

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 695**

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H. P. 1591

House of Representatives, February 16, 1937.

Referred to Committee on Taxation. Sent up for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Mosher of Farmington.

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**S T A T E O F M A I N E**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-SEVEN

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**AN ACT Raising Revenue for Old Age Pensions and Schools.**

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Whereas, under the present provisions of the law, revenue accruing to the state to be raised by this legislation will not be available until on or about July 1st, 1937, and

Whereas, there is an immediate need of extra revenue to provide for old age assistance, and welfare and relief requirements and over-drafts caused by past relief requirements, and

Whereas, it is necessary that emergency legislation be passed to provide revenue for these purposes, and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of Article XXXI of the constitution 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:

**TITLE I.**

**Purpose of Act**

For the purpose of paying old age pensions and to provide for the present deficit caused by overdrafts caused by past demands for relief, and to

provide for equalization of educational opportunities, and to restore the depleted contingent fund, a tax on amusements, tobacco, bottled soft drinks and soft drink syrups, on malt beverages and spirituous and vinous liquors, and an additional license fee on retail stores is hereby imposed.

All revenue derived from these taxes shall be disposed of in the following manner; and is hereby appropriated for the following purposes:

(1) Such amounts as are necessary to care for the expenses of the administration and the collection of these taxes under the supervision of the state tax assessor.

(2) \$2,100,000 for old age assistance to be administered in accordance with the provisions of the social security act, so-called, by the department of health and welfare in accordance with the plan established by order of the governor and council on December 27, 1935.

(3) \$400,000, annually, for the equalization of educational opportunity in the state.

(4) \$843,000 to be paid into the sinking fund reserve to replace the funds drawn therefrom by the past administration.

(5) The balance, if any, to be paid into the general funds of the state.

## TITLE II.

### Retail Store Tax Increased

**Sec. 1. P. L., 1933, c. 260, § 4, amended.** Section 4 of chapter 260 of the public laws of 1933 is hereby amended to read as follows:

**'Sec. 4. Annual license fees.** Every person, firm, partnership, association or corporation establishing, owning, operating, managing, or maintaining 1 or more stores, **or mercantile establishments**, as in this act defined, within this state, under the same general management, supervision or ownership, shall pay the license fee or fees herein set forth annually, in addition to the filing fee required by section 1 of this act.

Such license fees shall be:

(1) For 1 store, ~~\$1~~ \$3.

(2) Upon each store in excess of 1 store, but not exceeding 5 stores, ~~\$5~~ \$10.

(3) Upon each store in excess of 5 stores, but not exceeding the number of 10 stores, ~~\$10~~ \$20.

(4) Upon each store in excess of 10 stores, but not exceeding the number of 15 stores, ~~\$15~~ \$30.

(5) Upon each store in excess of 15 stores, but not exceeding the number of 25 stores, ~~\$25~~ \$50.

(6) Upon each store in excess of 25 stores, \$50 but not exceeding the number of 50 stores \$100.

(7) Upon each store in excess of 50 stores, \$200.'

**Sec. 2. P. L., 1933, c. 260, additional.** Chapter 260 of the public laws of 1933 is hereby amended by adding thereto a new section to be numbered 12-A, and to read as follows :

**'Sec. 12-A. License tax defined.** The license tax levied herein, shall not be in lieu of any special state license, occupational or corporation license tax under the laws now in force, or that may hereafter be enacted.'

### TITLE III.

#### Amusement Tax

**Sec. 1. Definitions as used in this act.** "Amusement" shall mean and include all manner and forms of entertainment and amusement, theaters, opera houses, motion picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing exhibitions, football and baseball games, skating rinks, race tracks, golf courses, public bathing places, public dance halls of every kind and description and all forms of diversion, sport, recreation, shows, exhibitions, contests, displays, games, or any other and all methods of obtaining admission charges, donations, contributions or monetary charges of any character, from the general public or a limited or selected number thereof, directly or indirectly in return for other than tangible property or specific personal or professional services.

**Sec. 2. Imposition of tax.** There is hereby imposed, levied and assessed to be collected and paid as hereinafter provided a privilege license tax of 1 cent for each 10 cents or fractional part thereof received as admission to any amusement as hereinbefore defined, upon every person conducting such amusement or place where such amusement is conducted, whether such amusement is held or conducted in a public or private building, hotel, tent, pavillion, lot or resort enclosed or in the open; and the tax shall be imposed upon each such admission charged, donation or contribution except as herein otherwise provided.

