

# MAINE STATE LEGISLATURE

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SPECIAL SESSION, NOV. 6, 1934

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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. 3**

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H. P. No. 3                      House of Representatives, November 6, 1934.

Received under suspension of rules. Referred to Committee on Temperance. Sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Lebel of Brunswick.

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STATE    O F    MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-  
FOUR

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**AN ACT to Regulate the Traffic in Intoxicating Liquor**

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

**Sec. 1. Definitions.** Terms used in this act shall be construed as follows unless a different meaning is clearly apparent from the language or context:

I. "Liquor," all distilled and rectified spirits, alcohol, wines, fermented and malt liquors and cider, of over six per cent alcoholic content by volume at sixty degrees Fahrenheit.

II. "Beverage," any beer, lager beer, ale, porter, wine, similar fermented malt or vinous liquors and fruit juices containing one per cent or more of alcohol by volume and not more than six per cent of alcohol by volume at sixty degrees Fahrenheit.

III. "Person," individual, firm, association, co-partnership, corporation, or society.

IV. "Commission," State Liquor Commission.

**Sec. 2. Commission established.** Within 10 days from the passage of this act the governor and council shall appoint a state liquor commission consisting of three members, not more than two of whom shall belong to the same political party, who shall hold office as follows: until the 1st

day of July 1935, and for the terms of one, two and three years, respectively, thereafter the length of the term of each to be fixed in his commission and each shall continue in office until his successor has been appointed and qualified. Thereafter, beginning in the year 1936, one member of said commission shall be appointed in the month of June of each year for a term of 3 years from the first day of July next ensuing. If a vacancy shall occur in said commission it shall be filled for the remainder of the term. Any or all of said commissioners may be removed by the governor and council for cause.

**Sec. 3. Chairman; compensation.** The chairman of the commission shall be appointed and commissioned as such. The annual salary of each member of the commission shall be \$4000 and the commissioners shall receive their reasonable expenses while traveling in the performance of their duties, provided that they shall not be allowed as expenses travel between their places of residence and their office in Augusta, nor shall they be allowed board or lodging while in Augusta. Said members of the commission shall devote their time to the service of said commission. No member of the commission shall be directly or indirectly interested in the liquor or beverage business. The compensation and expenses of the commissioners and the expenses of the administration of this act shall be paid by the state on the warrant of the governor with the approval of the council.

**Sec. 4. Bond.** Before entering upon the duties of his office each member of the commission shall give bond in the sum of \$10,000, with sufficient sureties to be approved by the governor and council, conditioned for the faithful discharge of the duties of his office, which bond shall be deposited and safely kept in the office of the secretary of state.

**Sec. 5. State Licensing Board.** After the members of the commission have been appointed and have qualified, the terms of office of the members of the state licensing board established by chapter 268 of the public laws of 1933, shall expire, and the property of the state in the custody of the control commission shall automatically be transferred to the commission.

**Sec. 6. Offices; seal.** Said commission shall be provided with suitable offices in the city of Augusta. The commission shall adopt a proper seal.

**Sec. 7. Assistants; adulteration prohibited.** Said commission is hereby authorized and empowered to employ such assistants as are, in its opinion, necessary for the proper transaction of the business of their office and to fix their compensation, also to secure any necessary technical or professional assistance. Said commission shall cause such precautions to be taken as it may deem necessary to insure the purity and freedom from misbranding of all liquors sold. It shall be unlawful to manufacture for sale

or to sell any liquor as defined in this act which is adulterated with any deleterious drug, substance or liquid which is poisonous or injurious to the health.

**Sec. 8. Special agents.** Said commission may appoint and at pleasure dismiss one or more special agents and fix their compensations. It shall be the duty of said special agents, under the direction of the commission, to investigate any or all matters arising under this act. Any member of the commission, assistant or special agent may enter any place where liquor or beverages are sold or manufactured, at any time, and may examine any license or permit issued or purporting to have been issued under the terms of this act. They shall make complaints for violations of this act.

**Sec. 9. State stores.** Said commission is hereby authorized to lease and equip in the name of the state, such stores, warehouses and other merchandising facilities for the sale of liquor and beverages as are necessary to carry out the provisions of this act. Any lease or contract made pursuant hereto shall be approved by the attorney-general before becoming effective. No such store shall be operated within three hundred feet of any public or private school, hospital, church, chapel, or parish house.

