

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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. 7

H. P. No. 8

House of Representatives, November 6, 1934.

Received out of order 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. Goudy of South Portland by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-
FOUR

**AN ACT to Authorize and Regulate the Manufacture, Transportation and
Sale of Intoxicating Liquors.**

Emergency Preamble. Whereas, constitutional prohibition has been repealed in Maine and the statutory laws of Maine prohibit the manufacture and sale of intoxicating liquors, and

Whereas, alcohol and intoxicating liquors are necessary for the treatment and care of sick persons in hospitals and homes, and

Whereas, alcohol and intoxicating liquor cannot be purchased in Maine, and

Whereas, there is an immediate necessity for legislation to provide for the sale of alcohol and intoxicating liquor to enable our citizens to procure said liquor for medicinal purposes therein, 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;

Now therefore,

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:

(a) "Liquor." All distilled and rectified spirits, alcohol and wines of over $\frac{1}{2}$ per cent alcoholic contents by volume at 60 degrees Fahrenheit.

(b) "Malt beverages." All alcoholic beverages manufactured or produced by the process of brewing or fermentation of malt, with or without cereal grains or fermentable sugars or of hops, and containing not more than 12 per cent of alcohol by weight at 60 degrees Fahrenheit.

(c) "Person." Individual, firm, association, corporation, club, or society.

(d) "Commission." State liquor commission.

(e) "Club." Any organization incorporated under the laws of the state or which are affiliated with any national or federal organization.

(f) "Hotel." A building used as a place of general entertainment of all travelers and strangers who apply for food and lodging, and the business of which does not include more than 30 percent permanent guests, and which must have a dining-room capacity sufficient to take care of the total number of guests that it can accommodate at one sitting.

(g) "Restaurant." A space in a suitable building leased or rented or owned by a person holding a duly issued and valid license for common victualers, and provided with accurate and sanitary kitchen and dining-room equipment and capacity for preparing, cooking and serving suitable food for strangers, travelers and other patrons and for customers, and having a seating capacity for 75 or more persons at tables or booths seating not more than 6 at any one table or booth, and in addition, meeting and complying with all the regulations imposed upon common victualers. Provided further that no restaurant shall be entitled to a license unless 60 per cent of the gross income is from foods served.

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 3 members, not more than two of whom shall belong to the same political party, and shall hold offices for the terms of 2, 3, and 4 years, respectively, and 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, at the expiration of the term of any member of the commission a new member shall be appointed for the term of 4 years. If a vacancy shall occur in said commission it shall be immediately filled by the governor and council for the remainder of the term.

Sec. 3. Chairman; compensation. The chairman of the commission shall be appointed and commissioned as such. The annual salary of the chairman of the commission shall be \$5,000 per year, and of the associate

commissioners \$3,500 per year, and each of the said commissioners shall receive their reasonable expenses while traveling in the performance of their duties, provided they shall not be allowed as expenses traveling between their places of residence and their offices in Augusta, nor shall they be allowed board and lodging while at Augusta. Said members of the commission shall devote their entire time to the service of said commission. No member of the commission shall be directly or indirectly interested in the liquor or beverage business.

Sec. 4. Offices. Said commission shall be provided with suitable offices at Augusta.

Sec. 5. Inspectors. The commission shall appoint as needed full time inspectors the salary of whom shall be \$2,500 per year and reasonable expenses while traveling in the performance of their duties, provided they shall not be allowed their expenses traveling between their places of residence and their offices, nor shall they be allowed board and lodging expenses while at their offices. The inspectors are to be divided as nearly as possible between the two major political parties.

Sec. 6. Assistants. Said commission is hereby authorized and empowered to employ such assistants as are necessary for the proper transaction of business of their office and to fix their compensation, which compensation must be approved by the governor and council, also to secure any necessary technical or professional assistance when such necessity is approved by the governor and council, and the salaries of such technical or professional assistants shall be approved by the governor and council.

