

# MAINE STATE LEGISLATURE

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SPECIAL SESSION, NOV. 6, 1934

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. 4

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

Under suspension of the rules referred to the Committee on Temperance.  
Sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Farris of Augusta.

S T A T E    O F    M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-  
FOUR

**AN ACT Authorizing the Manufacture and Sale of Intoxicating Liquor.**

**Emergency Preamble.** Whereas, the 26th Amendment to the Constitution of Maine prohibiting the sale and manufacture of intoxicating liquor has been repealed; and

Whereas, existing liquor laws within the state are being openly disregarded, disrespect for all laws encouraged and an urgent necessity for immediate regulation of the control and sale of intoxicating liquor is apparent; and

Whereas, in the judgment of the Legislature these facts constitute an emergency within the meaning of the Constitution of the State of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; therefore

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

**Sec. 1. Authorizing the manufacture and sale of alcoholic liquors.** On and after the effective date of this act it shall be lawful to manufacture, sell, offer for sale, keep for sale, possess and/or transport alcoholic liquor as hereinafter defined, subject to the terms, conditions, limitations and restrictions contained herein, and only as provided in this act.

**Sec. 2. Establishing a State Liquor Commission.** There is hereby

created the Maine State Liquor Commission, which shall consist of three members to be appointed by the Governor, for alternative term of three years with the advice and consent of the Council. The Governor shall designate one of the members to be Chairman of the Commission, and not more than two members shall belong to the same political party. Any vacancy shall be filled by appointment for the unexpired term.

**Sec. 3. Powers and duties of the Commission.** The commission shall have complete control and jurisdiction over the importation, transportation and distribution of alcoholic liquors within the state, as hereinafter provided, and shall have the power to buy, have in its possession and sell in its own name, all alcoholic liquor for distribution within the state, and to issue licenses to others, to manufacture, possess for sale and to sell alcoholic liquors within the state, and make such regulations, to have the effect of law, as it deems advisable, not inconsistent with this Act.

**Sec. 4. Qualifications of members and employees of the State Liquor Commission.** No member of the Maine State Liquor Commission, or any employee thereof, shall be financially interested, directly or indirectly, in the manufacture, sale or transportation of alcoholic liquors.

**Sec. 5. Salaries and expenses.** The members of the Maine State Liquor Commission shall receive annual salaries as follows: Chairman \$4200, each other member \$4000, together with their actual expenses incurred in the performance of their official duties. The Commission, subject to the approval of the Governor and Council, is hereby authorized to employ such clerical and other assistance, and to make such other expenditures as in its judgment are essential to effect the provisions of this Act. All salaries and expenses of the Commission and its employees shall be paid from the receipts by the Commission from the sale of liquors and/or from license fees collected in connection therewith.

**Sec. 6. Responsibility of the Commission.** The Commission shall make all purchases of liquor and all sales thereof in its own name, but shall be responsible to others only as a body, and not individually. The state shall assume no responsibility for the financial transaction of the Commission, and no liability for purchases incurred by the Commission.

The members of the Commission and all employees thereof who may or shall be entrusted with the handling of funds, or the accounting therefor, shall furnish good and sufficient surety bonds to the State for the faithful performance of their respective duties. The several amounts of such bonds shall be fixed by the Governor and Council, and the premiums thereon shall be paid from the receipts of the Commission from sales and license fees, as an expense incidental to administration.

**Sec. 7. Defining the methods of distribution of alcoholic liquors.** The

Commission shall (a) establish state stores for the sale of alcoholic liquors in the original package wherever and whenever in its best judgment such stores may be maintained with a profit. It may in its discretion (b) license individuals, firms or corporations to possess for sale, and to sell at retail alcoholic liquors in localities where the establishment of state stores would be unprofitable. It may in its discretion (c) license approved hotels and restaurants and clubs, railroad dining cars and passenger vessels to sell alcoholic liquors for consumption on the premises in connection with the bona fide sale of food to be consumed at the same time, subject to the further provisions of this Act. No store shall be located or license granted to sell liquors for consumption when said store or place of consumption is within three hundred (300) feet of any public or private school, church, chapel or parish house. The Commission (d) may issue licenses for the manufacture of alcoholic liquor for beverage, scientific, medicinal or industrial purposes, according to the scale of license fees hereinafter set forth.

The Commission shall not issue licenses to sell alcoholic liquors at wholesale within the State. The sale at wholesale to state stores and to licensees is reserved and limited to the Commission itself.

**Sec. 8. Conduct of State Stores.** The Commission shall fix the location of each State Store in accordance with Section 7 hereof, and shall determine the prices at which liquors supplied thereto shall be sold at retail. One or more of said State Stores may be designated as wholesale stores from which liquor may be sold to licensees, but no liquor shall be sold at wholesale which does not return at least a net profit of 15% to the Commission.

The Commission may also establish warehouses for the receipt and distribution of liquors to State Stores and licensees, but where sales are made at wholesale from such warehouses to licensees, the prices shall be the same as those charged at wholesale from State Stores.

