

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1361, L.D. 1905)
2 (New Title)
3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE
6

7 Legislative Document

No. 2323

9 H.P. 1646 House of Representatives, April 4, 1986
10 Reported by Representative Perry from the Committee on Legal Affairs
and printed under Joint Rule 2. Original bill sponsored by Representative
11 Reeves of Pittston. Cosponsored by Senator Trafton of Androscoggin,
Representative Masterman of Milo and Representative Rioux of Biddeford.

12 EDWIN H. PERT, Clerk

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-SIX
18

19 AN ACT Relating to Liquor Excise Taxes and
20 Freight Rates and Making Other Changes in
21 the Liquor Laws.
22

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

25 Sec. 1. 28 MRSA §53, sub-§3-A is enacted to
26 read:

27 3-A. Policies or rules favoring local producers.
28 It is the policy of the State that the State Liquor
29 Commission shall adopt policies, practices and rules
30 consistent with this Title, other laws of the State
31 and applicable constitutional principles, for acting
32 as a market participant in the state liquor market
33 and using public funds from the General Fund profits
34 of the commission to influence purchasers of alcoholic
35 beverages in the State to purchase the alcoholic
36 products of the in-state manufacturers. In order to

1 further the policy of this subsection, the commission
2 shall adopt a retail profit markup applicable to all
3 alcoholic beverages produced in the State for sale by
4 the commission in the State of not more than 10% less
5 than the markup adopted for other similar alcoholic
6 products sold in the State.

7 Sec. 2. 28 MRS.A §54, sub-§2, as amended by PL
8 1979, c. 663, §162, is repealed and the following
9 enacted in its place:

10 2. Pamphlet of laws and rules. The commission
11 shall publish a pamphlet containing this Title and
12 all rules promulgated under this Title, within 90
13 days after adjournment of each Second Regular Session
14 of the Legislature. The commission shall furnish
15 copies of the pamphlet to all licensees, and shall
16 furnish copies of every change in the rules to all
17 licensees within 90 days of the effective date of the
18 change in the rules.

19 Sec. 3. 28 MRS.A §56, as amended by PL 1983, c.
20 865, Pt. B, §§1 and 2, is further amended to read:

21 §56. Working capital

22 The net profits of the commission shall be gener-
23 al revenue of the State. The commission is autho-
24 rized to keep and have on hand a stock of wines, ex-
25 cept table wines, and spirits for sale, the value of
26 which, when priced for resale, shall be computed on
27 ~~less earlead~~ price quotations f-o-b- F.O.B. liquor
28 warehouse filed by liquor and wine vendors. The in-
29 ventory value shall be based upon actual cost for
30 which payment may be due and shall not at any time
31 exceed the amount of working capital authorized.
32 Wines and spirits shall not be considered in the in-
33 ventory until payment has been made therefor. The
34 maximum permanent working capital of the commission
35 is established at \$3,500,000 and permanent advances
36 up to this amount may be authorized by the Governor
37 upon recommendation of the commission with the ap-
38 proval of the Commissioner of Finance and Administra-
39 tion. The permanent working capital of the commission
40 may be supplemented by temporary loans from other
41 state funds upon recommendation of the commission and
42 by approval of the Commissioner of Finance and Admin-
43 istration and the Governor.

1 Sec. 4. 28 MRSA §101, first ¶, as amended by PL
2 1979, c. 358, §1, is repealed and the following en-
3 acted in its place:

4 The municipal officers of cities and towns and
5 the assessors of plantations, upon receipt of a peti-
6 tion signed by at least 15% of the voters, voting in
7 that municipality in the last gubernatorial election
8 and addressed to the municipal officers, as defined
9 in Title 30, section 1901, subsection 7, at least 21
10 days before holding any primary, special statewide,
11 general or municipal election or annual or special
12 town meeting, shall notify the inhabitants of their
13 respective municipalities to meet, in the manner pre-
14 scribed by law, to vote upon any or all of the fol-
15 lowing questions. All petition signatures must have
16 been signed since the last general election.

17 Sec. 5. 28 MRSA §103, 4th ¶, as amended by PL
18 1975, c. 80, §5, is repealed and the following en-
19 acted in its place:

20 If the total number of persons shown by the re-
21 turns of the State Tax Assessor in the unincorporated
22 place is less than 20 or the number signing any peti-
23 tion for local option vote is less than 20, the Sec-
24 retary of State shall not hold any election in that
25 unincorporated place. If no such vote is taken, the
26 county commissioners or the commission may refuse ap-
27 proval of the application on the basis that the li-
28 cence is not warranted for any substantial public
29 convenience, necessity or demand. The county com-
30 missioners or the commission may authorize in the un-
31 incorporated place the sale of liquor on Sunday in
32 the licensed hotels, Class A restaurants and clubs
33 where liquor is permitted to be sold the rest of the
34 week. The county commissioners or the commission may
35 authorize in the unincorporated place the sale on
36 Sunday of malt liquor and table wine for consumption
37 off the premises by those licensees who are permitted
38 to make these sales during the rest of the week. The
39 county commissioners or the commission may authorize
40 in such unincorporated place the sale on Sunday of
41 malt liquor and table wine for consumption on the
42 premises by those licensees who are permitted to make
43 these sales during the rest of the week.