**Sec. 10. Operation of state stores; sales agents.** Said commission may in its discretion operate state stores for the sale of liquor and beverages in such cities and towns as shall have accepted the provisions of this act as hereinafter provided and in such cities and towns that voted in favor of the repeal of the 26th amendment at the last referendum and may appoint for a period of two years sales agents to sell liquor in said stores. Any sales agent appointed for any store shall have been a resident of the city or town where said store is located for at least 1 year prior to said appointment.

The commission shall fix the salary of each such sales agent, but shall not in so doing be governed by the amount of sales. Each such agent shall furnish a bond conditioned for the faithful performance of his duties, in such form and amount as the commission shall direct. No sales agent, authorized to sell liquor and beverages under the provisions hereof, shall sell liquor and beverages except such as may be legally obtained under the provisions hereof, and may remove the same for just cause and upon reasonable investigation and hearing.

**Sec. 11. Salaries.** All salaries of assistants, special agents, and sales agents shall be approved by the governor and council.

**Sec. 12. Rules and regulations.** Said commission shall have power to make all necessary and proper rules and regulations for carrying out the provisions of this act, and such rules and regulations shall have the effect of law. No sale of liquor or beverages shall be made on Sundays or elec-

tion days except by persons holding licenses under the provisions of sections 19 and 20.

**Sec. 13. Liquor dispensed only through commission.** No liquor shall be sold in any state store, nor by any sales agent, nor by any person holding a license hereunder, except liquor obtained from the commission.

**Sec. 14. Commission to sell.** It shall be the duty of the commission to buy and have in its possession liquor for sale in the manner provided herein. Such liquors shall be free from adulteration and misbranding within the meaning of the provisions of law. All liquors sold for medicinal use shall conform to the standards and tests for such liquors as laid down in the United States Pharmacopoeia, official at the time of sale. All purchases of liquor shall be made by the commission directly and not through the office of the state purchasing agent.

**Sec. 15. Insurance.** The commission may, in its discretion, procure the necessary insurance to protect any property in its possession.

**Sec. 16. Packages.** All liquor sold in state stores shall be sold for consumption off the premises. Such liquor shall be in packages, sealed with the seal of the commission, containing such quantity as said commission shall prescribe; and the commission is authorized to prescribe the form of the bottle and package, and to bottle such liquor as it may deem necessary and proper. The price of all liquor sold shall be sufficient to pay for the cost of the liquor purchased, plus the operating expenses of the state stores, plus a proportionate part of the overhead expenses of the commission, plus an additional charge; all to be determined by the commission. Each package shall have the price fixed by the commission stamped clearly thereon. Each purchaser of liquor from a state store or a sales agent shall sign a requisition therefor in such form as the commission shall prescribe. Said commission is hereby authorized to limit the amount of liquor which may be purchased by any person at any one time and liquor sold in a state store shall not be consumed in any public place.

**Sec. 17. Special sales agents.** In cities or towns adopting the provisions of this act, and where there is no state store, the commission shall have authority in exceptional cases to appoint a special sales agent for the state, to sell in such cities or towns liquors in packages, in such place and under such regulations as the commission may determine. The salary of such special sales agent shall be governed by the provisions of sections 10 and 11 herein.

**Sec. 18. Licenses required.** No person shall manufacture for sale or sell any liquor or beverage without first obtaining a license or permit therefor under the provisions of this act. City and town clerks or some official designated for the town authorities in cities and towns in which it

is legal to purchase liquor or beverages under the provisions of this act, shall issue permits to persons requesting them for the purchase of liquor and beverages. These permits shall be on a form prescribed and furnished by the commission and shall be shown by the holder before liquor or beverages shall be sold to him by any state store. The permit shall run for the calendar year, and the fee for issuing them shall be \$1. The receipts for the sale of permits shall inure to the town issuing them. No permit shall be issued to any person who has been convicted of operating a motor vehicle while under the influence of intoxicating liquor until one year after the conviction or before the satisfaction of the sentence imposed.

On conviction for the offense of drunken driving, a permit to purchase liquor shall be automatically revoked and no new permit shall be issued for one year. No person shall knowingly sell liquor to any person whose permit to purchase liquor has been revoked until a new permit is legally obtained.