**Sec. 9. Prohibiting sales at certain hours.** No sales at wholesale or at retail in the original package may be made by State Stores or licensees, except sales on prescription as hereinafter provided, between the hours of 10 P. M. and 6 A. M. of the following day, nor between 10 P. M. on Saturday and 6 A. M. on the following Monday, nor on any legal holiday nor on election days until one hour after the closing of the polls.

No sales by licensees for liquor to be consumed on the premises may be made after 10 P. M., or before 8 A. M. or on Sunday at any hours unless the Commission shall by special permit authorize the same upon the prior approval of the municipal authorities having police jurisdiction over the locality for which such special permit is sought.

No sales for consumption on the premises may be made on any election day until one hour after the closing of the polls.

**Sec. 10. Requiring compliance with Federal laws and regulations.** The Commission shall not purchase, or sell, or license the manufacture, purchase, or sale of any liquor which does not bear all necessary approval labels, brands, or stamps required by the Federal Government, nor shall any license or permit be granted for the manufacture, possession for sale, or sale, until the applicant for such license shall have fulfilled all Federal requirements as to permits, permit bonds, licenses and tax payments.

**Sec. 11. Competency of Commission as to Licensing.** The Commission shall be the sole judge, subject only to review of its decisions by competent courts, of the advisability or necessity for the granting of licenses, except as limited in Sections 7 and 9 hereof regarding the prior consent of municipal authorities to licensing for the sale of liquor to be consumed on the premises. The Commission will be the sole judge of the brands of liquor to be dispensed by State Stores and licensees, but will be guided in its selection of brands by popular demand.

**Sec. 12. Classes of licenses and restrictions thereon.** Licenses are defined as of three classes:

Class A. Manufacturers

Class B. Retail Dealers licensed to sell in the original package for consumption off the premises

Class C. Hotels, restaurants and clubs, Railroad Dining Cars and Passenger Vessels licensed to sell for consumption on the premises.

No individual, firm, or corporation shall be granted a license in more than one of the above classes.

No licensee of Class A shall have any direct or indirect financial interest in any Class B or Class C license.

No licensee of Class B shall have any direct or indirect financial interest in any Class A or Class C license, nor in more than one Class B license.

No licensee of Class C shall have any direct, or indirect, financial interest in any Class A or Class B license, nor any such interest in any other Class C license provided, however, that this shall not limit the interest of hotels under chain management, or of clubs in separate municipalities which are operated in connection with, or under the auspices of, Fraternal organizations of national scope, and further provided that the holding of a Class A or Class B license shall not debar the holder thereof from acting as an officer, director or trustee of a club holding a Class C license.

**Sec. 13. Defining the scope of licenses.** Class A licenses shall be limited to Distillers, Brewers and Wineries operating under authority of Federal law and under Federal supervision. Distillers and Brewers using exclusively the agricultural products of the State of Maine as raw ma-

material for the production of alcohol or alcoholic liquors shall pay an annual license fee of \$100.00. Distillers and Brewers using exclusively the products of other states as raw material shall pay an annual license fee of \$3,000.00.

Distillers and brewers using in part the agricultural products of Maine, and in part those of other states as raw material, shall pay such fees as the Commission may determine, to be directly proportioned as to the source and quantity of such raw material, and based upon the foregoing differential.

Wineries using exclusively the agricultural products of the State of Maine as raw material shall pay an annual license fee of \$50.00. Wineries using in part the agricultural products of other states or foreign countries shall pay in addition to such license fee of \$50.00, an excise tax of 4c per gallon on liquid raw materials, and 2c per pound on solid or semi-solid raw materials. The importation into the State of raw materials for distilleries, breweries and wineries shall be solely upon special permits issued by the State Liquor Commission, and all excise taxes as herein levied shall be due and payable at the time of importation.

The Commission shall in its purchases of alcoholic liquors give priority, wherever feasible, to those made from the agricultural products of the State of Maine.

Class B licensees shall purchase all alcoholic liquors from or through the Commission, and shall sell the same at the retail prices fixed by the Commission for sales of identical brands and packages by state stores.

Sales by the Commission to licensees shall be at a net profit to the Commission of not less than 15%, which shall be deemed to cover any license fee.

The Commission may, at its discretion, cancel any class B license without a hearing, by repurchasing all liquors in the hands of the licensee at the prices paid to the Commission therefor.

Whenever, and wherever, the Commission determines that a specified locality will not maintain the operation of a state store at profit, it shall give notice of its readiness to accept applications for class B licenses in such locality, and the Commission shall be the sole judge of the suitability of such applicants.

The Commission shall, however, give priority to druggists and pharmacists in considering such applicants. If no druggist or pharmacist makes application for a class B license, the Commission may invite other merchants of the locality to make application, but no class B license shall be issued to an applicant whose sole business is the proposed sale of alcoholic liquors.

Special class B licenses may be granted to druggists throughout the State to sell alcoholic liquor for medicinal purposes on the prescription of a bona fide physician only. Druggists granted such special permits shall purchase and sell alcoholic liquors at the state store retail prices for identical brands and packages.

Sales on prescription may be made at all hours without reference to the restrictions of section 9 hereof.