1 Sec. 6. 28 MRSA §201, first ¶, as amended by PL
2 1985, c. 402, §2, is further amended to read:

3 No license may be issued to any natural person
4 unless that person is at least 21 years of age and is
5 a citizen of the United States and of this State. A
6 part-time license, as authorized by law, may be is-
7 sued to any natural person who is at least 21 years
8 of age and is a citizen of the United States. No li-
9 cense may be issued to a partnership or to an associ-
10 ation unless all persons having an interest therein
11 are at least 21 years of age and are citizens of the
12 United States and of this State. A part-time license,
13 as authorized by law, may be issued to a partnership
14 or association if all persons having an interest
15 therein are at least 21 years of age and are citizens
16 of the United States. No license may be issued to
17 any corporation unless it shall be incorporated under
18 the laws of this State or authorized to transact
19 business in this State. No license may be issued to
20 a corporation any of the principal officers of which
21 would not personally be eligible for a liquor license
22 because such officer had had a license for sale of
23 liquor revoked. No person, who is not at the time of
24 the offense the holder of a liquor license, convicted
25 of violating any of the laws of this State or the
26 United States with respect to manufacture, transpor-
27 tation, importation, possession or sale of intoxicat-
28 ing liquor may be granted a license for sale of li-
29 quor for a period of 5 years from the date of such
30 conviction, and no person who sells liquor of a
31 greater alcoholic content than authorized by his li-
32 cense may be considered the holder of a license for
33 the purposes of this sentence. No clerk, servant or
34 agent of a licensee, who is convicted of sale of li-
35 quor on Sunday, may himself be granted a license for
36 sale of liquor for a period not exceeding 5 years
37 from the date of such conviction. No person whose li-
38 cense for sale of liquor expires pending an appeal
39 from conviction of a violation of law forbidding sale
40 of intoxicating liquor on Sunday, by himself or his
41 clerk, servant or agent, on his licensed premises,
42 may, after subsequent final conviction of himself,
43 clerk, servant or agent be eligible for a liquor li-
44 cense for a period not exceeding 5 years from the
45 date of such final conviction. No license may be is-
46 sued in which any full-time law enforcement officia

1 officer benefits financially either directly or indi-
2 rectly.

3 Sec. 7. 28 MRSA §204, 2nd ¶, as repealed and re-
4 placed by PL 1983, c. 824, Pt. W, is amended to read:

5 The commission shall sell to agency stores spiri-
6 tuous and vinous liquor, except table wine, for a
7 price of ~~10%~~ 8% less than the retail price estab-
8 lished for the state retail stores, ~~provided that the~~
9 ~~discount shall not apply to federal taxes levied on~~
10 ~~or after November 17, 1941.~~

11 Sec. 8. 28 MRSA §204, 4th ¶, as enacted by PL
12 1985, c. 306, is repealed.

13 Sec. 9. 28 MRSA §301, as amended by PL 1985, c.
14 252, §3, is further amended to read:

15 §301. Proximity to churches and schools; exception

16 No new licenses for the consumption of alcoholic
17 beverages on the premises where sold ~~shall~~ may be
18 granted under this Title to new premises within 300
19 feet of a public or private school, school dormitory,
20 church, chapel or parish house in existence as such
21 at the time such new license is applied for, measured
22 from the main entrance of the premises to the main
23 entrance of the school, school dormitory, church,
24 chapel or parish house by the ordinary course of
25 travel, except such premises as were in use as hotels
26 or clubs on July 24, 1937. The commission may grant
27 licenses to premises which are either in or within
28 300 feet of a church, chapel, parish house or
29 post-secondary school, measured as ~~aforesaid~~ by the
30 ordinary course of travel, when the license applica-
31 tion therefor has the unanimous approval of the mem-
32 bers of the commission and the ~~written approval of a~~
33 ~~majority of the officers or the written approval of~~
34 ~~the officer, person or pastor in charge of such~~
35 ~~church, chapel, parish house or post-secondary~~
36 ~~school.~~

37 Sec. 10. 28 MRSA §303, as amended by PL 1985, c.
38 85, and c. 402, §3, is repealed and the following
39 enacted in its place:

1 §303. Credit sales; sales to certain persons re-
2 stricted

3 No licensee by himself, clerk, servant or agent
4 may sell or offer to sell any liquor except for cash,
5 except credits extended by a hotel or club to bona
6 fide registered guests or members; and except credits
7 extended by a hotel or Class A restaurant to the
8 holder of a credit card which authorizes the holder
9 to charge goods or credits. A right of action does
10 not exist to collect claims for credits extended con-
11 trary to this section. Nothing contained in this
12 section prohibits a licensee from giving credit to a
13 purchaser for the actual price charged for packages
14 or original containers as a credit on any sale or
15 from paying the amount actually charged for packages
16 or original containers.