**Sec. 19. Dining-cars.** The commission may issue a license to any railroad or car corporation operating any cars in which food is served within this state, authorizing the holder thereof to sell in such cars, after leaving and before reaching the terminal stops thereof, liquor and beverages to be drunk in such cars. Such license shall be good throughout the state in both license and non-license territory, and only one such license shall be required for all cars operated in the state by the same owner. The fee for such license shall be one hundred dollars (\$100) per annum. The provisions of section 13 shall not apply to sales to nor to purchases or sales by such licensees; and the provisions of section 24 shall not apply to the transportation by such licenses for purpose of sale under the terms of their licenses.

**Sec. 20. Licenses for druggists.** The commission may issue to any retail druggist a license which will entitle said licensee to sell liquor for medicinal purposes upon the prescription of a physician practicing in the state. Such licensee shall keep a record of the liquor so sold on prescription, the quantity and price of the liquor so sold and the name of the physician prescribing the same. The commission may make such rules and regulations as shall be necessary to carry out the provisions of this section, but may not restrict the time when such liquor may be sold. All liquor purchased by druggists for sale under the provisions of this section shall be purchased from the commission. The fee for the license provided for in this section shall be one dollar per annum. Said licensee shall purchase from the commission for use in compounding medicines such liquor as may be necessary.

**Sec. 21. Manufacturers.** The manufacture of liquor in this state shall

be permitted under such regulations as the commission shall determine and under such terms as are not inconsistent with the provisions of the constitution of the United States or the statutes of the United States, but no liquor manufactured in this state by any manufacturer shall be sold or delivered in this state in any manner which is inconsistent with the provisions of this act. Each manufacturer of liquor in this state shall pay an annual license fee of two thousand dollars (\$2,000).

**Sec. 21-A. Sales.** No manufacturer licensed under the provisions of this act shall sell liquor except to state stores and for shipment outside the state.

**Sec. 22. Purchases of sacramental wines and liquor for mechanical purposes, etc.** Any duly authorized officer of a regularly organized religious body may order from any source for shipment to such religious body wines to be used for sacramental purposes only in the services of such religious body. Any person engaged within the state in a manufacturing or mechanical business or in scientific pursuits in the conduct of which the use of alcohol or alcoholic liquor is necessary may order from or through the commission only for shipment to himself alcohol or alcoholic liquor to be used for such manufacturing or mechanical business or in such scientific pursuits only.

**Sec. 23. Cider.** This chapter shall not apply to sales of cider by the original maker. Sale by other vendors of cider containing more than six per cent of alcohol by volume at sixty degrees Fahrenheit may be made to the commission under such regulations and with such fees as said commission may prescribe and such cider may be shipped out of the state under such regulation and fees as the commission may prescribe.

**Sec. 24. Transportation.** No person shall transport liquor in this state in a greater quantity than three quarts, unless said liquor was purchased from a state store. Provided, however, that the commission in its discretion may grant to an individual, upon application made by such individual, a permit to transport for a specific journey liquor not purchased at a state store for his own personal use, in a quantity not to exceed three gallons. It shall be lawful for common carriers to transport liquor to state stores, to state warehouses, to licensees under this act to purchasers of liquor at state stores, and from manufacturers to state warehouses, state stores and to the state line for transportation outside the state; for licensees under this act to transport liquor from state stores to their place of business; and for manufacturers to transport within the state to state warehouses and state stores and to the state line for transportation outside the state.

**Sec. 25. Possession.** No person shall possess, transport, procure, fur-

nish or give away any liquor except such as has been sold under the provisions of this act or legally purchased outside the state and except as otherwise provided herein.

**Sec. 26. Transfers.** No license shall be transferred without the consent in writing of the commission.

**Sec. 27. Sales prohibited.** No licensee, sales agent, nor any other person, shall sell or give away or cause or permit or procure to be sold, delivered or given away any liquor or beverage to a minor, to an habitual drunkard, to an insane person, to a person under the influence of liquor, or to any other person to whom any court, selectman of a town, chief of police, overseer of the poor or the commission shall prohibit sale. In no case shall any section of this act be so construed as to permit the sale of liquor over a bar or in any so-called saloon or speakeasy.

