

# MAINE STATE LEGISLATURE

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DECEMBER SPECIAL SESSION

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

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**Legislative Document**

**No. 149**

S. P. 52

In Senate Dec. 8, 1933.

Referred to Committee on Temperance. 1,000 copies ordered printed.  
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Jackson of Sagadahoc.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND  
THIRTY-THREE

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**AN ACT Regulating the Sale and Keeping for Sale of Intoxicating  
Liquors.**

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**Emergency Preamble:** Whereas, the deferred operation of this act would in part defeat its purpose to enable the people of the state of Maine to take immediate advantage of the repeal of the eighteenth amendment to the Constitution of the United States and to supply needed revenue to the state of Maine in accordance with the provisions of the Constitution of the state of Maine for the sale and keeping for sale of liquors, not including cider, for "medicinal and mechanical purposes and the arts"; and

Whereas, this act is hereby declared to be an emergency within the meaning of section 16 of Article XXXI of the constitution of Maine, and necessary for the immediate preservation of public peace, health and safety, now therefore,

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

**Sec. 1. Administration.** The state licensing board created under chapter 268 of the public laws of 1933 shall have the additional powers and duties herein specified and the members thereof shall receive the following additional compensation for their services. The chairman shall receive an additional annual salary of                      dollars and the other 2 members shall receive an additional annual salary of                      dollars each.

The principal office of this board shall be in the state house and they

shall employ sufficient deputies, clerks, inspectors, or stenographers, whose compensation shall be fixed by the governor and council.

The board shall make an annual report to the governor of its activities, of the amount of monies collected, and such other information as it deems advisable or as the governor may require.

**Sec. 2. Functions, duties and powers of board.**

(a) The board may buy, import, have in its possession for sale and sell intoxicating liquors other than beer, ale and porter, to supply the demands of all duly authorized town and city stores, and also all demands for such liquors as may be made upon said board by individuals holding permits in accordance with the provisions of this act. Said stock shall include alcohol, whiskey, rum, gin, brandy and wine of standard brands and quality guaranteed under the United States laws relating to pure foods and drugs.

(b) The board shall control the possession, sale, transportation and delivery of all liquors and shall import and have in its possession for sale and sell liquors, in accordance with the provisions of this act.

(c) The board shall grant, refuse or cancel permits for the purchase of liquor; shall lease or furnish and equip any building required for the operation of this act.

(d) The board shall prepare a label upon which shall be conspicuously stamped or printed the date of the invoice from the manufacturer, also the date of the invoice to the individual store or permittee. All invoices showing receipt of liquors by the board and invoices to individuals or permittees shall each be numbered separately, beginning the 1st day of July of each year with "one" and running consecutively during the 12 months succeeding, and a record thereof shall be made and kept by the board.

(e) Labels shall be pasted on all bottles before sale, either by the board or at the municipal store. Before delivery of shipment to municipal stores or permittees, it is herein provided that said board shall prepare an official envelope which shall be attached to the container of said bottles and place therein sufficient labels for the bottles therein contained, which labels are to be attached to each bottle as hereinbefore provided.

(f) The board may make such rules and regulations, not inconsistent with this act, as to the board seem necessary for the carrying out of the provisions of this act and for the efficient administration thereof.

(g) The board shall from time to time fix the prices, subject to and in conformity with the prices fixed by the United States Board of Control and Administration of Alcohol, at which the various classes, varieties and brands of liquors may be sold, which prices shall be the same in all municipal stores.