17 No licensee by himself, clerk, servant or agent
18 may sell, offer to sell or furnish any liquor to any
19 person on a passbook or store order or receive from
20 any person any goods, wares, merchandise or other ar-
21 ticles in exchange for liquor, except only such pack-
22 ages or original containers as were originally pur-
23 chased from that licensee by the person returning the
24 packages or original containers. No licensee, by
25 himself, clerk, servant or agent entitled to sell
26 malt liquor or table wine not to be consumed on the
27 premises, may sell, furnish, give or deliver malt li-
28 quor or table wine to any person visibly intoxicated,
29 to any mentally ill person, to a known habitual
30 drunkard, to persons of known intemperate habits or
31 to any minor. No licensee by himself, clerk, servant
32 or agent may sell, furnish, give, serve or permit to
33 be served any liquor to be consumed on the premises
34 to any person visibly intoxicated, to any mentally
35 ill person, to a known habitual drunkard, to persons
36 of known intemperate habits or to any minor. Any li-
37 cencee who accepts an order or receives payment for
38 liquor from a minor shall be considered in violation
39 of this paragraph.

40 Any minor who purchases any intoxicating liquor
41 or any minor who consumes any intoxicating liquor or
42 has on his person any intoxicating liquor in any
43 on-sale premises, or who presents or offers to any
44 licensee, his agent or employee any written or oral

1 evidence of age which is false, fraudulent or not ac-
2 tually his own, or who has a false identification
3 card in his possession, or sells, furnishes or gives
4 a false identification card to a minor or who uses a
5 false identification card, for the purpose of order-
6 ing, purchasing, attempting to purchase or otherwise
7 procuring or attempting to procure the serving of any
8 intoxicating liquor, or to gain access to a licensed
9 premise when minors are not allowed or who has any
10 intoxicating liquor in his possession, except in the
11 scope of his employment or in his own home in the
12 presence of a parent or guardian, commits a civil vi-
13 olation for which a forfeiture may be adjudged of not
14 less than \$100 nor more than \$300 for the first of-
15 fense; not less than \$200 nor more than \$500 for the
16 2nd offense, none of which may be suspended; and \$500
17 for the 3rd and subsequent offenses, none of which
18 may be suspended. When a person is adjudged to have
19 committed his first offense under this section, the
20 judge shall inform that person that the forfeitures
21 for the 2nd and subsequent offenses are mandatory and
22 may not be suspended. Failure to inform the first
23 offender that subsequent forfeitures are mandatory is
24 not a ground for suspension of any subsequent forfei-
25 ture. If a minor is charged with illegal possession
26 under this section, he may not be charged with ille-
27 gal transportation. No minor may be charged with
28 more than one offense under this section in any given
29 instance in which the same set of facts is involved.

30 Sec. 11. 28 MRSA §307 is enacted to read:

31 §307. Sales on cruise vessels

32 Notwithstanding sections 304 and 604 and chapter
33 16, any cruise vessel owned or operated by any cer-
34 tificate of approval holder or any affiliate or sub-
35 sidary of such a certificate holder and engaged in
36 international or interstate commerce may sell liquor
37 at retail in the state coastal waters for a period
38 not to exceed 180 days in any calendar year. Not-
39 withstanding the licensing provisions of this Title
40 for retail sale of liquor, no license for the sale of
41 liquor is required if the cruise vessel is docked in
42 a Maine port for not more than 24 hours. Any cruise
43 vessel docked in a Maine port for more than 24 hours
44 and selling liquor at retail to persons other than

1 passengers and their guests shall obtain a liquor li-
2 cence for on-premise consumption. Any violation of
3 state laws or local ordinances pertaining to the sale
4 of liquor which occurs on the cruise vessel in the
5 absence of a liquor license shall be prosecuted
6 against the certificate of approval holder.

7 Sec. 12. 28 MRSA §451, as amended by PL 1979, c.
8 307, is further amended to read:

9 §451. Retail markup

10 All spirits and wines, except table wines, shall
11 be sold by the commission at a price to be determined
12 by the commission which will produce a ~~state liquor~~
13 ~~tax~~ retail markup of not less than 75% based on the
14 ~~less carload cost f-o-b-, State Liquor Commission~~
15 ~~F.O.B. liquor warehouse, and in.~~ In addition thereto,
16 there shall be levied and imposed an excise tax a
17 further markup of 75¢ per gallon, or its metric
18 equivalent, on wines ~~containing more than 14% alcohol~~
19 ~~by volume other than table wines;~~ except that spirits
20 and wines sold at wholesale a discount under section
21 204 may be sold at wholesale lower prices established
22 pursuant to the provisions thereof of section 204.
23 Prices for sale of spirits and wines bought by the
24 commission from Maine licensees to manufacture liquor
25 under section 501 shall be based on minimum truck
26 load delivery prices f-o-b- warehouse as the same
27 are filed with the Public Utilities Commission. Spe-
28 cial orders by the commission for unstocked merchan-
29 dise shall be priced at not less than 75% over actual
30 cost delivered ~~f-o-b- F.O.B. liquor warehouse.~~ In
31 all cases the commission is authorized to round off
32 costs to the next highest 5 cents. Any increased fed-
33 eral taxes levied on or after November 1, 1941, shall
34 be added to the established price without markup. All
35 net revenue derived from such tax liquor sales shall
36 be deposited to the credit of the General Fund of the
37 State. Notwithstanding the other provisions of this
38 section, the commission, with approval of the Commis-
39 sioner of Finance and Administration, may reduce the
40 price of discontinued items of liquor. The reduced
41 price shall not be less than the actual cost of the
42 discontinued liquor items and no item shall be dis-
43 continued by the commission for a period of at least
44 6 months after such the item has been listed and on