Sec. 7. Employees. No member of the commission or any employees under this act shall in any way take part in any political campaign.

Sec. 8. Bond. Before any member of the state liquor commission enters upon duties of office he shall give a bond with sufficient sureties, to be approved by the governor and council, conditioned for the faithful discharge of duties of his office, and which bond shall be deposited and safely kept in office of the secretary of state and shall be in the amount that the governor and council shall require and subject to their approval.

Sec. 9. Removal. Whenever the governor and council upon complaint and due notice and hearing shall find that any officer, appointee or employee acting under this act has violated any statute or is not performing his duties faithfully and efficiently they may remove him from office and appoint another in his place for the remainder of the term for which he was appointed.

Sec. 10. Advertising. All advertising either by bill-boards, signs or other devices, of liquor, wines or beverages, within the state, other than through the medium of newspapers, magazines, periodicals and radio is

hereby prohibited, except that a sign or signs inside of a building, no larger than 12"x24" may be used, as the commission may approve.

Sec. 11. Labels. All liquors, wines and beverages must be properly labeled and marked as to contents.

Sec. 12. Sales by other than persons licensed. (a) No person shall manufacture with intent to sell, sell or expose or keep for sale, transport, import or export alcoholic beverages or liquors, except as authorized by this act. Violation of this section shall be punished, by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not more than 11 months, or both.

(b) This act shall not apply to the manufacture of alcoholic beverages or liquors by a person for his own private use or to sales of cider at wholesale by the original makers thereof, or to sales of cider by farmers, not to be drunk on the premises, in quantities not exceeding in the aggregate the product of apples raised by them in the season of, or next preceding, such sales, or to sales of cider in any quantity by such farmers not to be drunk on the premises if such cider does not contain more than 3 per cent of alcohol by weight at 60 degrees Fahrenheit.

Sec. 13. Transportation. (a) Any brewer, distiller, manufacturer, wholesaler and importer or other licensee may transport liquors and beverages, lawfully bought by them or lawfully sold by them, in vehicles operated under the control of themselves or their agents.

(b) Any common carrier or contract carrier may transport liquors and beverages upon obtaining from the commission a permit so to do and by paying said commission a fee of \$1.00 for said permit. A permit must be obtained for each and every vehicle that is used for the transportation of said liquors and beverages, except that a railroad or a duly organized steamship company, or express company may, upon the payment of \$100 be permitted to use the vehicles that they own for the transportation of said liquors and beverages.

Sec. 14. Examination. Any member of the commission, the chief clerk, auditor, or inspectors may enter places where liquor, wines or beverages are sold or manufactured at any time and may examine any licenses or permits issued or purporting to be issued under the terms of this act or they may examine any books pertaining to the purchase or sale of malt beverages, liquors or wines. They shall make complaint for violations of this act.

Sec. 15. Salaries or compensations. All salaries, compensations and expenses under this act shall be paid by the state on the warrant of the governor with the approval of the council.

Sec. 16. Rules and regulations. Said commission shall have the power

to make all necessary and proper rules and regulations, and such rules and regulations shall have the effect of law. No sale of liquor or beverages shall be made on Sundays or election days or holidays except as may be hereinafter noted. No sale of liquor or beverages shall be made in any place where booths that are not open at the end are installed or that are more than 42 inches high and are used for serving patrons.

Sec. 17. Revocations or suspension. It shall be the duty of the commission to cause frequent inspection to be made of all premises with respect to which any license shall have been issued under this act. If any licensee violates any of the provisions of this act or any of the rules and regulations of the commission promulgated pursuant hereto or fails to superintend in person or through a manager approved by the commission, the business for which the license was issued or allows the premises with respect to which the license was issued to be used for any unlawful, disorderly or immoral purposes or knowingly employs in the sale or distribution of liquor any person who fails to carry out in good faith the purposes of this act the license may be suspended by the commission without hearing and may be revoked after notice and hearing.