**Sec. 3. Permit required.** Any person conducting any form of amusement, as hereinbefore defined, admission to which or the conduct of which requires the payment of a tax imposed by the preceding section, shall, before beginning the operation of any place or form of such amusement,

make application in writing to the state tax assessor for a permit to conduct such amusement, such application to be made upon forms prescribed and furnished by said state tax assessor, and to contain all such information as may be required by him in each particular case.

**Sec. 4. Granting a permit.** Upon the filing of such application, the state tax assessor may issue to the applicant, without cost to the applicant, a permit to conduct a permanent place of amusement, if not prohibited by law, or to conduct a temporary place of amusement upon such reasonable terms and conditions as the state tax assessor may impose; the permit to be good until the 1st day of July succeeding the date of issuance, if issued for a permanent place of amusement, if not sooner revoked for reasons as hereinafter provided; but permits for the conducting of temporary places of amusement to be good only for the time and place specified therein, and to be granted only upon such reasonable terms and conditions as the state tax assessor may prescribe in each instance. The permit shall be displayed at all times in a conspicuous manner at the place where such amusement is conducted and for the time specified therein.

**Sec. 5. Joint liability for tax.** Where permits are obtained for conducting temporary amusements, by persons who are not the owners, lessees or custodians of the buildings, lots or places where the amusements are to be conducted, or where such temporary amusement is permitted by the owner, lessee or custodian of any place, to be conducted without the procurement of a permit as hereinbefore required, the tax imposed by this act shall be paid by the owner, lessee or custodian of such place where such temporary amusement is held or conducted, unless paid by the person conducting the amusement, and the applicant for such temporary permit shall furnish with the application therefor, the name and address of the owner, lessee or custodian of the premises upon which such amusement is to be conducted, and such owner, lessee or custodian shall be notified by the state tax assessor of the issuance of such permit, and of the joint liability for such tax.

**Sec. 6. Separate permit required.** A separate permit shall be required for each place where amusements are to be conducted, and where any person intends to engage in the business of conducting an itinerant form of amusement in this state, in making application for permits to conduct such amusements at different places in this state, full and complete information shall be furnished to the state tax assessor, with such application, as to places where such amusements are to be conducted, with the date and length of time to continue at each place, and in the event of any change in the original contemplated itinerary, either as to date or time of conduct at each

place, the state tax assessor shall immediately be notified of such change, by the holder of the permit.

**Sec. 7. Permit not transferable.** No permit shall be used or transferred by or to any other person than the one to whom it was issued, and upon the retirement from the conduct of any amusement of any person to whom a permit has been issued, such permit shall ipso facto become null and void.

**Sec. 8. Penalty for operation without permit.** Any person who shall operate a place of amusement or conduct an entertainment for which a permit is required before having first obtained the permit herein required and posted the same in accordance with the above provisions, shall be guilty of a misdemeanor. However, any person may operate a place of amusement for a period of 10 days, after acquiring the same, with immunity from the above provisions, providing at the time of such acquisition or immediately thereafter, he has made application for the permit required.

**Sec. 9. Form of tickets prescribed.** The state tax assessor shall prescribe the form of tickets to be used by all places where amusements are to be conducted subject to the tax herein imposed, wherever practicable, and said tickets shall be in such form that the tax due to this state may be readily computed. Each ticket shall show upon its face the sale price thereof and the amount of the tax thereon, and shall be numbered consecutively.

**Sec. 10. Purchase of tickets to be reported and tickets approved.** Any person intending to sell tickets of admission subject to the tax imposed by this act, shall, immediately after purchase of and prior to the use or sale thereof, submit to the state tax assessor a duplicate invoice of such tickets fully describing said tickets, and attach to said invoice a specimen or facsimile thereof. And any person using or selling any tickets of admission without first having submitted said invoice and description thereof to the state tax assessor as herein provided, shall be subject to all the penalties hereinafter imposed for use of improper tickets.

**Sec. 11. Sale of tickets reported.** Every person conducting a place of amusement where tickets are sold subject to the tax herein imposed, shall file a monthly report with the state tax assessor, on or before the 10th day of each month, showing the number of tickets sold during the preceding month, giving the serial number of the 1st and last ticket included in said report, and the value thereof. The state tax assessor shall keep a record in his office of the tickets reported as obtained for use, and of the tickets reported as sold by numbers as reported by the person conducting the place of amusement, at the beginning and end of each month.

**Sec. 12. Additional information required.** The state tax assessor is hereby empowered to require such additional information and reports, and to require every person operating a place of amusement subject to tax under the provisions of this act to keep such records, as will fully disclose the amount of tax levied and imposed under the provisions hereof.