(h) All liquors required by said board for sale until June 30th next shall be purchased by the board from time to time under the direction of the governor and council. Before June 1st and December 1st of each year hereafter said board shall advertise for a least 2 successive weeks in such papers as the governor and council may direct, for sealed proposals for supplying the state with such alcoholic liquors as it may require for the purposes of this act within the 6 months beginning the following July 1st and January 1st respectively. The last advertisement shall be at least 2 weeks before the time specified therein for the closing of said proposals. Sealed proposals shall be addressed to said board at Augusta and shall remain sealed until opened in the presence of a committee of the executive council at a time specified in said advertisement. Said board shall, upon the request of any responsible dealer, mail a statement setting forth the different kinds and quantities of liquors upon which bids are required, giving approximate estimates of the amount of each kind which will be required under the contract, and a blank form of the contract and bond which will be required. Such contract shall require the successful bidder to furnish the state from time to time, in quantities of not less than 10 gallons at any one time, such liquors of the kinds and qualities and at the prices therein specified as said board shall order during the 6 months following the acceptance of such bid. No contract shall be accepted unless the faithful performance of the same is secured by a bond in the penal sum of not less than 20% of the estimated total value of the liquors to be furnished by said contractor, with surety or sureties approved by the governor and council. Said bond shall be made payable to the state of Maine and shall be deposited with the treasurer of state. All bills for liquor purchased in accordance with the provisions of this act shall be paid by the treasurer of state after they have been certified by the state controller and approved by the governor and council.

**Section 3. Municipal stores.** Any town or city may set up and maintain a municipal store for the purchase and sale of intoxicating liquors within the provisions of this act, except that any town or city shall be prohibited from so doing if within 10 days after the approval of this act, upon the petition of not less than 15% of the total vote cast for governor in the last biennial election in said town or city, lodged with the city or town clerk, the municipal officers shall cause the qualified voters to assemble under the provisions of the revised statutes to vote on the following question: "Municipal Store, Yes or No", and the vote shall be taken according to law on a day fixed by the municipal officers.

(a) Municipal stores shall be open from the hour of 9 o'clock in the morning until the hour of 11 o'clock in the evening, each and every day,

save and except that they shall be closed for the transaction of business on Sundays, legal holidays and election days, and within the intent and meaning of this act, the state primary election days shall be election days.

(b) All liquor shall be sold in the original bottle with seal unbroken, and no manager or employee of said municipal stores shall be permitted to blend, rectify or adulterate any liquor. All liquors purchased by municipal stores shall be re-shipped in the original packages, seals unbroken.

(c) The municipal stores shall make requisition for the purchase of liquors on blanks to be provided by said board and said requisition blanks are to be accompanied by check or money order for the amount of the purchase price of said liquors.

(d) The board shall have complete supervision and control of all municipal stores, with the exception that the town or city, by its municipal officers may lease or purchase property in which said municipal store may be located and said town or city appoint a manager thereof for a period of 1 year, who shall give bond with sufficient sureties in the sum of \$1,000 to said town or city for the faithful performance of his duties, who shall conduct said business pursuant to the provisions of this act and the rules and regulations of the board, and may be removed for cause from said office by the board of the municipal officers.

(e) Said municipalities shall not fix a retail price for liquor sold by them in excess of 10% of the amount charged in the invoice by the board.

(f) The board, when satisfied that any municipal store is not being conducted within the provisions of this act, or any of the rules and regulations of the board, or contrary to the peace, welfare, health and safety of the community in which said store is operated, may order the return to said board of all liquors in its possession and for the liquors so returned the board shall pay the prevailing wholesale market price at that time, and said board may refuse to sell or deliver any liquors to said city or town for such time as in its discretion it may deem proper not to do so.

(g) No municipal store by its manager shall sell intoxicating liquors to any minor, to any drunkard, intoxicated person, or to any person who in the opinion of the municipal officers should not have such liquor.

(h) No manager shall sell to any one person more than 2 quarts at a time or more than 8 quarts in any 1 calendar month for medicinal purposes, except upon prescription from a physician who is duly licensed to practice medicine in the state of Maine.

#### **Sec. 4. Hospitals, manufacturers and pharmacists.**

(1) The board may buy, store, sell and deliver in containers other than pint or quart bottles and in quantities which it may deem advisable, intoxicating liquors at a price not to exceed 10% above the invoice price charged

the state, to hospitals, doctors, dentists, sanatoriums, homes for the aged, and veterinaries, such amounts as may be necessary for medicinal and mechanical use.

(a) **Manufacturers.** Amounts necessary in their business for the manufacture of medicants unfit for use as a beverage, or for the manufacture of commodities which can not be drunk, nor reduced into a state of condition fit for use as a beverage.