**Sec. 28. Employment of minors.** No licensee under this act shall employ any minor, with or without compensation, to serve or in any wise handle liquor or beverage.

**Sec. 29. Employment of citizens.** No person, except a citizen of the United States, shall be employed to sell, serve, or deliver any liquor or beverage. The provisions of this section shall not apply to a railroad or car corporation holding a license under this act.

**Sec. 30. Advertising.** All advertising of liquor or beverage within the state, other than through the medium of newspapers, magazines, periodicals, and radio broadcasting, is hereby prohibited except as specifically authorized by the commission.

**Sec. 31. Local option.** The following question shall be submitted to the voters in cities and towns on the usual ballot at each biennial election hereafter: "Shall state stores be operated by permission of the State Liquor Commission in this city or town, under the provisions of 'An Act to regulate the traffic in intoxicating liquor,' passed at the 1934 special session of the legislature?"

If a majority of the qualified voters present and voting at any biennial election of a city or town signifies the disapproval of the foregoing question, the commission shall not operate state stores under the provisions of this act in said city or town.

If a majority of the qualified voters present and voting at any biennial election of a city or town signifies the approval of the foregoing question, the commission may at its discretion operate state stores under the provisions of this act in said city or town.

Provided, however, that nothing contained in this section shall prevent the commission from operating state stores and issuing licenses under the provisions of this act, between the time of the passage of this act and the



next biennial election, in cities and towns which voted in favor of the repeal of the 26th amendment.

**Sec. 32. Penalties.** Whoever violates any of the provisions of this act or any of the rules and regulations promulgated pursuant thereto shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than 6 months or by both such fine and imprisonment, in the discretion of the court. If any licensee is convicted of a violation of the provisions of this act or any of the rules and regulations promulgated pursuant hereto the court shall immediately declare his license revoked and notify the board accordingly and no license shall thereafter be granted to him within the period of three years thereafter. In case of appeal the license of such licensee may be suspended in the discretion of the commission during the pendency of such appeal.

**Sec. 33. Prosecutions.** The commission shall, for the proper prosecution of any violation of this act appoint an agent or agents whose duty it shall be and who shall have the power to prosecute any person guilty of any violation of this act. The commission shall fix the compensation of such agents, subject to the approval of the governor and council. Said agent or agents shall have all the powers of the sheriff in any county, with reference to the laws concerning liquor and beverage, and the enforcement of such laws, either in cooperation with, or independently of, the officers of any county, city or town. Said agent or agents shall give bond, in the form prescribed for sheriffs, for the faithful performance of duty, in such sum and with such sureties as the governor and council shall prescribe. The primary responsibility for the enforcement of all liquor and beverage laws shall be upon the commission. Any person violating the provisions of this act may be prosecuted by the commission or any of its agents as herein provided, or by county or city solicitors, or by sheriffs or their deputies, or by police officials of cities or towns.

**Sec. 34. Fines.** All fines imposed and collected for the violation of the provisions of this act shall be paid to the state, county, city or town, the officials of which instituted the prosecutions.

**Sec. 35. Preference given ex-service men.** Any person who served in the armed forces of the United States during any war in which the United States was engaged, and received an honorable discharge from such service, shall, if equally qualified, be given preference in appointments under the provisions of sections 7, 8, 10 and 33 of this act.

**Sec. 36. Constitutional construction.** The provisions of this act are severable and if any of its provisions shall be held to be unconstitutional the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent

that this act would have been adopted had such unconstitutional provisions not been included herein.

**Sec. 37. Funds.** The governor and council are hereby authorized to issue short term notes, or to loan monies from the general fund up to, but not to exceed, \$250,000 for the operating capital of this act.

**Sec. 38. Expiration date of licenses.** Any license issued under the provisions of this act shall expire June 15th of each year unless sooner revoked for cause by the commission.

**Sec. 39. Repeal.** Chapter 268 of the public laws of 1933 is hereby repealed. All powers and duties now conferred and imposed upon the state licensing board by law shall be transferred to the state liquor commission herein constituted.

**Sec. 40. Continuation of permits.** All permits heretofore issued by the state licensing board shall be continued in force until the expiration date of such permits, unless sooner revoked for cause.