Class C. Class C licenses shall be issued only to such hotels, restaurants and clubs as the Commission shall deem proper after application therefor has been approved by the municipal officers of the city or town in which the same is located, or if located in an unorganized place such application shall be approved by the county commissioners of the county in which the same is located. Alcoholic liquor shall be served and consumed openly and the dispensing and consuming thereof shall not be concealed by booths, screens, curtains or any other means. Additional regulations may be made by the Commissioners, under the powers granted in section 3. Class C licenses for railroad dining cars and passenger vessels shall not require the approval of anyone other than the Commission.

**Sec. 14. Suspension or revocation of licenses.** The Commission shall have the power to suspend or revoke, for suitable cause, any license granted or issued by it upon hearing on the contemplated action under such equitable rules as the Commission may from time to time prescribe. Any suspension or revocation ordered by the Commission after hearing may be reviewed in competent Courts of the State, but the Commission shall not be liable financially or otherwise for any claims for damages arising from such suspension or revocation. An order of suspension or revocation shall prevail during the period required for review and decision by the Courts.

**Sec. 15. Records and accounts.** The Commission shall keep detailed records of account covering all purchases, sales, fees, expenditures and profits, and of all commitments to purchase, and shall render a monthly report thereto to the Governor and Council, and such additional reports as the Governor and Council may require.

The Commission shall deposit monthly with the State Treasurer the net profits of the preceding month as shown by the accounts and reports herein required to be kept.

The Commission may, however, provide for the retention of a portion of any profits which may be required to pay invoices for goods previously purchased, but any such retention shall be covered by a special and detailed report to the Governor and Council, and to the State Treasurer. All funds received from the Commission by the State Treasurer shall be deposited by him in the general fund of the State of Maine.

**Sec. 16. Duties of police officers to enforce this act.** The sheriffs of the several counties and their deputies, the village marshals, constables, officers or members of the village police, members of the State Police and inspectors of the Commission are hereby empowered and it is hereby made a part of their duty to see that the provisions of this act and the rules and regulations made or authorized by the Commission are enforced within their respective jurisdictions. Any officer within the above enumeration who shall wilfully neglect or refuse to perform the duties imposed upon him by this section shall be removed from office by the Governor, notwithstanding any statute covering the election or appointment of such officer.

Such neglect to perform the duties herein imposed shall also be deemed a misdemeanor and prosecution instituted therefor.

**Sec. 17. Defining those ineligible to receive a license.** No license shall be granted to any alien or to any person under the age of 21 and no alien or minor may be employed by the Commission or any licensee thereof to sell or dispense alcoholic liquors.

**Sec. 18. Prohibiting sales to minors.** Neither the State Liquor Commission nor any licensee thereof shall sell any spirituous or distilled alcoholic liquor to any person under the age of 21 nor any malt or vinous liquor to any person under the age of 18.

**Sec. 19. Defining alcoholic liquors for the purposes of this act.** Alcoholic liquors as mentioned in this act are hereby defined to be any and all potable liquors, either distilled, spirituous, vinous or fermented containing over one half of one per cent by weight, other than the naturally fermented juice of apples. Nothing contained in this act shall limit the manufacture or sale of medicinal preparations of alcohol or alcoholic liquor which are in fact unfit for beverage purposes or are in accordance with the U. S. Pharmacopeia or U. S. Formulary. When manufactured within the state from alcohol or alcoholic liquor, such alcohol or alcoholic liquor shall be purchased from or through the Commission by special permit and under such regulations as the Commission may prescribe under advice of the State Board of Pharmacy and the State Board of Health.

**Sec. 20.** The shipment of alcoholic liquors into this state to others than the State Liquor Commission is hereby prohibited and the person transporting the same or receiving the shipment thereof shall be subject to the penalties of this act.

**Sec. 21. Penalties for violation of this act.** Manufacture, possession for sale, or sale of alcoholic liquors without a license from the Commission is hereby prohibited, and such manufacture, possession for sale, or sale without such license shall constitute a felony and shall be punished by the Courts by a fine of not less than \$500.00 or more than \$5000.00, or imprisonment for not more than two years, or both.



Violation of the terms of any license or of any regulation issued by the Commission shall constitute a misdemeanor, and may be punished by the Courts as such.

**Sec. 22. Appropriating funds for carrying out the provisions of the act.** In order to carry out the provisions of the Act, there is hereby appropriated from the General Funds the sum of \$200,000 to be used by the Commission to purchase an initial stock of liquors and to effect its organization. This fund shall be repaid to the Treasurer for deposit in the General Fund within one year from the effective date of this Act in such installments as the Commission may determine.

All deposits of profits required by Section 15 hereof during the one year period above provided shall be deemed to be installment refunds of the amount herein appropriated.

**Sec. 23. Repealing acts in conflict herewith.** All acts or parts of acts in conflict herewith are hereby repealed, particularly Chapter 268 of the Public Laws of the State of Maine, 1933. It is hereby declared the intent of the Legislature that the members of the State Licensing Board authorized in said Chapter 268 be continued for the duration of their respective terms as members of the State Liquor Commission herein established.