**Sec. 13. Season tickets to be approved and reported.** In cases where season ticket or tickets are sold, such tickets shall be in the form prescribed by the state tax assessor, and the approval thereof by the state tax assessor shall be obtained before such tickets are sold; and every such ticket shall be numbered consecutively and a report thereof made as hereinabove provided, which report shall show the total number of such tickets issued or printed and the number sold, and all such tickets shall have printed thereon the price for which they are sold and the amount of tax due thereon.

**Sec. 14. Operator may collect tax.** The operator of any place of amusement in this state may collect the tax imposed by section 2 of this act, in addition to the price charged for admission to any place of amusement, but under all circumstances the person conducting the amusement shall be liable for, and pay the tax imposed, regardless of the price at which any ticket may be sold, or given away, the tax to be based upon the customary charge for such admission; and where free passes are issued, the same shall be numbered and identified in such a way as to readily determine the amount of tax due on account thereof.

**Sec. 15. Operator not to loan tickets.** No operator of a place of amusement shall sell, loan or provide admission tickets to any other operator of a place of amusement or for any other place of amusement if operated by him except upon the written consent of the state tax assessor granted upon his application therefor.

**Sec. 16. Collection of tickets.** As each patron is admitted to a place of amusement his ticket shall be collected and immediately torn in 2 parts, approximately through the center, the  $\frac{1}{2}$  given to the patron, and the other  $\frac{1}{2}$  retained by the ticket taker; and when season tickets or tickets issued for 2 or more performances, are used, the ticket taker shall punch or mark the tickets in such a way as to indicate the performance for which it is used and may return same to the holder.

**Sec. 17. Penalty for using tickets not authorized.** If any person conducting a place of amusement for which a tax is imposed by this act, shall use tickets of any form other than prescribed by the state tax assessor, and which have not been reported to said state tax assessor before

use, by filing duplicate invoice of purchase, or shall fail to make report of tickets sold and pay the tax thereon, when due, or make a false statement or incorrect invoice, or shall refuse the state tax assessor or his authorized agent or representative permission to inspect his books and records for the purpose of determining the amount of tax due, there shall be added to the amount of tax, due, as a penalty for the violation of the act, 100% of the amount of such tax, which shall immediately be due and payable, and in addition thereto, such person shall be guilty of a misdemeanor and punishable therefor, as well as liable for the tax and 100% penalty.

**Sec. 18. Revocation of permit; notice; appeal.** In addition to the other penalties provided by this act, the state tax assessor may revoke the permit of any person failing to comply with any and all of the requirements of this act, or any rule or regulation promulgated hereunder. When any permit is revoked, the state tax assessor shall send by registered mail to the person holding same, formal written notice of such revocation, and such person shall have the right at any time within 10 days from the date of mailing of such notice, to appeal to the state tax assessor praying for a review and revision of such revocation upon such grounds as the taxpayer may deem proper to base such appeal; and upon the filing of such appeal, the state tax assessor shall promptly fix a date for the hearing thereof, as soon as practicable, and shall notify all parties in writing of the time and place of such hearing. If upon such hearing the state tax assessor shall decline to rescind its act of revocation of the permit, the person aggrieved may, within 10 days of the date of such hearing appeal to the circuit court of the county where such place of amusement was conducted; such appeal shall be taken in the form of objections and exceptions to the order of the state tax assessor, which shall be accompanied by the records of the state tax assessor, and a transcript of the testimony before said state tax assessor, in the case, which shall constitute the record in the circuit court. The appeal shall be granted by the state tax assessor upon the filing of a bond by the appellant, with sufficient sureties in a penal sum sufficient to cover all taxes and penalties in arrear, and all taxes to accrue pending a final hearing, and all costs; and the circuit judge shall hear the appeal in vacation on written demand of the party appealing, after the said party shall have given 5 days' notice in writing to all parties concerned.

**Sec. 19. Penalty for re-use of tickets.** Any person who alters, restores, or otherwise prepares in any manner whatsoever, any admission tickets with intent to use or cause to be used by any person at a place of amuse-



ment or in the conduct of an amusement liable to taxes under this act; after such ticket has already been so used, or knowingly or wilfully buys, sells, offers for sale, or gives away any such restored or altered ticket, to any person for use, or knowingly uses the same, or has in his or its possession any altered or restored ticket which has been previously used for the purpose for which it was originally intended; or any person who prepares, buys, sells, offers for sale, or has in his possession any counterfeit ticket, or ticket other than that reported to the tax assessor as required by section 10 hereof, shall be guilty of a felony, and upon conviction, shall be punished by a fine of not more than \$1000, or by imprisonment for not more than 5 years, or by both such fine and imprisonment, in the discretion of the court.