1 sale in state stores. Notwithstanding the other pro-
2 visions of this section, the commission, with the ap-
3 proval of the Commissioner of Finance and Administra-
4 tion, may reduce the price of liquor in one store,
5 and licensees ~~permitted to purchase liquor at a dis-~~
6 ~~count under section 204~~ may purchase liquor for re-
7 sale from that store at the same price they are per-
8 mitted to purchase liquor for resale from any state
9 store which does not offer a retail discount.

10 Taxes Markups on spirituous or vinous liquors im-
11 posed by the State shall do not apply to spirituous
12 or vinous liquors sold by wholesalers, manufacturers,
13 bottlers and rectifiers holding licenses from the
14 commission to any instrumentality of the United
15 States, or to any vessel of foreign registry, or to
16 industrial establishments for use as an ingredient in
17 the manufacture of food products, or for use as an
18 ingredient in the manufacture of commodities which by
19 reason of their nature cannot be used for beverage
20 purposes. The commission is specifically authorized
21 to make such rules and ~~regulations~~ as they ~~deem~~ it
22 deems necessary for carrying out the provisions of
23 this paragraph.

24 Notwithstanding the other provisions of this sec-
25 tion, the commission may, from time to time, estab-
26 lish special prices on certain listed liquor items to
27 be made available to the consumer at all state
28 stores. ~~Such~~ The special prices shall may not be
29 lower than the price established for the same listed
30 item at the one authorized special discount state
31 store.

32 Sec. 13. 28 MRSA §452, as amended by PL 1985, c.
33 148 is further amended to read:

34 §452. Excise tax on malt liquor and table wine; de-
35 ficiency account; credits; refunds

36 There shall be ~~levied and~~ imposed an excise tax
37 on all malt liquor ~~manufactured~~ sold in this State of
38 5 1/3¢ 25¢ per gallon, ~~or its metric equivalent,~~ to
39 be paid by the Maine manufacturer ~~in addition to the~~
40 ~~fee provided by law or importing wholesaler.~~ A
41 wholesale licensee who imports malt liquor shall pay
42 an excise tax of 25¢ per gallon, or its metric equiv-

1 alent, and at a like rate for any multiple or frac-
2 tion thereof.

3 There shall be levied and imposed an excise tax
4 of 30¢ per gallon, or its metric equivalent, or frac-
5 tion or multiple thereof, on all table wine contain-
6 ing 14% or less alcohol by volume imported into sold
7 in this State ; except the excise tax shall be 20¢
8 per gallon, or its metric equivalent, or fraction or
9 multiple thereof on all still wine containing 14% or
10 less alcohol by volume which is manufactured or bot-
11 tled in this State, and an excise tax of \$1 per gal-
12 lon, or its metric equivalent, or multiple or frac-
13 tion thereof on all sparkling wines manufactured in
14 or imported into sold in this State. Such These
15 taxes shall be paid by the Maine manufacturer or the
16 importing wholesaler.

17 Notwithstanding the provisions of this section,
18 until July 1, 1989, the excise tax imposed on table
19 wine containing 14.5% or less alcohol by volume pro-
20 duced by a licensed Maine farm winery, shall be 5¢
21 per gallon, or its metric equivalent, on the first
22 10,000 gallons of table wine produced in one year,
23 10¢ per gallon, or its metric equivalent, on all wine
24 produced in excess of 10,000 gallons, but not in ex-
25 cess of 25,000 gallons, and 20¢ per gallon, or its
26 metric equivalent, on all wine produced in excess of
27 25,000 gallons.

28 All money received by the commission under this
29 section shall be forthwith immediately turned over to
30 the Treasurer of State and shall be credited to the
31 General Fund of the State.

32 The commission shall open an excise tax account
33 with all Maine manufacturers and wholesale licensees.

34 The commission is authorized to give such proper
35 credits and to make such proper tax adjustments as it
36 may from time to time deem the wholesale licensee to
37 be entitled to upon the filing of affidavits in such
38 form as it may prescribe and shall refund all excise
39 tax paid by the wholesale licensee on all malt liquor
40 or table wine caused to be destroyed by a supplier as
41 long as the quantity and size are verified by the Bu-
42 reau of Alcoholic Beverages and the destruction is
43 witnessed by an inspector of the bureau.

1 The ~~commissioner~~ commission is also authorized to
2 refund the excise tax on ~~distributor's~~ distributors'
3 inventories in the event ~~such~~ those inventories are
4 destroyed by fire, flood or other natural disaster.

