

MAINE STATE LEGISLATURE

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DECEMBER SPECIAL SESSION

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 133

H. P. 136

House of Representatives, Dec. 8, 1933.

Referred to Committee on Temperance and 1,500 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Husey of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED
AND THIRTY-THREE

**AN ACT to Promote Temperance in the Use of Alcoholic Beverages
and to Control, License and Regulate the Manufacture, Transportation,
Possession, Purchase and Sale of Alcoholic Beverages and Alcohol
within the State and Providing for Local Option in Cities and Towns.**

Section 1. Title and object.

Section 2. Definitions.

Sections 3 to 11. Commission, powers and duties.

Sections 12 to 18. Manufacture, sale and transportation.

Sections 19 to 23. Receipts and profits, licenses, local option and hours
of sale, minors.

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Section 58. Constitutional clause.

Section 59. Repeal of inconsistent acts.

Section 60. Effective date of act.

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

Sec. 1. Title and object. This act shall be known as the Alcoholic Beverage Control Law; it shall be deemed an exercise of the police powers of the state for the protection of the economic and social welfare, the

health and pace and morals of the people of this state, and no provision of this law shall be construed so as to authorize the establishment or maintenance of any saloon in the generally accepted meaning thereof.

Sec. 2. Definitions. In this act unless the context otherwise requires, the words and phrases herein defined shall have the following meaning:

“Commission”, the Alcoholic Beverage Commission.

“Person”, an individual, co-partnership, corporation or voluntary association.

“Alcoholic beverages”, any liquid intended for human consumption as a beverage and containing $\frac{1}{2}$ of 1 per cent or more of alcohol by volume.

“Wines”, all fermented alcoholic beverages made from fruits, flowers, herbs or vegetables containing not more than 14 per cent of alcohol by volume and intended for human consumption as a beverage.

“Malt beverages”, ale, beer, porter, stout and all other alcoholic beverages manufactured or produced by the process of brewing or fermentation of malt, wholly or in part, or from any substitute therefor, containing not more than 7 per cent of alcohol by volume and intended for human consumption as a beverage.

“Distilled spirits”, brandy, gin, rum, whisky and all other distilled alcoholic liquids and all alcoholic beverages including fortified wines and liqueurs, whether distilled or however otherwise prepared, containing more than 14 per cent of alcohol by volume and intended for human consumption as a beverage.

“Alcohol”, all products of distillation of any fermented liquid rectified either once or oftener whatever may be the origin thereof containing more than $\frac{1}{2}$ of 1 per cent of alcohol by volume, including any form of alcohol whether capable of human consumption or not.

“Hotel”, a building owned or leased and operated by a person holding a duly issued and valid license as an innholder under the provisions of chapter 36 of the revised statutes of 1930 and provided with sleeping accommodations and adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for its guests, including travelers and strangers and its other patrons and customers and in addition meeting and complying with all the requirements imposed upon innholders under said chapter 36 and which shall have been licensed thereunder for at least 1 year.

“Restaurant”, a space in a suitable building owned or leased and operated by a person holding a duly issued and valid license as a common victualer under the provisions of said chapter 36 and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for travelers, strangers and other patrons and

customers and in addition meeting and complying with all the requirements imposed upon victualers under said chapter 36 and which shall have been licensed thereunder for at least 1 year.

"Club", a corporation organized or chartered for any purpose described in section 1 of chapter 70 of the revised statutes of 1930, whether under federal or state law, including any body or association lawfully operating under a charter granted by a parent body so organized or chartered, and having been in existence at least 2 years, owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and operated for objects of a fraternal patriotic, recreational or social nature and not for pecuniary gain; provided that such club files with the commission annually within 15 days after January 1st of each year a list of the names and residences of its officers and provided further that its affairs and management are conducted by a board of directors, executive committee or similar body chosen by the members at its annual meeting and that no member or any officer, agent or employee of the club is paid or directly or indirectly receives in the form of a salary or other compensation any profits from the disposition or sale of alcoholic beverages to the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted annually at the annual meeting in each year by the members or by its directors or other governing body and as reported by the club to the commission within 15 days after January 1st in each year and as shall in the judgment of the commission reasonably be a proper compensation for the services of such member, officer, agent or employee.

"Drug Store", a store licensed and registered by the Maine Board of Pharmacy the principal business of which is the compounding of physicians' prescriptions and the manufacture and sale of drugs, chemicals, medicines and allied products.

"License", "Permit", authorization in such form and containing such provisions as may be prescribed from time to time by the commission and subject to all the incidents and disabilities set forth in section 21, issued by the commission to any person, firm or corporation to manufacture, sell, transport, deliver or purchase any alcoholic beverages or alcohol of the kind, in the manner and in the premises described in such authorization.

Sec. 3. Appointment of commission. The Alcoholic Beverage Commission is hereby created and shall consist of 3 members appointed by the governor with the advice and consent of the council to serve initially for 3, 5 and 10 years respectively. Upon the expiration of the term of office of a member, a successor shall be appointed in the manner aforesaid for

10 years. Any vacancy occurring in said commission shall be filled by appointment for the unexpired portion of the term in which such vacancy occurs. One member of the commission shall be designated by the governor as chairman. No more than 2 members shall be of the same political party. All members of the commission shall give bond in such amount and with such sureties as the governor shall determine with the advice and consent of the council. The commission shall adopt and have a seal and be provided with an office in which its records shall be kept.

