table wine, or both, or **dessert wine or malt liquor or dessert 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 **dessert wine or malt liquor or dessert wine, or both**, at retail and no person licensed to sell malt liquor ~~or~~, table wine or **dessert wine or malt liquor or dessert wine, or both**, under this section shall sell malt liquor ~~or~~, table wine or **dessert wine or malt liquor or dessert 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 **dessert wine or malt liquor or dessert 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 **dessert wine or malt liquor or dessert 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 **dessert wine or malt liquor or dessert 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. 29. 28 MRSA § 751-A, as last repealed and replaced by PL 1971, c. 149, is amended to read:

**§ 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 **dessert wine** in retail stores, the age of such employee receiving the payment shall not be under 17 years of age, provided that in any event an employee who is 18 years of age or older is present in the retail store in a supervisory capacity.

Sec. 30. 28 MRSA § 755, first ¶, as last amended by PL 1969, c. 360, § 26, is further amended to read:



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

**Sec. 31. 28 MRSA § 756, first sentence**, as last repealed and replaced by PL 1969, c. 590, § 53, is amended to read:

It shall be unlawful for any wholesale or retail licensee of malt liquor ~~or~~, table wine **or dessert 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 dessert wine** from any vehicle, except all sales of such malt liquor ~~or~~, table wine **or dessert 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 dessert 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 dessert 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 dessert wine** on the vehicle, and invoices as required as well as invoices drawn up at the time of delivery.

**Sec. 32. 28 MRSA § 1052, first sentence**, as last amended by PL 1969, c. 360, § 28, is further amended to read:

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

**Sec. 33. 28 MRSA § 1053, sub-§ 2**, as last amended by PL 1969, c. 360, § 30, is further amended to read:

**2. Malt liquor, table wine and dessert 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 dessert wine** into this State in a greater quantity than one case for malt liquor and 4 quarts for table wine **or dessert wine**, unless said beverages were legally purchased in the State. All shipments of malt liquor ~~or~~, table wine **or dessert 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 dessert 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 dessert wine both into and within the State to licensees of the State Liquor Commission and to purchasers of malt liquor ~~or~~, table wine or dessert 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 dessert 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. 34. 28 MRSA § 1054, first sentence, as last amended by PL 1969, c. 360, § 31, is further amended to read:

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. 35. Effective date. This Act shall become effective January 1, 1976.

#### 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.