**Sec. 20. Time for reporting and payment of tax.** The tax imposed upon persons conducting permanent places of amusement and entertainment shall be due and payable monthly, between the 1st and 10th day of the month immediately succeeding the monthly period during which taxes have accrued, and persons liable for such tax shall, between the 1st and 10th day of each succeeding month make a true and correct return to the tax assessor, in such form as said tax assessor may prescribe, showing the number of and prices of admissions sold, and the donations and contributions received during the preceding month, and remit with said return the tax due. Persons conducting temporary or itinerant amusements or entertainments, shall report promptly and make remittance of all taxes due, immediately after each performance or entertainment, where only one performance or entertainment is conducted at one place in one day; and in the event that more than one performance or entertainment is conducted at one place in one day, the report and remittance shall be made at the conclusion of the last performance conducted on such day. Where performances or entertainments are conducted at the same place for a period of more than one day, but less than 30 days, the report and payment of taxes shall be made immediately after the termination of such period; and in case of failure of any person to make a true and correct report and remittance in accordance with the provisions hereinbefore contained, the state tax assessor may make the same upon the best information obtainable, and assess the tax thereon, and add a penalty of 10% and notify the taxpayer in such manner as he may deem proper under the circumstances.

**Sec. 21. Right of state tax assessor to make personal demand.** In case of a person conducting other than a permanent place of amusement or entertainment, the tax assessor may, through his duly appointed and qualified agent or representative, make personal demand upon the taxpayer

liable for such taxes, and require a report and payment thereof immediately upon the termination of any performance or entertainment, after which the tax shall become due under the provisions of this section, and upon failure of such taxpayer to make a proper report and pay the taxes due, such agent or representative may proceed in attachment against such taxpayer, and the failure or refusal of such taxpayer to make report and pay the tax upon demand, shall be deemed sufficient ground for such attachment and seizure of any property of the taxpayer available.

**Sec. 22. State tax assessor to make return for delinquent.** In case of a person conducting a permanent place of amusement or entertainment, who shall fail to make a proper return and pay the tax when due, the tax assessor may notify such taxpayer by mail of the fact that a return has been made, and a penalty of 10% of the tax imposed. If the tax and penalty be not paid within 10 days from the date of mailing of such notice, the tax assessor may proceed to collect said taxes and penalties through the proper officers, as other privilege taxes are collected, and said taxes and penalties shall be deemed a debt due to this state and collectible as such.

**Sec. 23. Errors corrected by tax assessor.** That the tax assessor shall correct errors in returns, refund or re-assess where errors occur, and upon notice from the tax assessor the taxpayer shall pay the re-assessment within 10 days, and if not then paid the tax assessor shall declare the tax due, add a penalty of 10% to the amount assessed, give notice of same and if such tax and penalty is not paid to the tax assessor on or before the 10th day after mailing such notice, the tax assessor shall proceed to collect the same as provided in the preceding section hereof. The taxpayer shall have the right of appeal from such assessment as in cases of revocation of permit.

**Sec. 24. Bond required of delinquent taxpayers.** If any taxes or penalties imposed by this act shall remain due and unpaid for a period of 10 days, after notification by the state tax assessor of delinquency, and assessment of penalty, the person responsible for the payment of such taxes and penalties, either or both, shall as a condition for the privilege of further operating such place of amusement, or any other place of amusement, pay such delinquent taxes and penalties thereon and be required to furnish a good and sufficient bond to be executed by a surety company authorized to do business in this state, in a sufficient amount to insure payment of all future taxes, the amount of which bond shall be determined by the tax assessor. Said bond shall be conditioned, for the payment of all taxes and penalties that may be lawfully assessed against the taxpayer, and shall continue in force so long as such taxpayer shall operate his place or places

of amusement, and in case such taxpayer shall operate more than one place of amusement, the bond shall be given in sufficient amount to insure the payment of future taxes and penalties for the privileges of operating all of said places of amusement; and said bond may be decreased if such should be found by the tax assessor to be unreasonable, and said assessor may require additional bond or bonds if for any reason a bond should be forfeited or become insufficient to secure the payment of the tax and penalties.