5 A credit shall be granted for the excise tax im-
6 posed by this State on malt beverages or table wines
7 sold by wholesalers to any instrumentality of the
8 United States or any Maine National Guard state
9 training site accredited with exemption by the com-
10 mission. A credit shall be granted for the excise tax
11 imposed by this State on malt beverages or table
12 wines sold to any ship chandlers, provided the malt
13 beverages and table wines are resold to vessels of
14 foreign registry for consumption after that vessel
15 has left port or are resold for consumption on board
16 vessels of United States registry which are destined
17 for a foreign port. Any wholesaler selling to such an
18 instrumentality, training site or ship chandlers
19 shall present proof of that sale to the commission
20 and shall thereupon receive from the commission a
21 credit of all state excise taxes paid in connection
22 with that sale.

23 Sec. 14. 28 MRSA §474 sub-~~§§~~3 and 4, as enacted
24 by PL 1981, c. 454, §8, are amended to read:

25 3. Amount of premium. The premium imposed by
26 subsections 1 and 2 shall be 5¢ per gallon, ~~or its~~
27 ~~metric equivalent, or fraction or multiple thereof,~~
28 on all malt beverages sold in this State; 15¢ per
29 gallon, ~~or its metric equivalent, or fraction or mul-~~
30 ~~tipie thereof,~~ on all table wine ~~containing 14% or~~
31 ~~less alcohol by volume~~ sold in this State; 12¢ per
32 gallon, ~~or its metric equivalent, or multiple or~~
33 ~~fraction thereof,~~ on all sparkling wines ~~manufactured~~
34 ~~in or imported into~~ sold in this State; 62 1/2¢ per
35 proof gallon as the term proof gallon is defined in
36 the United States Code, Title 26, Section 5002, ~~or~~
37 ~~its metric equivalent, or fraction or multiple there-~~
38 ~~ef,~~ on all spirituous liquors and wines ~~containing~~
39 ~~more than 14% alcohol by volume~~ other than table
40 wines sold in this State.

41 4. Payment to fund. All premiums collected by
42 the commission under this section shall be paid
43 ~~forthwith~~ immediately to the Treasurer of State and

1 credited to the fund in accordance with section 472.

2 Sec. 15. 28 MRSA §474, sub-§5 is enacted to
3 read:

4 5. Reported as sales. All premiums collected by
5 the commission under this section shall be included
6 in the commission's accounts as part of total sales.

7 Sec. 16. 28 MRSA §501, as amended by PL 1985, c.
8 300, is further amended to read:

9 §501. Manufacturers' licenses; sales; transporta-
10 tion; fees

11 The commission is authorized and empowered to may
12 issue manufacturers' licenses to distill, rectify,
13 brew or bottle alcohol, or spirituous, vinous or fer-
14 mented liquor to distillers, rectifiers, brewers,
15 bottlers and wineries operating under federal law and
16 federal supervision. The following license fees shall
17 be charged:

18 1. Distillers and brewers. Distillers and brew-
19 ers using exclusively the agricultural products of
20 this State as raw material for the production of al-
21 cohol or alcoholic liquors shall pay an annual li-
22 cence fee of \$ 100 \$500

23 Distillers and brewers using exclusively the agricul-
24 tural products of other states as raw material -----
25 ----- \$3,000-

26 Distillers and brewers using in part agricultural
27 products of this State and in part those of other
28 states as raw material shall pay such fee as the com-
29 mission may determine, to be directly proportioned as
30 to the source and quantity of such raw material and
31 based upon the foregoing differential. In case Maine
32 agricultural products are not available for use as
33 raw material by distillers and brewers in any partic-
34 ular year, the commission is authorized to make such
35 adjustment in said fees as they deem just and equita-
36 ble, resulting in a final computation of not less
37 than \$1,500-

1 All licensees to whom manufacturers' licenses are as-
2 signed for distilling and brewing shall pay with
3 their application a base fee of \$100 and make monthly
4 reports to the commission of the kind, quantity and
5 source of raw material used by them. A final computa-
6 tion of the fee for each license year shall be made
7 by the commission on the basis of said monthly re-
8 ports and the final fees, as computed by the commis-
9 sion, shall be paid on December 31st of each license
10 year.

11 1-A. Small Maine breweries. Small Maine brew-
12 eries shall pay an annual license fee of \$50.

13 For purposes of this section, "small Maine brewery"
14 means a facility that is brewing, lagering and
15 kegging, bottling or packaging its own malt liquors
16 within the State. If an inadequate amount of agri-
17 cultural products used for raw materials exists with-
18 in the State, a holder of a small Maine brewery li-
19 cense may file an affidavit and application with the
20 Bureau of Alcoholic Beverages setting forth the un-
21 availability of raw materials within the State and
22 requesting permission to import these agricultural
23 products from out-of-state. If the bureau finds that
24 there is in fact an inadequate supply of raw materi-
25 als within the State, it may authorize that importa-
26 tion.

27 A holder of a small Maine brewery license may produce
28 malt liquors containing 25% or less alcohol by volume
29 in an amount not to exceed 50,000 gallons per year,
30 or their metric equivalent.

31 A holder of a small Maine brewery license may sell,
32 on the premises during regular business hours, malt
33 liquors produced at the brewery by the bottle, case
34 or in bulk.

