

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 1753**

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H. P. 1248

House of Representatives, April 2, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Jensen of Portland.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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### **AN ACT to Require Licenses for Employees of Malt Liquor Wholesalers.**

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

**Sec. 1.** 28 MRSA § 4, 3rd ¶, first sentence, as amended by PL 1969, c. 284, is further amended to read:

Any licensee ~~by himself, clerk, servant or agent~~, except as herein provided, who sells liquor on Sunday shall be punished by a fine of not less than \$100 nor more than \$500, and costs, and a penalty of not less than 2 months nor more than 6 months in jail, at the discretion of the court; and in default of fine and costs an additional penalty by imprisonment for 6 months.

**Sec. 2.** 28 MRSA § 4, last ¶, as last repealed and replaced by PL 1969, c. 183, § 1, is amended to read:

If any licensee ~~or any clerk, servant or agent of a licensee~~ is convicted of a violation of this section and appeals from the judgment and sentence of the trial court, the licensee's license to sell liquor shall be suspended during the time such appeal is pending in the appellate court unless the trial court shall otherwise order and no new or renewal license to sell liquor shall be granted to the licensee during the time of such appeal.

**Sec. 3.** 28 MRSA § 201, next to last sentence, is amended to read:

No person whose license for sale of liquor expires pending an appeal from conviction of a violation of law forbidding sale of intoxicating liquor on Sunday ~~by himself or his clerk, servant or agent~~ on his licensed premises, shall, after subsequent final conviction ~~of himself, clerk, servant or agent~~ be eligible for a liquor license for a period not exceeding 5 years from the date of such final conviction.

**Sec. 4.** 28 MRSA § 303, first ¶, first sentence, is amended to read:

No licensee ~~by himself, clerk, servant or agent~~ shall sell or offer to sell any liquor except for cash, excepting credits extended by a hotel or club to bona fide registered guests or members; and excepting credits extended by a hotel or class A restaurant to the holder of a credit card which authorizes such holder to charge goods or credits.

**Sec. 5.** 28 MRSA § 303, 2nd ¶, as last amended by PL 1971, c. 598, § 57, is further amended to read:

No licensee ~~by himself, clerk, servant or agent~~ shall sell, offer to sell or furnish any liquor to any person on a passbook or store order, or receive from any person any goods, wares, merchandise or other articles in exchange for liquor, except only such packages or original containers as were originally purchased from such licensee by the person returning the same. No licensee ~~by himself, clerk, servant or agent~~ entitled to sell malt liquor or table wine not to be consumed on the premises, shall sell, furnish, give or deliver such malt liquor or table 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. No licensee ~~by himself, clerk, servant or agent~~ shall sell, furnish, give, serve or permit to be served any liquor to be consumed on the premises 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. Any licensee who accepts an order or receives payment for liquor from a minor shall be considered as in violation of this paragraph.

**Sec. 6.** 28 MRSA § 651-A is enacted to read:

**§ 651-A. Employees' licenses**

Each employee of a wholesaler licensed for the sale and distribution of malt liquor or table wine, who is engaged in the direct handling or selling of liquor, shall apply to the commission for a license. The license fee shall be \$10 and the license shall expire 2 years after issuance. It may be renewed biennially on payment of \$10.

No such employee shall engage in the direct handling or selling of liquor unless validly licensed. Violations of the liquor laws or the rules and regulations of the commission shall result in a 10-day revocation of this license.

Notwithstanding any other provision of this chapter, no wholesaler shall be convicted for any offense of his employee under this section unless the wholesaler had actual knowledge or directed the commission of the offense.

**Sec. 7.** 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, 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 from any vehicle, except all sales of such malt liquor or table 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, or 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 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 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 on the vehicle, and invoices as required as well as invoices drawn up at the time of delivery.

**Sec. 8. 28 MRSA § 1055, first sentence,** is amended to read:

Any person ~~by himself, his clerk, servant or agent~~ who sells liquor within the State without a license in full force and effect shall be punished for the first offense by a fine of not less than \$300 and costs nor more than \$500 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 30 days in jail at the discretion of the court; and for a 2nd offense by a fine of not less than \$500 and costs nor more than \$1,000 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 60 days in jail at the discretion of the court; and for all subsequent offenses a fine of not less than \$1,000 and costs and 60 days in jail, which fine and costs and jail sentence shall not be suspended, and an additional penalty of 4 months in jail at the discretion of the court.

**Sec. 9. 28 MRSA § 1055, last sentence,** is repealed.

**Sec. 10. 28 MRSA § 1056** is amended to read:

**§ 1056. Aiding children in illegal possession or sale**

Whoever ~~by himself, his clerk, servant or agent,~~ directly or indirectly, employs or permits any child under the age of 16 years to aid or assist him in the illegal keeping or the illegal sale of liquors shall be punished, in addition to the penalties otherwise provided against the illegal keeping for sale or illegal sale of intoxicating liquors, by a fine of not less than \$100 or by imprisonment for not less than 60 days.

### STATEMENT OF FACT

The purpose of this Act is to require licensing of liquor wholesale employees, and to remove the imputed liability of employee's actions to the wholesaler.