Sec. 4. Salaries and removal. The salary of the chairman of the commission shall be \$6,000 per year and the salaries of the other 2 members of the commission shall be \$4,000 per year respectively, together with their actual expense incurred in the performance of their duties. No member or employee of the commission shall have any professional or official connection or relation with or hold any stock or securities in or otherwise be interested directly or indirectly in the manufacture, transportation or sale of alcoholic beverages or alcohol. No member of the commission shall hold any other civil office of profit or trust under the government of the United States or of this state, nor shall he serve on or under any committee of any political party. Any wilful violation of the provisions of this chapter by any member of the commission shall constitute sufficient cause for his removal by the governor with the advice and consent of the council. Any member of the commission may be removed by the governor with the advice and consent of the council for any cause after an opportunity to be heard.

Sec. 5. Employees and reports. The commission may employ such professional, clerical and other assistants and fix their compensation and may make such expenditures as may be necessary in its judgment to effect the purposes of this act. No such employee shall be connected directly or indirectly with the manufacture, transportation or sale of alcoholic beverages or alcohol. Employees may be required to give bond to the state in such amount and with such sureties as the commission shall determine. The commission shall present to the governor as soon as may be at the end of each calendar year a full report of its action and of the conduct and condition of traffic in alcoholic beverages and alcohol during such year, together with recommendation of such legislation as it deems necessary or advisable for the better regulation and control of such traffic and for the promotion of temperance in the use of such beverages.

Sec. 6. Powers and duties. The commission shall have general supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting and selling alcoholic beverages and alcohol, including the power to fix wholesale and retail prices of all such com-

modities within the state, or to be imported or brought into or exported from the state and to raise or lower such prices, in whole or in part from time to time and at any time and to issue, renew, cancel and revoke all licenses or permits as hereinafter provided. It shall have exclusive power to import distilled spirits and may import malt beverages and wines and may sell and shall control the sale of all alcoholic beverages. The commission shall control the sale of alcohol for commercial and artistic purposes and may license persons properly qualified to import, manufacture, sell and deal in alcohol for such purposes. It may require all importers of malt beverages and wines, all manufacturers and sellers of alcoholic beverages, all exporters of alcoholic beverages and all manufacturers or dealers in alcohol for commercial and artistic purposes to certify to the commission the quantities of alcoholic beverages and alcohol imported, manufactured, sold or exported.

Sec. 7. Regulations. The commission shall have the right to establish regulations not inconsistent with the provisions of this act for clarifying, carrying out, enforcing and preventing violation of all or any of its provisions and such regulations shall have the force and effect of law unless and until set aside by some court of competent jurisdiction or revoked by the commission. The commission shall at least annually on or before December 31st of each calendar year publish in a convenient pamphlet form all regulations then in force and shall furnish copies of such pamphlets to every licensee authorized under the provisions of this act to sell alcoholic beverages.

Sec. 8. Commission stores. The commission shall have power to lease or own and to operate stores for the sale of alcoholic beverages in sealed bottles, containers or original packages to the consumer for off-premises consumption provided that the commission shall not establish such stores in any city or town which votes to exclude the sale of any or all alcoholic beverages under local option provisions. The commission may determine the number of stores to be established in any city or town which votes to permit the sale of all alcoholic beverages therein or may refuse to establish a store where the demand is not sufficient to warrant such establishment. The commission may lease, purchase or own and operate warehouses, blending and processing plants and such other facilities as may be required but shall not undertake the manufacture of alcoholic beverages.

Sec. 9. Personal identification. The commission shall have power to establish a system of personal identification of purchasers of distilled spirits by ration books, permits or otherwise and to revoke such ration books or permits for conduct prejudicial to the public welfare; such ration books or permits shall not be transferable.

Sec. 10. Advertising. No public advertising of alcoholic beverages shall be permitted except in such form and containing only such pictorial and descriptive matter as shall have first been submitted to the commission and approved and provided it is consistent with the public interest. Violation of this section shall be cause for the revocation of the license of the offender.

Sec. 11. Inspection and hearings. The commission shall have power to inquire into the business of all manufacturers of alcoholic beverages or alcohol within the state and all holders of licenses for sale or transportation of alcoholic beverages or alcohol, to obtain all information necessary to enable the commission to perform its duties and to inspect the books, accounts, records, papers and memoranda of any such manufacturer or licensee in relation to its business in alcoholic beverages or alcohol and to take copies thereof. The commission shall have power to revoke licenses and to hold hearings and make final decisions including the power to subpoena witnesses and records.

Sec. 12. Manufacture, import and export. The commission may issue to individuals and to partnerships composed solely of individuals who are both citizens and residents and to corporations organized under the laws of this state, licenses to manufacture any kind of alcoholic beverages or alcohol as defined in this act. Manufacturers of malt beverages and wines may sell the same to the commission and to hotels, restaurants and clubs, the proprietor of any grocery, delicatessen or drug store and to railroad corporations and steamship companies respectively holding valid licenses from the commission in accordance with provisions of this act. Manufacturers of all alcoholic beverages and alcohol may export such beverages and alcohol to the states into which import thereof is not by law prohibited and into any foreign country.

All alcoholic beverages or alcohol sold by any manufacturer shall be sold and delivered only in bottles, kegs, casks or barrels filled and sealed by such manufacturer upon his own premises and in such manner and under such conditions as the commission from time to time by regulation shall prescribe. No sale shall be made by any manufacturer of alcoholic beverages or alcohol to any person other than the commission except as herein authorized. Every manufacturer of any alcoholic beverage or alcohol shall keep such records and satisfactory details and offer such information as the commission may from time to time prescribe and shall file with the commission whenever and as often as it may require duplicates or copies of such records and the commission shall at all times through its designated officers or agents have access to all books, records and other

documents of every licensed manufacturer relating to the business which he is licensed to conduct hereunder.