**Sec. 25. Tax assessor may restrain operation without permit.** Should any person attempt to operate a place of amusement without obtaining a permit, or continue the operation or conduct of any place of amusement or entertainment, after forfeiting the right to so continue, as provided herein, without complying with the provisions of this section as to payment of delinquent taxes and penalties, and execution of the bond required, then the tax assessor may restrain such person from the conduct of such place of amusement or entertainment, by applying to the proper court having jurisdiction of the person or place of amusement or entertainment for a restraining order to prohibit the continuance of such place, or the conduct of such amusement or entertainment, until the terms of this act are fully complied with.

**Sec. 26. Exemptions.** No tax shall be levied or collected upon any admissions charged at any place of amusement operated solely for the benefit of any religious, or charitable organization where the proceeds of such admissions do not inure to any one or more individuals; nor shall such tax apply to admissions charged at any athletic games or contests between high schools or grammar schools; nor to admissions to county, state or community fairs, or entertainments presented in community homes or houses which are publicly owned and controlled and the proceeds of which do not inure to any individual or individuals. The exemptions allowed in this section shall not apply to athletic games or contests between universities or colleges, nor to amusements in which professional performers or promoters are employed, or compensated out of the proceeds of such admissions received.

**Sec. 27. Fraudulent returns.** Any person who shall, knowingly submit any false or fraudulent return or statement of admissions required under this act shall be guilty of a misdemeanor.

**Sec. 28. State tax assessor to administer.** The administration of this act is hereby vested in the state tax assessor, who shall from time to time promulgate such reasonable rules and regulations not inconsistent with the

provisions of this act for making returns and for the ascertainment, assessment and collection of the taxes imposed hereunder, and in the enforcement of this act the said tax assessor may act through and by his duly authorized agents.

**Sec. 29. Part of act invalid not to affect entire act.** That if for any reason any section, paragraph, provision, clause, or part of this act shall be held unconstitutional or invalid, that section shall not affect or destroy any other section, paragraph, provision, clause, or part of this act not in and of itself invalid, but the remaining portions hereof shall be and remain in full force without regard to that so invalidated.

#### TITLE IV.

##### **Tax on Malt Beverages.**

**P. L., 1933, c. 268, § 19, amended.** Section 19 of chapter 268 of the public laws of 1933 is hereby amended to read as follows:

**'Sec. 19. Excise tax.** Whereas the license fees hereinbefore provided for under this act are for the purpose of regulating the manufacture and sale of malt beverages, now, therefore, in addition thereto, there is hereby levied and imposed an excise tax on all malt beverages ~~of \$1.24 on each and every barrel containing not more than 31 gallons and at a like rate for any other quantity or for the fractional parts of a barrel at the rate of 2 cents on each and every 12 ounces thereof and a tax at the same rate on such malt beverage in containers of more or less than 12 ounces.~~ The payment of said tax shall be evidenced by a stamp affixed to each barrel, bottle or other container containing malt beverages. Said stamp shall express the amount of the tax paid evidenced thereby. No malt beverage shall be sold in or from a container unless such stamp shall be affixed thereto.'

#### TITLE V.

##### **Tax on Spirituous and Vinous Liquors**

A tax of 10% on the sale price is hereby imposed on the purchase of all spirituous and vinous liquors sold in the state by the state after June 30, 1937. In case the amount of the tax to be collected does not result in even cents, the tax shall be for the next higher cent. In no case shall the tax be for less than 5 cents on any bottle. All price lists of the commission shall state the amount of the tax levied on each bottle. The Maine state liquor commission shall collect the said tax from the purchaser and pay the amounts into the state treasury.

## TITLE VI

**Tax on Sales of Manufactured Tobacco Products.**

**Sec. 1. Definitions of words and terms.** As used in this title, the word "act" shall mean "Title VI"; "person" includes firms,, corporations, co-partnerships and associations; "wholesale dealer" includes only those persons who sell manufactured tobacco products to licensed retail dealers or for purposes of resale only; "retail dealer" includes every person other than a wholesale dealer engaged in the business of selling manufactured tobacco products in this state, irrespective of quantity or amount or number of sales thereof; "sale" includes exchange, barter, gift, offer for sale and distribution and excludes transactions in interstate or foreign commerce; "package" means the individual package, box or other container in or from which retail sales of manufactured tobacco products are normally made or intended to be made; "manufactured tobacco products" include cigars, cheroots, stogies, cigarettes, snuff, chewing tobacco, and smoking tobacco. Nothing in this act shall be construed as requiring a tax to be paid on the privilege of selling leaf tobaccos.