Sec. 18. Transfers. No license shall be transferred.

Sec. 19. 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, overseers of the poor or commission shall prohibit sale.

Sec. 20. Employment of minors. No licensee under this act shall employ any minor with or without compensation to serve or in any way handle liquor, wines or beverages.

Sec. 21. Employment of citizens. No person except a citizen of the United States shall be employed to sell, serve or deliver any liquor or beverage.

Sec. 22. Licenses. All licenses under this act shall expire on December 1st of each year, unless sooner revoked for cause by the commission.

Sec. 23. Interest. (a) No brewery, distillery or manufacturer or wholesaler and importer shall be directly or indirectly interested in any retail business in the sale of liquors, wines or beverages.

(b) No brewery, distillery or manufacturer shall be directly or indirectly interested in any wholesaler and importer or other licensee.

Sec. 24. Licenses for sale not to be drunk on the premises. (a) The commission may grant licenses for the sale at retail of all alcoholic liquors and malt beverages, as the case may be, not to be drunk on the premises,

to applicants therefor who are citizens and residents of this state, or partnerships composed solely of such citizens and residents or to corporations organized under the laws of this state and whereof all directors shall be citizens of the United States and a majority residents of this state. No person, firm, corporation, association, or other combination of persons, directly or indirectly, or through any agent, employe, stockholder, officer or other person or any subsidiary whatsoever, shall be granted, in the aggregate, more than one such license in this state. No such license shall be granted except to an applicant approved by the commission after investigation and the personal appearance of the applicant before the commission. Each license shall describe the premises to which it applies. Every licensee hereunder shall keep conspicuously posted in his place of business a price list of the beverages and liquors sold therein. Sales by such licensees shall be only in the original manufacturer's, or wholesaler's and importer's package. All malt beverages containing not more than 3 and 2/10 per cent of alcohol by volume at 60 degrees Fahrenheit shall be so labeled.

(b) The premises to be used by said licensee must be used exclusively for the sale of alcoholic liquors and other non-intoxicating beverages, except in towns of a population of 1,500 or less, in which case a certain part of the licensee's premises must be set apart for the exclusive use and sale of alcoholic liquors and malt beverages. Any sale of such alcoholic liquors or beverages shall be conclusively presumed to be made in the store wherein the order was received from the customer. The fee for such license shall be \$300 per year.

(c) Any licensee under this section may sell on week days between the hours of 9 A. M. to 9 P. M. except on Saturday when he may sell until 10 P. M.

(d) Not more than one license shall issue in towns of not over 1,500 population; not more than two licenses shall issue in towns of over 1,500 and not over 2,500 population, and in towns of over 2,500 population one license may issue for each 2,000 of population; the number of licenses to be issued to be solely in the discretion of the commission, and no license shall be issued for any place within 300 feet of a church or school.

Sec. 25. Hotels. The commission may issue licenses to first class hotels in any city or town, determination being left in the hands of the commission. The license would permit the licensee to sell all alcoholic liquors by the glass and malt beverages and fortified wines by the bottle if the cork is drawn, to be served with food in either the dining-room or in the rooms of the guests. The annual fee shall not be less than \$300 nor more than \$500, the annual fee being fixed by the commission. The

commission may, however, issue part-time licenses to summer hotels and in such case the annual fee shall not be less than \$100 nor more than \$300, the fee being determined by the commission upon the volume of business or probable volume of business of the licensee.

(a) Under this section hotels shall not serve liquor before 10 A. M. and not later than 12 o'clock midnight on week days, unless by special consent of the commission. On Sundays liquor shall not be served before noon and not later than 12 o'clock midnight.

Sec. 26. Clubs. The commission may issue licenses to clubs for sale to members or bona fide guests, of all alcoholic liquors by the glass only. The club's license fee shall be \$200 per annum, and no liquor shall be served by a club between the hours of 12 midnight and 10 the following morning, and on Sundays, not before 12 noon.