Sec. 13. Sale of malt beverages and wines by container. The commission stores may sell malt beverages and wine not to be drunk on the premises in sealed bottles, containers or original packages and may sell malt beverages in kegs, casks or barrels under such conditions as the commission from time to time by regulation may prescribe. Any grocery, delicatessen or drug store licensed by the commission may sell malt beverages and wines not to be drunk on the premises in sealed bottles, containers or original packages as may be approved by the commission. The commission may prescribe the hours within which the sale of such malt beverages and wines may be made within the provisions of section 22 and if the hours so fixed extend in its judgment beyond the usual closing time of establishments engaged in the same general kind of business and in the same city or town of the licensees, the commission may prescribe that only sales of such malt beverages and wines shall be made by the licensees during such extended period of the day.

Sec. 14. Sale of malt beverages and wines on premises. Malt beverages and wines to be drunk on the premises may be sold by any hotel, restaurant and club which conform to the definitions thereof contained in this act and which are duly licensed hereunder and by any duly licensed railroad dining or club car or passenger vessel. All sales shall be made by the bottle or glass for consumption with or without meals on the premises in respect to which the license is granted. Malt beverages and wines shall be served and drunk only in the dining room or dining rooms of such licensees which shall be furnished with tables at which patrons shall sit in plain view of other patrons and there shall be no bar other than a service bar. The business conducted therein shall not be concealed by booths, curtains, screens or other obstructions and shall be subject to such further conditions and restrictions as the commission by regulation may prescribe. Sales may also be made by licensed hotels and clubs to registered guests occupying private rooms in their hotels or clubs respectively. Clubs licensed by the commission may sell malt beverages and wine to bona fide members and also, subject to the regulations made by the commission, to guests of members but not otherwise.

Sec. 15. Sale of distilled spirits. The commission shall possess exclusive power to sell distilled spirits in this state subject to the exception provided in section 16. Sales shall be made by the commission stores only, in sealed bottles, containers or original packages not to be drunk on the premises. In the event that the commission shall establish a system of personal identification of purchasers of distilled spirits, sales shall not

be made by commission stores to any person except on presentation of the purchaser's ration book of permit, or in the case of a non-resident only after purchase of a non-resident permit from a commission store, nor without endorsing upon such ration book or permit the quantity, kind and price of his purchase and without making a duplicate thereof for the books of such commission store. The commission may sell distilled spirits for export from this state into any state where the sale of such distilled spirits is not by law prohibited and into any foreign country.

Sec. 16. Sale by drug stores. Drug stores whose owner or operator is a registered apothecary or which has in its employ an apothecary registered by the Maine board of pharmacy and whether or not the sale of alcoholic beverages is permitted under local option in the city or town in which the business of such drug store is conducted, may in the discretion of the commission be licensed to sell distilled spirits only on the prescription of a qualified physician. No more than 1 quart of any distilled spirits shall be sold or delivered by any drug store upon a prescription. Every such prescription shall be retained by the drug store filling the same and shall not be filled a second time. All such prescriptions shall be retained for such time as may be prescribed by the commission and shall be available to it and its agents for inspection.

Sec. 17. Sale of alcohol for commercial purposes. The commission may license manufacturers and drug stores and such persons as it may determine for the sale of alcohol either wholesale or retail for commercial and artistic purposes, and for the sale of medicinal beverages and tonics containing more than $\frac{1}{2}$ of 1% of alcohol by volume. Such alcohol may be sold for all commercial and artistic purposes including the manufacture of flavoring extracts and syrups, Jamaica Ginger not included, provided such extracts and syrups contain no more alcohol than is necessary for extraction, solution and preservation as measured by standards prescribed and published by the commissioner of internal revenue and provided that the commission may prescribe such regulations as may be necessary to prevent the unauthorized use of alcohol for beverage purposes.

Sec. 18. Transportation. Any person may transport only for his own use and that of his family and guests any alcoholic beverages or alcohol within the state. In the event that personal identification is required by regulation of the commission by ration book or permit or otherwise, only such persons holding valid ration books or permits upon which the sale of distilled spirits has been entered may transport such distilled spirits. Transportation of malt beverages and wines shall be lawful without permits. Manufacturers of distilled spirits or alcohol may transport anywhere in the state such distilled spirits or alcohol ordered from and sold by them

in vehicles owned by them and operated and under the control of themselves or of their employees, provided that the owner of every such vehicle shall have obtained for such vehicle from the commission, a vehicle permit for the transportation of the sort of distilled spirits of alcohol which he is authorized to sell and provided further that every such employee shall have obtained from the commission an operator's permit so to transport and deliver for his licensed employer distilled spirits or alcohol. Persons, partnerships and corporations engaged in the business of transportation may transport distilled spirits or alcohol within the state upon procuring from the commission vehicle and operator's permits to transport in such form, for such period and containing such conditions as the commission by regulation may prescribe. The commission may investigate the record, character and reputation of any applicant for a transportation permit, whether vehicle or operator, and may refuse to issue such permit if in the judgment of the commission it would be contrary to the public interest. Permits shall be produced for inspection upon demand by any agent of the commission or any authorized law enforcement officer of the state or any city or town. Failure to produce such permits shall constitute prima facie evidence of unlawful transportation and shall in the discretion of the commission be sufficient cause for the revocation or cancellation of both permits the manufacturer's license. The commission may, by regulation, impose such other terms, conditions, restrictions and requirements concerning the transportation or delivery of alcoholic beverages to residents of cities and towns within which the sale of such beverages under local option is not permitted as the commission may from time to time deem necessary or desirable in the public interest to prevent the unlawful sale of alcoholic beverages therein.