35 A holder of a small Maine brewery license may sell or
36 deliver his product to licensed retailers and wholes-
37 alers. In addition, he may sell, on the premises
38 for consumption off the premises, malt liquors pro-
39 duced at the brewery by the bottle, case or in bulk
40 to licensed retailers, including, but not limited to,
41 retail stores, restaurants and clubs.

1 A holder of a small Maine brewery license may apply
2 for one license for the sale of liquor for on-premise
3 consumption for a location other than the brewery.

4 A holder of a small Maine brewery license may list on
5 product labels and in its advertising the list of the
6 ingredients and the product's average percentage of
7 the recommended daily allowances of nutritional re-
8 quirements.

9 2. Rectifiers. Rectifiers shall pay an annual
10 license fee of \$500.

11 3. Bottlers. Bottlers shall pay an annual
12 license fee of..... \$500.

13 3-A. Maine farm wineries. Maine farm wineries
14 shall pay an annual license fee of\$50.

15 For purposes of this section, "Maine farm winery"
16 means a facility that is fermenting, aging and bot-
17 tling its own wines within the State. If an inade-
18 quate amount of agricultural products used for raw
19 materials exists within the State, a holder of a
20 Maine farm winery license may file an affidavit and
21 application with the Bureau of Alcoholic Beverages
22 setting forth the unavailability of raw materials
23 within the State and requesting permission to import
24 these agricultural products from out-of-state. If
25 the bureau finds that there is in fact an inadequate
26 supply of raw materials within the State, it may au-
27 thorize the importation. If out-of-state raw materi-
28 als contribute to more than 50% of the yearly wine
29 production of a winery, then an excise tax shall be
30 levied on that out-of-state raw material at a rate of
31 4¢ per gallon, or its metric equivalent, on liquid
32 raw materials and 2¢ per pound on solid or semisolid
33 raw materials. The commission shall promulgate rules
34 for the collection of the excise tax.

35 A holder of a Maine farm winery license may produce
36 table wines and sparkling wines containing 14.5% or
37 less alcohol by volume in an amount not to exceed
38 50,000 gallons per year, or their metric equivalent.

39 A holder of a Maine farm winery license may serve
40 complimentary samples of wine and sell, during regu-

1 lar business hours, table wines produced at the winery by the bottle, case or in bulk on the premises of
2 the winery to persons who are not minors. A holder
3 of a Maine farm winery license may serve complimentary
4 samples of wine on Sunday after the hour of 12
5 o'clock noon and may sell table wines on Sunday after
6 the hour of 12 o'clock noon if the municipality in
7 which the winery is located has authorized the sale
8 of table wines on Sunday for consumption off the
9 premises pursuant to section 101.
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11 A holder of a Maine farm winery license may, upon application to and approval of the commission and payment of the license fee set out in this subsection, obtain a license for one additional location other than the winery licensed under this subsection. The holder of the license shall not be required to conduct any bottling or production of wine at the 2nd licensed location, but may conduct all activities which are permitted by this section at the winery.
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20 A holder of a Maine farm winery license may sell or deliver his product to licensed retailers and wholesalers. In addition, he may sell, on the premises, wine produced at the winery by the bottle, case or in bulk to licensed retailers, including, but not limited to, retail stores, restaurants and clubs.
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26 This subsection is repealed on July 1, 1989.

27 4. Other wineries. Wineries using exclusively
28 the agricultural products of other states or foreign
29 countries other than Maine farm wineries shall pay an
30 annual license fee of\$50.

31 In addition to such license fee of \$50, an excise tax
32 shall be imposed in the amount of 4¢ per gallon, or
33 its metric equivalent, on liquid raw materials and 2¢
34 per pound on solid or semisolid raw materials, under
35 the supervision of the commission, which shall make
36 the necessary rules for their collection.

37 This subsection is repealed on July 1, 1989.

38 4-A. Wineries. Beginning on July 1, 1989, wineries using exclusively the agricultural products of
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1 this State as raw material shall pay an annual li-
2 cense fee of.....\$50.

3 Wineries using in part the agricultural products of
4 other states or foreign countries shall pay, in addi-
5 tion to the license fee of \$50, an excise tax of 4¢
6 per gallon, or its metric equivalent, on liquid raw
7 materials and 2¢ per pound on solid or semisolid raw
8 materials, the same being under the supervision of
9 the commission, which shall make the necessary rules
10 and regulations for their collection.