Sec. 27. Restaurants. The commission may issue to any restaurant, subject to the provisions thereof, a license which will entitle such licensee to sell all alcoholic liquors by the glass and malt beverages and fortified wines by the bottle if the cork is drawn, with food.

(a) All liquors must be served at tables and not over any counter or bar.

(b) License fees for such restaurants under this section will be \$300 per year. No sales shall be made between the hours of 12 midnight and 10 A. M. the following day except Sunday when no liquor shall be sold between 12 midnight Saturday and 12 o'clock noon Sunday.

Sec. 28. Steamship companies. The commission may also issue licenses for the sale of all alcoholic liquors and malt beverages to owners or operators of any vessel or shipping company carrying passengers and operated out of any port in the state, under such regulations as the commission may prescribe as to the portions of the vessel in which the same may be sold and the hours they may be sold, to be drunk while the vessel is under way. The annual license fee for each vessel shall be \$100.

Sec. 29. Dining-cars. The commission may issue a license to any railroad or car corporation operating any cars in which food is served within the state, authorizing the holder thereof to sell in dining- or club-cars all alcoholic liquors and malt beverages. Such licenses shall be good throughout the state in both licensed and non-licensed territory, and only one such license shall be required for all cars operated in the state by the same owner.

(a) This license entitles said licensee to sell only alcoholic liquors by the glass and malt beverages and fortified wines by the bottle if the cork is drawn.

(b) The fee for such license shall be \$300 per annum.

(c) Said licensee, under this section, shall be permitted to sell liquors and malt beverages on Sunday, to be drunk inside cars.

Sec. 30. Druggists. The commission may issue to a drug store which is licensed by the Maine commission of pharmacy a license which will entitle the licensee to sell alcoholic liquors, but not malt beverages, for medicinal, mechanical or chemical purposes. Such licensee shall keep a record of the liquor so sold, and all liquors that are sold on Sundays and holidays must be sold only upon the prescription of a physician licensed to practice within the state. The commission may make such further rules and regulations that may be necessary to carry out the provisions of this section but may not restrict the time that liquors may be sold. License fees for a druggist shall be \$50 per year.

Sec. 31. Wholesalers and importers. The commission may issue a license to any person to sell alcoholic liquors and malt beverages purchasing as wholesalers and importers to sell for resale to other licensees duly licensed under this act, and to purchase as importers into this state for sale to such licensees.

(a) Licenses may be granted under this section authorizing the holders to sell wines to be used for sacramental purposes only, to any registered, regularly ordained priest, minister or rabbi, or to any church or religious society.

(b) Importations of beverages by any licensee under this section may be in casks, barrels, kegs or other containers, as well as in bottles, in either case bearing such seals, or other evidences of the identity and origin of the contents, as the commission may prescribe. Subject to such regulations as may be prescribed by the commission, licensee under this section may bottle, and may rectify or blend, any alcoholic beverages purchased by them in bulk, but such bottling, including the sealing and labeling of the bottles, and such rectifying and blending, shall be done only upon such premises and under such conditions as the commission shall approve for the purposes and uses of such rectifying and blending.

(c) Licensees may purchase from authorized dealers therein ethyl alcohol in such quantities and under such conditions as the commission shall approve.

(d) The license fee for a license issued under this section to sell and import alcoholic liquors and malt beverages shall be at an annual rate of \$1,000.

(e) The premises of said licensee shall be used exclusively for the wholesaling and importing of alcoholic liquors and malt beverages and other non-intoxicating beverages, as defined under this act.

Sec. 32. Manufacturers. The commission may issue to any person a

license to manufacture alcoholic liquors or malt beverages to be sold to licensed wholesalers and importers only. Such licensee may also sell such alcoholic liquors or mat beverages for export from this state into any state where the sale of same is not by law prohibited, and to any foreign country. All alcoholic liquors or malt beverages sold by any manufacturer thereof shall be sold and delivered in such manner, and under such conditions, and with such labels or other marks to identify the manufacturer, as the commission shall from time to time prescribe by regulations; provided, that sales of such beverages may be made in kegs, casks, barrels or bottles, to holders of wholesalers' and importers' licenses under this act.