Sec. 19. Receipts and profits. All amounts received by the commission under any provisions of this act from the profits of the commission stores, from license and individual and other permit fees shall be paid in to the state treasurer and shall be applied by him to the following purposes and shall be available therefor without appropriation:

First: To defray the expense of establishing and maintaining the commission and of its performance of the duties imposed upon it and of its exercise of the various powers and discretions delegated to and reposed in it by this act.

Second: To provide additional revenue for the general purposes of the state.

Sec. 20. Local option. The sale of alcoholic beverages under the provisions of this act shall be lawful in any city or town in the state until by vote of such city or town a contrary preference is indicated, unless prior

to such vote the duly constituted officials of a city or town notify the commission in writing that sale should not be permitted therein until such vote. The secretary of state shall caused to be placed on the official ballot used in the cities and towns at each biennial state election, if requested by petition of 10% of the registered voters of any city or town filed with the secretary of state, the following questions:

1. Shall commission stores for the sale of all alcoholic beverages be established in this city or town?

2. Shall licenses be granted in this city or town for the sale therein of malt beverages and wines by grocery, delicatessen and drug stores not to be drunk on the premises?

3. Shall license be granted in this city or town for the sale therein by hotels, restaurants and clubs of malt beverages and wines to be drunk on the premises?

If a majority of the votes cast in a city or town in answer to question "1" are in the affirmative such city or town shall be taken to have authorized for the 2 calendar years next succeeding, the establishment of a commission store or stores therein for the sale in such city or town, subject to the provisions of this act, of all alcoholic beverages not to be drunk on the premises.

If a majority of the votes cast in a city or town in answer to question "2" are in the affirmative such city or town shall be taken to have authorized for the 2 calendar years next succeeding, the sale, subject to the provisions of this act, by grocery, delicatessen and drug stores therein, of malt beverages and wines not to be drunk on the premises.

If a majority of the votes cast in a city or town in answer to question "3" are in the affirmative such city or town shall be taken to have authorized for the 2 calendar years next succeeding, the sale, subject to the provisions of this act, by hotels, restaurants and clubs therein, of malt beverages and wines to be drunk on the premises.

Sec. 21. Licenses and permits. The commission shall establish the following classifications of licenses and permits and shall determine the form and contents thereof by regulation:

First: Manufacturer license—Such license shall authorize the holder thereof to establish and operate a brewery, distillery or winery at the place therein described but shall not authorize more than 1 of said activities and a separate license shall be required for each plant. It may authorize the sale of alcoholic beverages to the commission, to licensees and for export but it shall not authorize the sale of alcoholic beverages for consumption on the premises where sold nor the sale of alcoholic beverages

for delivery outside of the state in violation of the law of the place of delivery. The annual fee for such license shall be \$1,000.

Second: Retailer license—Such license shall authorize grocery, delicatessen and drug stores to keep for sale and to sell at the place therein described malt beverages and wines at retail and to deliver the same in sealed bottles, containers or original packages which sealed bottles, containers or original packages shall not be opened or the contents thereof consumed on the premises where sold. The annual fee for such license shall be not less than \$50 nor more than \$200 as determined by the commission by regulation.

Third: Hotel, restaurant and club license—Such license shall authorize hotels, restaurants and clubs as described in this act and railroad corporations and steamship companies, to keep for sale and to sell malt beverages and wines at retail at the place therein described and to deliver the same for consumption on the premises or place where sold with or without food. The fee for such license shall be for hotels, restaurants and clubs not less than \$50 nor more than \$200 per year as determined by the commission by regulation, and for railroad corporations \$5.00 per car per month and for steamship companies \$10 per vessel per month.

Fourth: Prescription license—Such license shall be issued only to drug stores whose owner or operator is a duly registered apothecary or which employs an apothecary duly registered by the Maine board of pharmacy and shall authorize the holder thereof to keep for sale and to sell distilled spirits on the prescription of a qualified physician only in the quantity as limited by this act. The annual fee for such license shall be not less than \$10 nor more than \$25 as may be determined by the commission by regulation.

Fifth: Commercial alcohol license—Such license shall authorize manufacturers, drug stores and such persons as the commission may determine to sell alcohol for commercial and artistic purposes, whether wholesale or retail and to sell medicinal beverages and tonics wholesale or retail. The annual fee for a wholesale license shall be not less than \$25 nor more than \$100 and for a retail license not less than \$10 or more than \$50 as may be determined by the commission by regulation.

Sixth: Cider license—Such license shall authorize such persons as the commission may determine to sell cider made from apples containing more than $\frac{1}{2}$ of 1% of alcohol by volume to duly licensed hotels, restaurants, clubs, railroad corporations, steamship companies, grocery, delicatessen and drug stores and to persons engaged in the manufacture of vinegar or for export. The annual fee for such license shall be not less

than \$10 nor more than \$50 as may be determined by the commission by regulation.

Seventh: Transportation permits—Such permits shall be issued to manufacturers of alcoholic beverages and alcohol and to those engaged in the business of transportation and shall authorize the holder thereof to transport alcoholic beverages and alcohol within the state or into such states as the importation thereof is not prohibited and such permits shall (a) license the vehicle in which such transportation is contemplated and (b) license the operator of such vehicle. The annual fee for a vehicle shall be not less than \$10 or more than \$50 and the annual fee for an operator's permit shall be not less than \$3 or more than \$10 as determined by the commission by regulation.