**Sec. 2. Excise tax on sales of manufactured tobacco products; rate.** An excise tax is hereby levied and imposed on all sales, within this state, of manufactured tobacco products enumerated in section 1, at the rate of 1 cent for every 10 cents or fraction thereof of the retail selling price of each article or commodity so enumerated. Whenever the retail selling price of any such articles or commodities is referred to, as in this section, as a basis for computing the amount of the tax imposed by this section, it is intended to mean the ordinary, customary or usual price paid by the consumer for each individual cigar, package of cigarettes, package of smoking tobacco, etc., before the amount of the tax is added.

**Sec. 3. Payment of tax; method of affixing stamps.** The excise tax imposed by this act shall be paid by affixing stamps in the manner herein set forth. A stamp or stamps shall be affixed to each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. In the case of cigars, stogies, cheroots, and chewing tobacco, the stamps shall be affixed to the box, or container, in which or from which normally sold at retail. In the case of cigarettes, snuff, smoking tobacco and chewing tobacco wrapped in packages of 2 pounds or less, the stamps shall be affixed to each individual package. The stamp or stamps so affixed shall be prima facie evidence of the payment of the tax imposed under this act.

Each wholesale dealer in this state receiving any manufactured tobacco products at his place of business, shall affix to each package the stamp or stamps required under this section, and cancel the same by stamping his name and the date of cancellation across the face thereof, within 48 hours after the receipt of such manufactured tobacco products and in accordance with and subject to any rules or regulations presented by the state tax assessor under authority of this act, unless such stamps have been previously affixed. Each retail dealer in this state receiving any manufactured tobacco products at his place of business shall, within 24 hours after the receipt of such products and prior to their sale by him, affix the required stamp or stamps to each package and cancel the same by stamping his name and the date of cancellation across the face thereof, in accordance with and subject to any rules and regulations presented by the state tax assessor under authority of this act, unless such stamp or stamps have been previously affixed. In the event any manufactured tobacco products, enumerated in section 1 of this act, are manufactured within the state they shall be stamped by the manufacturer when and as sold.

**Sec. 4. Duplicate invoice; contents; copy of freight bill filed, when.**

At the time of delivering any manufactured tobacco products to any person, each wholesale dealer in this state shall make a true and duplicate invoice showing the date of delivery, the amount of and value of each shipment of manufactured products delivered and the name of the purchaser to whom delivery is made, and shall retain the same for a period of 2 years, subject to the use and inspection of the state tax assessor or his authorized deputies.

Every retail dealer in this state purchasing or receiving any manufactured tobacco products from without the state, whether the same shall have been ordered through a wholesale dealer in this state, or by drop shipment or otherwise, shall within 5 days after receipt of the same mail a duplicate invoice of all such purchases and receipts to the state tax assessor. In the event any manufactured tobacco products are shipped into the state, the railroad company, express company, or any other public carrier transporting any shipment thereof shall file with the state tax assessor a copy of the freight bill within 10 days after the delivery in this state of each shipment.

**Sec. 5. License required.** Every person engaged in the business of selling any manufactured tobacco products enumerated in section 1 above, shall within 30 days after this act becomes effective and annually thereafter on or before July 1 file with the state tax assessor an application

for a license permitting him to engage in such business. All applications for such licenses shall be filed on blanks furnished by the state tax assessor for that purpose and shall contain a statement including the name of the applicant, the postoffice address and the nature of the business, whether wholesale or retail, in which engaged and such other information as the treasurer of state may require. Every person hereafter intending to engage in such business shall, precedent to so engaging, file an application for a license in the manner and form herein required. At the time of making such application each such person desiring to engage in the wholesale business of selling manufactured tobacco products shall pay to the state tax assessor a license tax in the sum of \$25, or if desiring to engage in such retail business, such tax in the sum of \$2 for each place where he proposes to carry on such business. When such application is filed after July 1 the license tax required to be paid shall be proportioned in amount to the remainder of the license year, except that it shall not be less than  $\frac{1}{5}$  of the whole amount in any 1 year. The revenues and fines collected under the provisions of this section and section 15 shall be paid to the state tax assessor.

Upon receipt of an application for a license filed in accordance with the provisions of this section, together with the amount of fee required for license tax, the state tax assessor shall issue such license permitting the applicant to engage in the business of selling any or all of the manufactured tobacco products enumerated in section 1 of this act. Such license shall be displayed at all times in some conspicuous place at the place where such business is carried on.