11 Sec. 17. 28 MRSA §1052, as amended by PL 1981,
12 c. 470, Pt. B, §10, is further amended to read:

13 §1052. Importation of liquor

14 No person, other than the commission, ~~shall~~ may
15 import spirituous or vinous liquor into this State
16 except wholesalers of table wine may import table
17 wine ~~containing not more than 14% alcohol by volume.~~
18 Any person unlawfully importing, or causing to be
19 shipped into the State, or unlawfully transporting
20 spirituous or vinous liquor into the State, shall be
21 punished by a fine of not more than \$500 or by im-
22 prisonment for not more than 11 months, or by both.
23 It shall be lawful for an individual to transport in-
24 to this State and to transport from place to place
25 within the State such spirituous or vinous liquor for
26 his personal use in a quantity not to exceed 4 quarts
27 or its metric equivalent. The commission, in its dis-
28 cretion and by its written authorization, may permit
29 and authorize the importation of spirituous or vinous
30 liquors into this State and the transportation of the
31 same from place to place within this State to the
32 following:

33 1. Industrial establishments. To industrial es-
34 tablishments for use as an ingredient in the manufac-
35 ture of food products, or for use as an ingredient in
36 the manufacture of commodities which by reason of
37 their nature cannot be used for beverage purposes, or
38 for use in the manufacture of commodities unfit for
39 beverage purposes;

40 2. Distillers and manufacturers. To duly li-
41 censed distillers and manufacturers of spirituous or

1 vinous liquors in this State for use as an ingredient
2 in distilling or manufacturing spirituous or vinous
3 liquors and such other spirituous or vinous products
4 as may be authorized by Federal Regulations 26 CFR;

5 3. Churches. ~~Said~~ The commission, in its discre-
6 tion and by its written authorization, may permit and
7 authorize the importation of wine into this State and
8 the transportation of the same from place to place
9 within this State to churches or to the respective
10 pastor of any church for sacramental purposes or like
11 religious rites; and

12 4. Hospitals. The commission may authorize hos-
13 pitals and state institutions to import, for medici-
14 nal purposes only, liquor made available to them from
15 stocks of liquor seized by the Federal Government.
16 The commission, in its discretion and by written au-
17 thorization, may grant permission to hospitals and
18 state institutions for the purchase of liquors for
19 medicinal purposes only, from licensed Maine whole-
20 salers and state liquor stores. ~~Liquors purchased~~
21 ~~from state liquor stores may be sold at the discount~~
22 ~~price authorized for licensees in section 204.~~

23 The commission shall have the right and power to pre-
24 scribe such conditions as it deems necessary or ad-
25 visable as conditions precedent to granting permis-
26 sion and authority to import spirituous and vinous
27 liquors into this State and to transport the same
28 liquors within this State under subsections 1 to 4
29 and to make rules and regulations for clarifying and
30 carrying out said subsections and preventing viola-
31 tion of the laws relating to liquor.

32 Sec. 18. 28 MRSA §1053, sub-§1, as amended by PL
33 1979, c. 130, §7, is further amended to read:

34 1. Intoxicating liquor. No person ~~shall~~ may
35 knowingly transport from place to place in this State
36 any intoxicating liquor with intent to sell the same
37 liquor in this State in violation of law, or with in-
38 tent that the same liquor shall be so sold by any
39 person, or to aid any person in such sale, and no
40 person ~~shall~~ may transport or cause to be transported
41 any spirituous or vinous liquor, ~~containing more than~~
42 ~~14% alcohol by volume~~ other than table wine, in this

1 State in a greater quantity than 4 quarts, or its
2 metric equivalent, unless such liquor was purchased
3 from a state store or the commission. The commission
4 in its discretion may grant to an individual, upon
5 his application, a permit to transport liquor pur-
6 chased for his own personal use. It shall be lawful
7 for ~~common~~ for-hire carriers and contract carriers
8 duly authorized as such by the Public Utilities
9 Commission Department of Public Safety, Bureau of
10 State Police, to transport liquor to state stores, to
11 ~~state liquor~~ warehouses, to licensees of the State
12 Liquor Commission, to purchasers of liquor at state
13 stores and from manufacturers to ~~state liquor~~ ware-
14 houses, state stores and to the state line for trans-
15 portation outside the State; for licensees of the
16 commission to transport liquor from state stores to
17 their places of business; and for manufacturers to
18 transport within the State to ~~state liquor~~ warehouses
19 and state stores, to persons authorized under section
20 1052 and to the state line for transportation outside
21 the State. Whoever knowingly violates any of the pro-
22 visions of this subsection shall be punished by a
23 fine of not less than \$100 nor more than \$1,000, and
24 costs, and by imprisonment for not less than 2 months
25 nor more than 6 months, and in default of payment of
26 fine and costs, by imprisonment for not less than 2
27 months nor more than 6 months, additional.

28 Sec. 19. 28 MRSA §1054, as amended by PL 1969,
29 c. 360, §31, is further amended to read:

30 §1054. Delivery of liquor

31 No person ~~shall~~ may knowingly transport to or
32 cause to be delivered to any person, other than the
33 commission, unless upon written permission of the
34 commission, any spirituous or vinous liquor ~~contain-~~
35 ing more than 14% alcohol by volume, other than ta-
36 ble wine, except liquors purchased from a state store
37 or the commission. Any officer of any transportation
38 company, express company, carrier for hire or other
39 person who knowingly transports or delivers liquor
40 contrary to this section shall be punished by a fine
41 of not more than \$500 or by imprisonment for not more
42 than 11 months, or by both.

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FISCAL NOTE

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It is estimated that this new draft will result in the following increase in revenues.