Sec. 22. Hours of sale. The sale of alcoholic beverages by commission stores and the sale of malt beverages and wines by grocery, delicatessen and drug stores shall be lawful between the house of 9 A. M. and 7 P. M. daily. The sale of malt beverages and wines by hotels, restaurants, clubs, railroad dining cars and passenger vessels for consumption on the premises shall be lawful between such hours not earlier than 8 A. M. or later than 12 P. M. as may be fixed by the commission by regulation. The sale of distilled spirits by a drug store on the prescription of a physician shall be lawful at any time during the business hours of such drug store. The sale of alcoholic beverages shall be unlawful on Sundays, holidays and election days except by hotels, restaurants, clubs, railroad dining cars and passenger vessels to be consumed on the premises with meals between such hours not earlier than 12 noon or later than 12 P. M. as may be fixed by the commission and except by the commission stores, grocery, delicatessen and drug stores, on holidays and election days between the hours of 9 A. M. and 12 noon. The commission shall have power by regulation to shorten the permissible hours of sale in the interest of public welfare but shall not have power to extend such hours of sale.

Sec. 23. Minors. It shall be unlawful to sell any alcoholic beverages to a minor under 18 years of age or to employ such minor in the manufacture, sale or transportation of alcoholic beverages. It shall be unlawful to sell any distilled spirits to a minor under 21 years of age or to employ such minor in the manufacture, sale or transportation of distilled spirits. Whoever sells to or employs minors in the manner aforesaid shall be punished by a fine of not less than \$50 or by imprisonment for not less than 3 months or by both such fine and imprisonment and such sale or employment shall be sufficient cause for the revocation of the license of the offender.

Sec. 24. Habitual drinking. The husband, wife, parent, child, guardian

or employer of a person who has the habit of drinking alcoholic beverages to excess or the mayor of the city or 1 of the selectmen of the town in which such person resides, may give notice in writing signed by him or her containing a sufficient description of such person, to any seller of alcoholic beverages requesting him not to sell or deliver such alcoholic beverages to the person having such habit, provided that a copy of such notice is filed with the commission. If the person so notified at any time within 12 months after filing the copy thereof with the commission knowingly sells or delivers any such alcoholic beverages to the person having such habit or permits him to loiter on his premises, the license of the seller shall be revoked by the commissioner, provided that the owner or operator of a drug store shall not be liable hereunder for a sale made upon the prescription of a qualified physician.

Sec. 25. Persons receiving city or town aid. The mayor of a city or 1 of the selectmen of a town where resides a person receiving city or town aid may give notice in writing signed by him containing a sufficient description of such person, to any seller of alcoholic beverages requesting him not to sell or deliver such alcoholic beverages to such person receiving city or town aid, provided that a copy of such notice is filed with the commission. If the person so notified at any time within 12 months after filing the copy thereof with the commission knowingly sells or delivers any such alcoholic beverages to a person receiving city or town aid or permits him to loiter on his premises, the license of the seller shall be revoked by the commission provided that the owner or operator of a drug store shall not be liable hereunder for a sale made upon the prescription of a qualified physician.

Sec. 26. Unlawful sales. No person shall sell or expose or keep for sale, transport or purchase alcoholic beverages except as authorized in this act. Sale of alcoholic beverages by stores controlled directly or indirectly by manufacturers of such beverages shall be unlawful. Every person who, except on a prescription of a qualified physician, shall sell or transport to any person or to his abode alcoholic beverages, the sale or gift of which to such person has been forbidden by section 24 of this act, shall be subject to the penalties provided in section 56 of this act.

Sec. 27. Furnishing alcoholic beverages to persons in confinement. Whoever gives or delivers to a person confined in any jail, house of correction, or other place of confinement, or to a person in custody of any officer qualified to serve criminal processes, any alcoholic beverages, or has in possession, within the precincts of any jail, house of correction or other place of confinement, any such alcoholic beverages, with intent to convey or deliver the same to any person confined therein, unless under the direc-

tion of the physician appointed to attend said prisoner, or of the officer in charge of said place of confinement, shall be punished by a fine of not more than \$20.00, or by imprisonment for not more than 30 days.

Sec. 28. Intoxication and disturbance. Whoever is found intoxicated in any street, highway, or other public place, shall be punished for the first offense by a fine of not more than \$10.00, or by imprisonment for not more than 30 days, and upon any subsequent conviction by imprisonment for not more than 90 days, except that in any county where a county farm for the reformation of inebriates has been established, any male person who has been previously convicted of intoxication may be sentenced to said farm for a period of not less than 90 days or not more than 11 months. Whoever is found intoxicated in his own house, or in any other building or place, disturbing the public peace, or the peace of his own or any other family, shall be punished for the first and any subsequent conviction, as provided in the preceding clause of this section. Any such intoxicated person shall be taken into custody by any sheriff, deputy sheriff, constable, marshal, police officer, or watchman, and committed to the watchhouse or police station or restrained in some other suitable place, until a complaint can be made and a warrant issued against him, upon which he may be arrested and tried.

Sec. 29. Responsibility for injuries by drunken persons. Every wife, child, parent, guardian, husband, or other person who is injured in person, property, means of support, or otherwise, by any intoxicated person, or by reason of the intoxication of any person, has a right of action in his own name against any one who by unlawfully selling or giving any alcoholic beverages, or otherwise, has caused or contributed to the intoxication of such person; and in such action the plaintiff may recover both actual and exemplary damages. The owner, lessee, or person renting or leasing any building or premises, having knowledge that alcoholic beverages are unlawfully sold therein is liable, severally or jointly with the person unlawfully selling or giving alcoholic beverages as aforesaid. And in actions by a wife, husband, parent, or child, general reputation of such relationship is prima facie evidence thereof, and the amount recovered by a wife or child shall be her or his sole and separate property.

