

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. 8

H. P. No. 7. 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. Tupper of Calais.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-
FOUR

AN ACT to Regulate the Sale of Intoxicating Liquors.

Emergency Preamble: Whereas, constitutional prohibition, after an experience of 50 years, has been decisively rejected by the people of Maine, and

Whereas, present statutory law in accordance with the mandate of the constitutional provision heretofore in effect, contains many provisions of enforcement which exist palpably contrary to the wishes of the great majority of the people of the state, and

Whereas, there is urgent necessity for proper legislation to provide immediately for regulating the sale of intoxicating liquors, and to enable residents of the state to procure such liquors 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 therefore 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. State liquor commission; appointment; terms; seal. The state

liquor commission is hereby created and shall consist of 3 members elected by the legislature to serve initially until the Thursday following the 1st Wednesday in January 1937, 1939 and 1941 respectively. Commencing in 1937 the legislature shall biennially elect 1 member for a term of 6 years.

Any vacancy occurring in said commission during a recess of the legislature shall be filled by appointment by the governor with the advice and consent of the council for the unexpired portion of the term in which such vacancy occurs. The commission shall choose a chairman from its members each year and in default of such a choice the governor shall designate 1 member to act as chairman pending such a choice. The commission shall adopt and have a seal and shall be provided with an office in which its records shall be kept.

Sec. 2. Salaries and expenses of members. The salary of each member of the commission shall be \$3,000 per year and the commissioners shall be allowed their reasonable expenses incurred in the performance of their duties, provided however that they shall not be allowed expenses of travel between their places of residence and the commission office or board and lodging in the city or town where said office is located.

Sec. 3. Eligibility of employees. No person shall be eligible for election as a member of the commission or appointment as an employee of the commission in any capacity who has any connection, official, professional or otherwise, or who owns any stock in a corporation interested either directly or individually in the manufacture or sale of liquor or who has been convicted of the breach of any state or federal law regulating the manufacture, the sale or the transportation of intoxicating liquor.

Sec. 4. Definitions. In this act unless the context otherwise requires, the words and phrases herein defined shall have the following meaning:

“Commission,” the state liquor commission.

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

“Liquor,” any alcoholic beverage intended for human consumption which contains more than 1% of alcohol by volume.

“Malt liquor,” any liquor produced by the brewing or fermentation of malt.

“Wine,” any liquor produced by natural fermentation.

“Spirits,” any liquor produced by distillation or if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind.

Sec. 5. State licensing board abolished; transfer of duties. The state licensing board as created by chapter 268 of the public laws of 1933 is hereby abolished. All the powers and duties conferred on said board by

law shall hereafter be exercised by the state liquor commission. Said chapter shall hereafter be administered as if the words "malt beverage" as therein defined included all liquor coming within the meaning of the words "malt liquor" as herein defined.

Sec. 6. P. L. 1933, c. 268, §§ 3 and 26 repealed. Sections 3 and 26 of chapter 268 of the public laws of 1933 are hereby repealed.

Sec. 7. Sale of liquors by commission regulated. It shall be the duty of the commission to buy and have in its possession wine and spirits for sale to the public. Such wine and spirits shall be purchased by the commission directly and not through the state purchasing agent and shall be free from adulteration and misbranding. The commission shall sell at retail in original packages and for cash, either over the counter or by shipment to points within the state, wine and spirits of all kinds for consumption off the premises at state stores to be operated under the direction of the commission. The commission shall establish prices for retail sale which shall be uniform throughout the state.

Sec. 8. State stores, etc., to be provided. 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 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. Leases shall be limited to terms of not more than 2 years, and may be for seasonal occupancy. No such store shall be operated within 300 feet of any public or private school, church, chapel, or parish house.

Sec. 9. Business hours for state stores. State stores shall not be open on Sundays, court holidays or on the day of the holding of a general election or state-wide primary or between the hours of 7 P. M. and 9 A. M. except on Saturdays when, if open, they may be kept open until 10 P. M. No sales shall be made therein to minors or persons under the influence of liquor.