(b) **Registered pharmacists.** Such amounts as may be necessarily required in their business in the impounding of medicines unfit for use as a beverage and for the purposes corresponding to the following descriptions and limitations, viz:

1. Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary or the American Institute of Homeopathy that are unfit for use for beverage purposes.

2. Patented, patent and proprietary medicines that are unfit for use for beverage purposes.

3. Toilet, medicinal and antiseptic preparations and solutions that are unfit for use for beverage purposes.

4. Flavoring extracts and sirups that are unfit for use as a beverage, or for intoxicating beverage purposes.

(2). Any person who manufactures any of the articles mentioned in this act may purchase and possess liquor for that purpose, but he shall secure a permit from the board to manufacture such articles and to purchase such liquor, and give bond, keep records and make reports to and as directed by the board.

(3) The board shall issue the permits required under this section and the charge for such permit shall not be less than \$10 or more than \$100, the amount to be determined by the board and to be based upon the probable amount of business of said permittee, which amounts shall be paid to the board and by the board remitted to the treasurer of state.

**Sec. 5. Permits.** An individual permit in the prescribed form may be granted to any individual of the full age of 21 years, who is not disqualified under the terms of this act, which permit entitles the individual to purchase liquor for medicinal purposes in accordance with the terms of the permit and the provisions of this act and the rules and regulations made thereunder. The town and city clerks in the respective cities and towns in the state are duly authorized agents for the issuance of said permits. The cost of each permit so issued shall be \$1. Said permits shall be executed in triplicate, the original being given to the applicant, 1 copy sent to the board and the other to remain on file in the city or town clerk's office until

after the expiration of 1 year from the date of issuance. Permits shall be given for the purposes therein stated for the term of 1 year from the date of issue.

(a) Any person who may desire a permit and lives in an unorganized town or plantation may make application to the board at Augusta for said permit in accordance with the provisions of this act.

(b) When the holder of any permit issued by this act violates any of the provisions thereof, or is an interdicted person, or is otherwise disqualified from holding a permit, the board, upon proving to its own satisfaction the existence of such violation, interdiction or disqualification, and in its discretion with or without any hearing, may by writing under the hand of any member of the board, or its duly authorized clerk, suspend the permit and all rights of the holder thereof for such period as the board sees fit, or may cancel the permit.

(c) Upon receipt of notice of the suspension or cancellation of his permit, the holder of the permit shall forthwith deliver up the same to the board, and if the holder of a permit which has been suspended or cancelled fails and neglects to deliver the same to the board in accordance with the rules and regulations made hereunder, the board shall forthwith cancel the same and notify all municipal stores of the cancellation thereof.

(d) The manager of any municipal store shall not sell or deliver to any person other than the holder of a permit, except upon physician's prescription, intoxicating liquors, and he shall enter upon the permittees identification card the amount, when purchased and by whom sold, and shall also make a record of the same for the inspection of the board or its duly authorized agents. Said managers shall keep a separate record for liquors sold on doctor's prescriptions which shall contain the name of the doctor, the date filled, the quantity, kind of liquor and price paid, and also shall keep on file all prescriptions filled for a period of 1 year.

(e) All monies received for said permits by the town and city clerks shall be paid over to the board and by it remitted to the treasurer of state to become a part of the general funds of the state.

**Sec. 6. Transportation.** To accomplish the purposes of this act it shall be lawful to transport intoxicating liquors within the state. The manufacture of intoxicating liquors, and the sale and keeping for sale and transportation of intoxicating liquors, except as herein provided, is unlawful and shall be punished as provided under section 7 of this act.

**Sec. 7. Penalties.** Whoever violates any of the provisions of this act, or any rule or regulation made pursuant thereto, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 2 months, or by both such fine and imprisonment.

**Sec. 8. Constitutionality of act.** If any section, sub-section, sentence, clause or phrase of this act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

**Sec. 9. Inconsistent law repealed.** All acts and parts of acts inconsistent herewith are hereby repealed.

**Sec. 10. Appropriation.** The sum of \_\_\_\_\_ dollars is hereby appropriated to be paid by the treasurer of state for the purpose of purchasing liquors ordered by the board prior to July 1st next.

**Emergency Clause.** In view of the emergency recited in the preamble hereof this act shall take effect when approved.