Sec. 30. Evidence of sale. Whenever an unlawful sale under this act is alleged, and a delivery proved, it is not necessary to prove a payment, but such delivery is sufficient evidence of sale. A partner in business is liable for the unlawful keeping or selling by his co-partner, done in the co-partnership business, or by any other person, in any shop, store, or other place of business of such co-partnership, with his knowledge, or assent. A principal and his agent, clerk, and servant, may all be included in the

same complaint and process. The mayor or aldermen, selectmen, or assessors, may cause a suit to be commenced on any bond or recognizance given under this act in which the city, town or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. The mayor, aldermen, selectmen, assessors, and constables, in every city, town and plantation, shall make complaint and prosecute all violations and promptly enforce the provisions of this act; and the wilful or corrupt neglect or refusal of any of the said officials to enforce the said provisions shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months. If a municipal officer, after being furnished with a written notice of a violation of this act, signed by 2 persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offense, wilfully neglects or refuses to institute proceedings therefor, he shall be punished by a fine of not less than \$20.00, nor more than \$50.00, to be recovered by indictment. The oath required of any such officer to the complaint may be, in substance, that from a written notice signed by 2 persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true. If an execution or other final process, issued by any civil or criminal suit instituted under this chapter is placed in the hands of any proper officer to be by him executed and he unreasonably neglects or refuses so to do, an action may be commenced against him by any voter in the country, and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it is a process that requires him to take and commit an offender to prison, the damages shall not be less than \$50.00, nor more than \$500.00. Selectmen of towns herein mentioned include assessors of plantations. In suits, complaints, indictments, or other proceedings for a violation of any provision of this act, other than for the first offense, it is not requisite to set forth particularly the record of a former conviction, but it is sufficient to allege briefly that such person has been convicted of a violation of any particular provision, or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment, may be amended without terms and as a matter of right. Any process civil or criminal legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment.

Sec. 31. Delivery may be a sale. The delivery of alcoholic beverages in or from a building, booth, stand or other place except a private dwelling house, or in or from a private dwelling house if any part thereof or its appurtenances is used as an inn, restaurant or shop of any kind, or other

place of common resort, such delivery in either case being to a person not a resident therein, shall be prima facie evidence that such delivery is a sale.

Sec. 32. Advertisement is prima facie evidence of sale. If any placard, sign or advertisement is exposed from, maintained or permitted to remain upon any vehicle, shop, stand, tenement or any place of common resort, purporting or designed to announce the keeping in or upon said vehicle or any of said premises of alcoholic beverages, except by holders of licenses under this act, it shall be prima facie evidence that such alcoholic beverages are kept in or upon such vehicle or premises for sale.

Sec. 33. Inspection of licensed premises. The officers and agents of the commission or any police officer or constable specially authorized by any of them may at any time enter upon the premises of a person who is licensed under this act to ascertain the manner in which such person conducts his business and to preserve order. Such police officer or constable may at any time take samples for analysis from any beverages kept on such premises and the containers of such samples shall be sealed on the premises by the seal of the seller and shall remain so sealed until presented to the bureau of health for analysis and duplicate samples shall be left with the seller.

Sec. 34. Forfeiture of license. The commission, after notice to the licensee and reasonable opportunity for him to be heard by it, may declare his license forfeited or may suspend his license for such period of time as it may deem proper upon satisfactory proof that he has violated or permitted a violation of any condition thereof or any law of the state. If the license is declared to have been forfeited the licensee shall be disqualified to receive a license for 1 year after the expiration of the license to forfeited and such disqualification shall apply to members of his family and if he is the owner of the premises described in such forfeited license, no license shall be issued to be exercised on such premises for the residue of the term thereof.

Sec. 35. Jurisdiction of courts. In prosecutions under this act, except when otherwise expressly provided, judges of municipal and police courts and trial justices have by complaint, jurisdiction, original and concurrent with the superior court. All prosecutions in the superior court shall be by indictment. Said magistrate, in cases not within their jurisdiction, may examine and hold to bail. And in appeals from any judgment or sentence before such magistrate, the penal sum in every recognizance shall be not less than \$500. No recognizance, before such magistrate or court, shall be in a sum less than \$500. And in no case shall the penal sum of the recognizance be reduced after being fixed by the court.

Sec. 36. Previous convictions. Every trial justice, recorder, clerk and

judge of a municipal or police court, and every county attorney, having knowledge of a previous conviction of any person accused of violating any of the provisions of this act, in preparing complaints, warrants, or indictments, shall allege such previous conviction thereon; and after such indictment is entered in court, no county attorney shall dismiss or fail to prosecute it except by special order of said court. If any trial justice, recorder, clerk or judge of a municipal court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney fails so to prosecute, he forfeits \$100 in each case, to be recovered in an action of debt, to be brought by the attorney-general in behalf of the state.

Sec. 37. Appeals. In appeals, the proceedings shall be the same in the appellate court as they would be in the court of the magistrate, and shall be conducted in said appellate court by the attorney for the state. The jury shall find specially under the direction of the court, on all facts necessary to determine the adjudication thereof; and if a claimant or other respondent fails to appear for trial in the appellate court, the judgment of the court below, if against him shall be affirmed. No portion of the penalty of any recognizance taken under the provisions of this act shall be remitted by any court in any suit thereon, nor shall a surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance unless the principal has been actually sentenced upon the indictment or complaint on which the recognizance was taken. The appeals of claimants provided for in section 45 shall be entered as all other appeals in criminal cases, and be subject to the requirements of law appertaining to them.

Sec. 38. Special duty of sheriffs, deputies and county attorneys. Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law, within their respective counties, and institute proceedings in case of violations or supposed violations of law, and particularly the law against unlawful sale of alcoholic beverages and alcohol, and the keeping of drinking-houses and speakeasies, gambling-houses, or places, and houses of ill fame; sheriffs and their deputies shall promptly enter complaints before a magistrate and execute the warrants issued thereon or shall furnish the county attorney promptly and without delay, with the names of alleged offenders, and of the witnesses. Any sheriff, deputy sheriff, or county attorney, who shall wilfully or corruptly refuse or neglect to perform any of the duties required by this section, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months.