Sec. 10. Limitation on sales of malt, wine and liquor. After the expiration of the term of licenses now outstanding issued by the state licensing board no malt liquor shall be sold within the state except under license of the commission. No wine or spirits shall be sold within the state except by said commission, unless otherwise expressly authorized by law.

Sec. 11. Appropriation. There is hereby appropriated from funds in the state treasury not otherwise appropriated the sum of \$250,000 or so much thereof as shall be necessary for the purpose of providing operating capital under this act. All the provisions of sections 10, 15 and 16 of chapter 216 of the public laws of 1931, so far as the same are appropriate,

shall apply to the operation of state stores hereby established; provided, however, that the appropriation fund of \$250,000 shall be treated as operating capital and expended recurrently for the purpose of maintaining a stock of wines and spirits for sale therein and the operation of said stores.

Sec. 12. Cities and towns to receive pro rata abatement of taxes on profits. The fiscal year for the operation of said stores shall close each year upon the 30th day of June beginning in the year 1935; and the annual net profits from the operation of said stores shall be determined as of that date. The amount of said annual net profits shall be determined by the commission subject to audit by the state auditor and when so determined and audited, the state auditor shall certify the amount thereof to the state tax assessor. Upon receipt of such certificate from the state auditor the state tax assessor shall apportion to each city, town, plantation and person to whom a state tax is directly assessed upon property, that proportion of said annual net profits certified to him as aforesaid, that the valuation of said city, town, plantation and the property of such person directly assessed by the state as valued for the purpose of levying the state tax thereon bears to the total valuation of all of the property in the state as valued for the purpose of levying the state tax thereon. The state tax assessor shall thereupon certify to the state treasurer the amount so apportioned to each city, town, plantation and person as aforesaid and the state treasurer shall thereupon credit said amount to each city, town, plantation and person to whom the same is apportioned as aforesaid upon the state tax assessed against such city, town, plantation and person for the then current tax year, and such credit shall have the same effect as though said sum apportioned had been paid to the state treasurer by the city, town, plantation or person to whom the same is credited upon the tax to which the same is applied. Said annual net profits shall thereupon be applied and used by the state in the same manner and for the same purposes as though paid into the state treasury by the several cities, towns, plantations and persons as partial payments on the state tax assessed against them. Provided, however, that for each of the 5 years commencing July 1, 1935, in determining the annual net profits of the stores for such year, the sum of \$50,000 shall first be deducted from the gross receipts and repaid into the state treasury to reimburse it for the \$250,000 hereinbefore appropriated from the general funds of the state to provide operating capital under this act.

Sec. 13. Limitation of actions against employees of board. No action or proceeding shall be taken against any member, official, manager, agent or employee of the commission for anything legally done in or arising out of the performance of his duties under this act.

Sec. 14. R. S. c. 137, §§ 9 and 10 repealed. Sections 9 and 10 of chapter 137 of the revised statutes are hereby repealed.

Sec. 15. R. S. c. 137, § 42 amended. Section 42 of chapter 137 of the revised statutes is hereby repealed and the following enacted in place thereof:

“Sec. 42. Seizure and forfeiture of vehicles containing liquor. All automobiles, trucks, wagons, boats or vessels and vehicles of every kind, not common carriers, containing liquor intended for illegal sale shall be seized by any officers seizing the liquor transported therein, and shall be libeled as is provided for the libeling of intoxicating liquors and the vessels in which they are contained, and shall be declared forfeited by the court and sold in the same manner as is provided for the sale of vessels containing intoxicating liquors.”

Sec. 16. “Intoxicating Liquors” defined. Wherever the words “intoxicating liquors” are now used in any statute or law said words shall be interpreted as having the same meaning as the word “liquor” herein defined.

Emergency clause. In view of the emergency recited in the preamble, this act shall take effect when approved.