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1986-87

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General Fund

\$1,000

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This new draft increases Undedicated General Fund revenues by approximately \$1,000 in Fiscal Year 1986-87 due to increased excise taxes from Maine farm wineries. All other changes will not increase or decrease revenues at this time.

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STATEMENT OF FACT

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This new draft makes necessary housekeeping changes which remove unintentional conflicts in the liquor laws. The apparent conflicts in the Maine Revised Statutes, Title 28, sections 101, 103 and 303, occurred because the same sections were amended twice, for different purposes, in the same legislative session. Because the earlier changes to those sections were not, or could not be, referenced when the later changes were enacted, the laws must be printed with both changes in apparent conflict. This new draft corrects that language without changing the intent of the sections.

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Last session the Legislature prohibited licensees from buying their liquor from agency stores. Because there is no longer any effect to measure, the paragraph in section 204 requiring the commission to report to the joint standing committee of the Legislature having jurisdiction over legal affairs on the removal of the discount for licensees is repealed.

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Section 1 of the new draft adds a new subsection concerning powers of the State Liquor Commission. The new subsection says that it is the policy of the State that the commission act as a market participant in the State liquor market and use public funds to influence purchasers in the State to buy Maine-produced alcoholic beverages. In furtherance

1 of this goal, the commission is instructed, among
2 other things, to adopt a markup system under which
3 Maine-produced alcoholic products will be marked up
4 no more than 10% less in state liquor stores than
5 similar products not produced in Maine. It is the
6 intent of the Legislature to mark up Maine products
7 currently, wherever possible, at a rate which is 10%
8 less than that applied to other products. In acting
9 as a market participant, the commission may adopt
10 whatever policies, practices and rules it determines
11 are necessary, but it is the intent of the Legisla-
12 ture that the commission's actions be consistent with
13 the Maine Revised Statutes, Title 28, all other laws
14 in Maine and applicable constitutional principles.

15 In addition, several references to consumer
16 "taxes" in the markup description contained in the
17 Maine Revised Statutes, Title 28, section 451, have
18 been removed because those references deal not with
19 the imposition of true taxes on goods, but with the
20 price-setting mechanisms of the commission as a
21 state-controlled business for the retail sale of al-
22 coholic products in Maine.

23 The commission is required to publish the rules
24 annually, which has caused hardship for the commis-
25 sion in updating the pamphlet every year. This new
26 draft requires the commission to publish and distrib-
27 ute a pamphlet containing all the laws and rules af-
28 ter the end of each Second Regular Session of the
29 Legislature. The commission must furnish a copy of
30 any changes in the rules to all licensees within 90
31 days after the change becomes effective. This does
32 not affect the commission's rule-making authority or
33 procedures under the Maine Administrative Procedure
34 Act.

35 Currently, no license may be issued in which any
36 law enforcement officer will either directly or indi-
37 rectly benefit. This is an unnecessary restriction
38 on the activities of part-time officers. This new
39 draft clarifies the restriction to apply to only
40 full-time law enforcement officers.

41 Agency stores currently buy liquor for resale
42 from the commission at a discount. That discount is
43 10%, less federal taxes, which ends up as a net 8%

1 discount. This new draft changes Title 28, section
2 204, to give the agency stores an 8% discount and no
3 longer refers to the federal taxes. The effect is to
4 not change the agency stores' discount.

5 This new draft removes a license requirement in
6 the Maine Revised Statutes, Title 28, section 301,
7 which was ruled unconstitutional by the United States
8 Supreme Court in 1982. Larkin v. Grendel's Den.
9 Inc., 459 U.S. 116.

10 Current law prohibits any certificate of approval
11 holder from making retail sales of liquor. This new
12 draft adds a new section which allows a cruise ship
13 owned by a certificate of approval holder to sell li-
14 quor to consumers while in Maine waters. The sales
15 may be made on the cruise ship without a liquor li-
16 cense, unless the vessel is docked in one port for
17 more than 24 hours. If the ship is in port for more
18 than 24 hours, the certificate of approval holder
19 must obtain a liquor license for on-premise consump-
20 tion. If the certificate of approval holder does not
21 obtain a license, it must suspend selling liquor on
22 the ship until the ship is no longer in port.
23 "Docked in port" includes the time when the ship is
24 within the waters of the port. This new section is
25 not intended to allow certificate of approval holders
26 to compete with local businesses which sell liquor,
27 but only to allow their cruise ships to provide li-
28 quor to their passengers and guests and others who
29 are temporarily on the ship. If any violation of the
30 liquor laws occurs on the cruise ship when the cer-
31 tificate of approval holder had not obtained a liquor
32 license, the Bureau of Liquor Enforcement shall pros-
33 ecute those violations against the certificate of ap-
34 proval holder. The value of a certificate of approv-
35 al and the fact that it may be revoked ensure that
36 the cruise vessels will be very careful about adher-
37 ing to the law.

38 This new draft removes unnecessary language in
39 the sections imposing excise taxes on malt liquor and
40 table wine and imposing the alcohol premium tax on
41 all liquor. Because these taxes are based on a cents
42 per gallon tax, no matter what the volume of the li-
43 quor sold, the references to other volume measure-
44 ments are unnecessary and may be confusing.