**Sec. 6. Separate place of business; license not transferable.** In case any business is conducted at 2 or more separate places, a separate license for each place of business shall be required.

No license issued permitting the sale of any manufactured tobacco products shall be transferable and any license issued to any person who shall afterwards retire from business shall be null and void.

No person shall engage in the wholesale or retail business of selling any manufactured tobacco products without having a license therefor, except that in case of the dissolution of a partnership by death, the surviving partner, or partners may operate under the license of the partnership until the time of its expiration and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person so succeeded in possession by such heir, representative, receiver or trustee in bankruptcy. Provided, that anyone may be allowed to operate for 10

days after purchase of stock in bulk, pending granting of license upon application made promptly upon such purchase.

Nothing in this section shall be construed as requiring a license for the privilege of selling leaf tobaccos.

**Sec. 7. Dealer's license revoked upon conviction.** If a person convicted of any violation of this act is the holder of a wholesale or retail license, to sell manufactured tobacco products, the court may enter an order revoking such license and the clerk of the court shall certify a copy of such order in duplicate to the state tax assessor and thereafter such person shall be deemed and considered not to have obtained any license; provided, however, that after the expiration of 1 year from the date of such revocation such person shall be entitled to apply for such license.

**Sec. 8. Powers and duties of commission.** The state tax assessor shall design and procure the stamps herein provided for and shall enforce and administer the provisions of this act. The state shall have authority to promulgate such rules and regulations as it may deem necessary to carry out the provisions of this act and may adopt different detailed regulations applicable to diverse methods and conditions of sale of manufactured tobacco products in this state, prescribing, in each class of cases, upon whom, as between the wholesale dealer and the retail dealer, the primary duty of affixing stamps shall rest and the manner in which stamps shall be affixed. A copy of such regulations shall be furnished to each licensed dealer in this state in such a manner as the state tax assessor may determine. Any such rule or regulation so furnished, excusing a wholesale dealer from affixing stamps under the circumstances of the particular case, shall be a defense in the prosecution of such dealer for violation of section 3 of this act. All books, papers, invoices, and records of any wholesale or retail dealer in this state, whether or not required under the provisions of this act to be kept by him, showing his sales, receipts and purchases of manufactured tobacco products, shall at all times, during the usual business hours of the day, be open for the inspection of the state tax assessor or his deputies for such purpose; and the state tax assessor or his deputies shall have power to investigate and examine the stock of such manufactured products in and upon any premises where the same are placed, stored or sold, for the purpose of determining whether or not the provisions of this act are being obeyed.

**Sec. 9. Duplicate list of stamps compiled by the state tax assessor, sale of stamps, weekly report; discount allowed, when; unused or spoiled stamps redeemed, when.** The state tax assessor shall compile in duplicate a list



of all stamps procured by him showing the number and aggregate face value of each denomination procured by him and shall retain 1 such list and shall deliver the duplicate thereof to the state auditor. The state tax assessor shall sell the stamps and shall, on the 5th day of each month, make a report in duplicate showing all sales by him made during the preceding month, with the names of the purchasers and the number of each denomination and the aggregate face value purchased by each, and retain 1 copy thereof and deliver the other to the state auditor. The state tax assessor shall be accountable for all stamps received and unsold by him. Such stamps shall be sold and/or accounted for at the face value thereof, excepting that the state tax assessor is hereby authorized to sell the same to wholesale or retail dealers outside of this state at a discount of not exceeding 5% of such face value as a commission for affixing and cancelling such stamps; and excepting further that the state tax assessor is also hereby authorized to deliver such stamps to wholesale or retail dealers in this state or to wholesale dealers outside of this state on credit, allowing the same discount as when sold for cash, if and when the purchaser shall file with the state tax assessor a bond, payable to the state of Maine, in such form and amount as the state tax assessor shall prescribe, and with surety or sureties to the satisfaction of the state tax assessor, conditioned upon the payment for stamps so delivered within such period of time after delivery thereof as may be so prescribed and the making of such reports and settlements as may be required; and the state tax assessor may, by further regulations, provide for canceling, renewing or increasing such bond or for the substitution of the surety thereon. The state tax assessor shall redeem and pay for any unused or spoiled stamps on written verified requests made by the purchaser, his administrators, executors, successors, or assigns. Such payment shall be made from the proceeds of the act.