Sec. 39. Special duty of attorney-general. The attorney-general shall

take charge of all investigations before the grand jury in case of refusal or neglect of any sheriff, deputy sheriff, or county attorney, to perform any of the duties required by the preceding section, and, in case of the finding of an indictment shall conduct all subsequent proceedings in court in behalf of the state as prosecuting attorney. In all such prosecutions the attorney-general shall act in place of the county attorney, and is hereby invested with all the rights, powers, and privileges of the county attorney for that purpose, the powers of the county attorney with respect to prosecutions under this section being hereby suspended.

Sec. 40. Compensation of deputy sheriff. For services under the 2 preceding sections deputy sheriffs acting under the direction of the sheriffs, shall receive the same per diem compensation as is now allowed for attendance on the supreme judicial court, the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as are just and proper; bills for which shall be audited by the county commissioners, and paid from the county treasury. But said commissioners shall not allow any per diem compensation to said deputies, for any day for which they are entitled to fees or compensation for attendance at or service in any court. The provisions of this section as to compensation of deputy sheriffs and the provisions of section 4 of chapter 126 of the revised statutes shall not apply to the deputies of the sheriff of Cumberland county, acting under the provisions of this section.

Sec. 41. Duty of county attorneys. County attorneys shall cause to be summoned promptly before the grand jury all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in section 34 and shall faithfully direct inquiries before that body into violations of law, prosecute persons indicted, and secure the prompt sentence of convicts.

Sec. 42. Forfeiture of alcoholic beverages; seizure without warrant. Alcoholic beverages kept or deposited in the state, intended for unlawful sale, and the containers in which they are kept, are contraband and shall be forfeited to the county in which they are seized. And in all cases where an officer may seize alcoholic beverages or the containers in which they are kept, upon a warrant, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant.

Sec. 43. Warrants for search and seizure. If any person competent to be a witness in civil suits makes sworn complaint before any judge of a municipal court or trial justice, that he believes that alcoholic beverages are unlawfully kept or deposited in any place in the state by any person, and that the same are intended for sale in violation of law, such magistrate

shall issue his warrant directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said alcoholic beverages are there found, to seize the same, with the containers in which they are kept, and then safely keep until final action thereon, and make immediate return of said warrant. The name of the person so keeping said alcoholic beverages as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant if he find said alcoholic beverages to arrest said person and hold him to answer as keeping said alcoholic beverages intended for unlawful sale. Any person who may be suspected of selling from, or keeping for unlawful sale in his pockets, alcoholic beverages, may be searched in the same manner and by the same process as is provided for the search of places, and if alcoholic beverages are found upon his person, may be held to answer as though such alcoholic beverages were kept and deposited by him in any place. If fluids are poured out or otherwise destroyed by the tenant, assistant, or other person, when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such fluids may be held to have been alcoholic beverages and intended for unlawful sale, and the penalties shall be the same as if said alcoholic beverages had been seized. If the name of the person keeping such alcoholic beverages is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the 1st sentence of this section. If upon trial, the court is of the opinion that the alcoholic beverages were so kept and intended for unlawful sale, by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty thereof, and punished by a fine of not less than \$100 nor more than \$500 and costs and in addition thereto by imprisonment for not less than 2 months nor more than 6 months, and in default of payment of said fine and costs by imprisonment for 6 months additional. Notice of any kind in any unlicensed place of resort, indicating that alcoholic beverages are there sold, kept or given away shall be prima facie evidence that the person or persons displaying said notices, are common sellers of alcoholic beverages and the premises so kept by them common nuisances.

Sec. 44. Duty of officer on seizure. When alcoholic beverages and containers are seized as provided in the preceding section, the officer who made such seizure shall immediately file with the magistrate before whom such warrant is returnable, a libel against such alcoholic beverages and containers, setting forth their seizure by him, describing the alcoholic

beverages and their place of seizure, and that they were deposited, kept and intended for sale in violation of law, and pray for a decree of forfeiture thereof, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of the same, to all persons interested, citing them to appear at the time and place appointed, and show cause why said alcoholic beverages and the containers in which they were kept should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such alcoholic beverages were seized, 10 days at least before the day to which said libel is returnable.

Sec. 45. Forfeiture in case no claimant appears. If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the county in which they were seized. If any person appears and claims such alcoholic beverages, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as party to the process; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libellant or claimant. If the magistrate is, upon the hearing, satisfied that said alcoholic beverages were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody, commanding him to deliver to said claimant the alcoholic beverages to which he is so found to be entitled, within 48 hours after demand. If the magistrate finds the claimant entitled to no part of said alcoholic beverages, he shall render judgment against him for the libellant for costs to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said alcoholic beverages forfeited to the county where seized. The claimants may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate.

Sec. 46. Warrant to search dwelling-house. No warrant shall be issued to search a dwelling-house occupied as such unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint is made is satisfied by evidence pre-

sented to him, and so alleges in said warrant, that alcoholic beverages are kept in such house or its appurtenances, intended for sale in violation of law.

Sec. 47. Disposal of forfeited alcoholic beverages. All alcoholic beverages or alcohol declared forfeited by any court under this act which shall have been found by said court to contain more than $\frac{1}{2}$ of 1% of alcohol by volume shall, by order of the court rendering final judgment thereon, be destroyed by an officer competent to serve the process on which they were forfeited and he shall make return according to said court. A record of containers forfeited shall be kept by each officer and returned to the county commissioners once in each three months, and once in six months or oftener, if they deem it advisable, the county commissioners shall order such officers to sell the containers at public or private sale and pay the proceeds thereof into the county treasury.