Every licensee under this act shall keep such records in such detail and affording 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 of copy 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 hereunder to conduct.

The license fee for every manufacturer of alcoholic liquors in respect to each plant, shall be \$2,500 per year.

Sec. 33. Excise Tax. Every licensed holder of a wholesaler's and importer's license for the sale thereof shall, in addition to the license fees elsewhere provided in this chapter, be liable for and pay to the state as an excise, for the privilege enjoyed by him as such wholesaler and importer, the sum of 40c for each proof gallon of all alcoholic liquors containing in excess of 24% of alcohol by volume at 60 degrees Fahrenheit, the sum of 10c for each gallon of wine, including vermouth of an alcoholic content less than 24% of alcohol by volume at 60 degrees Fahrenheit.

The tax on malt beverages shall be the same as section 19, chapter 268 of the public laws of 1933 except the last 3 paragraphs in said section which are hereby repealed.

Every person subject to this section shall keep a true and accurate account of all alcoholic liquors sold by him and shall make a return thereof to the commission within 10 days after the last day of each month, covering his sales during such month, and shall at the time of such return make payment to the commission of the amount due under this section for such sales in such month. The commission is hereby authorized to prescribe rules and regulations governing the method of keeping accounts, making returns and paying the excise provided for in this section. Such rules and regulations shall provide for the waiver of payment of the excise in respect to any alcoholic liquors if it appears that an excise has already been paid under the provisions of this section in respect thereto; provided,

however, that alcoholic liquors manufactured for export within or imported into the state and exported therefrom shall be exempt from such excise tax.

Sec. 34. Aliens. No license for the sale of alcoholic liquors and no vehicle permit for the transportation thereof shall be issued to any person who is not, at the time of his application therefor, a citizen of the United States or to any agent of such person, or to any corporation a majority of whose directors are in fact aliens, and no person not such a citizen shall be appointed as manager or other principal representative of any licensee.

Sec. 35. Person to whom licenses shall not be granted. No person under the age of 21 years shall be granted a license under the provisions of this act. No license under this act shall be issued to any person who within 3 years next prior to his application, therefor, has been convicted of violating any of the prohibitory laws of the state of Maine or of the United States of America.

Sec. 36. Display of licenses. All licenses and permits granted under this act shall be conspicuously displayed by said licensee at his place of business or within the vehicle used for transportation.

Sec. 37. Disposition of license fees. All monies received by the commission under this act shall be forthwith turned over to the state treasurer and by him deposited in the general fund of the state of Maine.

Sec. 38. Manufacturers of malt beverages outside the state before soliciting business in the state shall first register with the commission and pay a fee of \$300 annually. They shall further be required to send to the commission a duplicate invoice of each and every sale made by them to any one within this state immediately upon the shipment leaving their brewery or warehouse. The price of said merchandise may be omitted.

Sec. 39. Penalties. Whoever violates any of the provisions of this act or any of the rules and regulations promulgated pursuant thereto, wherein a penalty has not been prescribed, shall be punished by a fine of not more than \$500 or by imprisonment of not more than 6 months or by both fine or imprisonment. If any licensee is convicted of the violations of the provisions of this act or any of the rules and regulations promulgated pursuant hereto, the court shall immediately order his license revoked and notify the board accordingly and no license shall be granted to him within the period of 3 years thereafter. In case of an appeal the license of such licensee may be suspended in the discretion of the commission during the pendency of such appeal.

Sec. 40. Prosecution. Any violations of the provisions of this act shall be prosecuted by the commission or any of its agents, by county

attorneys, city solicitors, sheriffs of the several counties or their deputies or by the police officials of the cities or municipal officers of the towns.

Sec. 41. Constitutional construction. 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.