Sec. 48. Warrant against claimant. If complaint is made upon oath to any magistrate against any claimant under this act, alleging that the alcoholic beverages so claimed by him were, prior to, and at the time when the same were seized, kept, or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this state, either by such person, or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and on conviction shall be punished as provided in section 43.

Sec. 49. Destruction of alcoholic beverages to prevent seizure. If an officer having a warrant, issued under this act, committed to him, directing him to seize any alcoholic beverages, and to arrest the owner or keeper thereof, is prevented from seizing such alcoholic beverages by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate, and make return upon the warrant that he was prevented from seizing said alcoholic beverages by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed, as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial; and if it is proved that such alcoholic beverages as were described in the warrant were so poured out or destroyed, and that they were so kept or deposited and intended for unlawful sale, and that the person so arrested was owner or keeper thereof, he shall be punished in the same manner as if the alcoholic beverages described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer. All dumps or appliances for concealing, disguising, or destroying alcoholic beverages, so that the same

cannot be seized or identified, found in the possession or under the control of any person or persons, shall be taken by the officer making said search and seizure, so far as the same is practicable, together with all bottles and drinking-glasses or containers found in the possession or under the control of any such person or persons, and carried before the next grand jury sitting in said county where said search and seizure is made, and the same, together with all evidences of such dumps or appliances for concealing, disguising, or destroying alcoholic beverages, shall be presented to said grand jury for their consideration, and the same shall thereafter be subject to the order of the court issuing the warrant for said search and seizure.

Sec. 50. Death of officer making seizure. If any deputy sheriff, after having executed such warrant by a seizure, dies or goes out of office before final execution in the proceedings is done, the alcoholic beverages shall be held in the custody of the sheriff or another deputy. If any other officer dies or goes out of office under like circumstances, the magistrate before whom the proceedings were commenced, shall designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such alcoholic beverages in his custody until final judgment and order of the court thereon.

Sec. 51. Replevin of alcoholic beverages and containers. Alcoholic beverages seized as hereinbefore provided, and the containers in which they are kept, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment in such proceedings is in all cases a bar to all suits for the recovery of any alcoholic beverages seized or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

Sec. 52. Seizure and forfeiture of vehicles. All automobiles, trucks, wagons, boats, vessels or airplanes and vehicles of every kind not common carriers, unlawfully containing alcoholic beverages intended for sale or containing alcoholic beverages in the possession of or in the control of any person transporting the same without being in possession of a permit therefor duly issued under authority of the provisions of this act, found within the state in the possession or in the control of any person shall be seized by any officer seizing the alcoholic beverages transported therein, shall be libeled as is provided for the libeling of alcoholic beverages and the containers in which they are kept under the provisions of this act and shall be declared forfeited by the court and sold in the same manner as is provided for the sale of containers containing alcoholic beverages.

Sec. 53. Claim of owner. Any right, interest, or title of any person or

corporation other than the person or persons in possession or control of any such automobile, truck, wagon, boat, vessel, airplane or vehicle shall be forfeited unless the use of the same for the transportation of alcoholic beverages as aforesaid was without his knowledge or consent. Any claimant of any right, interest, or title in such automobile, truck, wagon, boat, vessel, airplane or vehicle must allege and prove that the use of the same for the transportation of alcoholic beverages as aforesaid was without his knowledge or consent and the court may determine in the proceeding on said claim the right, interest or title, if any, of said claimant.

Sec. 54. Conviction of license. Upon the conviction of a holder of a license for the sale of alcoholic beverages of the violation of any law relative to the business he is licensed to pursue, the court in which or the magistrate before whom he has been convicted, shall send to the commission a certificate under seal showing the time and place of such conviction.

Sec. 55. Common nuisances. All alcoholic beverages which are kept for sale contrary to law and the implements and containers actually used in selling and keeping the same, are declared to be common nuisances. All buildings or places used by clubs for the purpose of selling, distributing, or dispensing alcoholic beverages to their members or others shall be deemed common nuisances unless duly licensed under this act. Whoever keeps or maintains, or assists in keeping or maintaining such a common nuisance shall be punished by a fine of not less than \$50 nor more than \$100 and by imprisonment for not less than 3 months nor more than 12 months. The foregoing sections of this act applicable to unlawful sales of alcoholic beverages shall be construed to include unlawful sales of alcohol for beverage purposes.

Sec. 56. Penalties. The violation by any person of any provision of this act for which a specific penalty is not imposed or a violation by any licensee of any provision of his license shall be punished by a fine of not less than \$50 nor more than \$1,000 or by imprisonment for not less than 1 month nor more than 6 months.

Sec. 57. Forms. The forms hereto in use may continue to be used in prosecutions under this act and if substantially followed shall be deemed sufficient to fully and plainly, substantially and formally describe the offences set forth and to authorize the lawful doings of the officers acting by virtue of the warrants issued in substantial conformity therewith but this section shall not exclude the use of other suitable forms.

Sec. 58. Constitutional clause. If any part of this act is for any reason declared invalid, such invalidity shall not affect, impair or invalidate the remaining portions of this act.

Sec. 59. Repeal of inconsistent acts. Chapter 137 of the revised statutes of 1930 and chapter 268 of the public laws of 1933 and all acts or laws inconsistent with this act are hereby repealed.

Sec. 60. Effective date of act. This act shall take effect upon the ratification by the people of this state of the pending amendment to the constitution of Maine repealing the twenty-sixth amendment thereto.