**Sec. 10. Certain town treasurers may be appointed deputies; duties; weekly report and payment to state tax assessor; per cent to deputies.** The state tax assessor may appoint certain town treasurers as his deputies for the purpose of selling such stamps, excepting that no town treasurer shall be thereby authorized to sell the same at a discount or on credit. It shall be the duty of any town treasurer so appointed, to act as such deputy, and all the powers and duties thereby imposed upon such town treasurer shall be deemed and considered to be within the scope of his office as town treasurer for all purposes. The state tax assessor shall be responsible for the delivery of stamps to any town treasurer so appointed, and may prescribe such regulations and forms of receipts and reports as he may deem necessary and advisable for the transaction of the business

of selling such stamps. Each such town treasurer shall pay weekly to the state tax assessor all moneys arising from the sale of such stamps by him together with a report showing the names of the purchasers and the number of each denomination and the aggregate face value purchased by each, which the state tax assessor shall include in his monthly report to the state auditor. But such town treasurer shall retain for his services an amount equal to 1% of the proceeds of such sales.

**Sec. 11. Seizure and sale of manufactured tobacco products, when; notice of sale; collection of tax; penalty and costs.** Whenever the state tax assessor or any of his deputies or employes authorized by him for such purpose shall discover any manufactured tobacco products, subject to tax as provided by this act, and upon which the tax has not been paid as herein required, the state tax assessor, or such deputy or employe is hereby authorized and empowered forthwith to seize and take possession of such manufactured tobacco products, which shall thereupon be deemed to be goods forfeited to the state and the state tax assessor may within a reasonable time thereafter by a notice posted upon the premises where such seizure is made, or by publication in some newspaper having circulation in the county wherein such seizure is made, at least 5 days before the day of sale, sell such forfeited goods, and from the proceeds of such sale shall collect the tax due thereon together with a penalty of 50% thereof and the costs incurred in such proceedings and pay the balance, if any, to the person in whose possession such forfeited goods were found; provided, however, that such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this act. Such sale shall be made in the county where most convenient and economical. All moneys collected under the provisions of this section shall be paid to the state tax assessor.

**Sec. 12. Revocation of license; procedure.** Upon notice and hearing the state tax assessor may revoke any wholesale or retail license for violation of any provisions of this act. The state tax assessor shall first notify the licensee in writing, specifying the violations charged and fixing the time, not less than 5 days after the date of service of such notice, and the place at which such licensee shall appear to show cause why his license **should not be revoked**. The state tax assessor shall, at the time and place so specified, accord to the licensee a hearing in person and by counsel. The licensee shall be entitled to offer evidence and to compel the attendance of witnesses and the production of books, papers and records. An appeal may be taken from the action of the state tax assessor in revoking a license to the superior court of the county in which the place of business of the

licensee is located, by filing a petition therefor with such court within 10 days from the date of the state tax assessor's order and giving bond to the state of Maine in the sum of \$100, with surety to the satisfaction of the clerk of such court.

**Sec. 13. Penalty for failure to affix stamps.** Whoever sells any manufactured tobacco products in this state without there having been first affixed to each package thereof the stamp or stamps required to be affixed thereto by this act shall be punished by a fine of not more than \$100, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment, at the discretion of the court.

**Sec. 14. Penalty for forging, altering or counterfeiting stamps.** Whoever falsely or fraudulently makes, forges, alters or counterfeits any stamp prescribed by the state tax assessor under the provisions of this act, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any such stamp, or knowingly and wilfully utters, publishes, passes or tenders as true, any such false, altered, forged or counterfeited stamp, or uses more than once any stamp provided for and required by this act for the purpose of evading the tax hereby imposed shall be imprisoned in the penitentiary for a term of not less than 1 year nor more than 10 years.

**Sec. 15. Penalty for failure to display license.** Whoever, being engaged in the business of selling any manufactured tobacco products enumerated in section 1 of this act, fails to post and keep constantly displayed in a conspicuous place at the place where such business is carried on, a license issued by the state tax assessor, shall be punished by a fine of not less than \$100 nor more than \$300 for the first offense and for each subsequent offense shall be punished by a fine of not less than \$300 nor more than \$500.

**Sec. 16. Penalty for other violations.** Whoever violates any of the provisions of sections 4 and 8 of this act, or any of the other provisions of this act or any lawful rule or regulation promulgated by the state tax assessor under authority of this act, for the violation of which no penalty is provided by law, shall be punished by a fine of not less than \$25 nor more than \$100.

**Sec. 17. State tax assessor may remit penalty.** The state tax assessor upon good cause shown, may at his discretion remit the penalty or penalties, or any part thereof, prescribed under any section of this act.

**Sec. 18. Assistant in state tax assessor's office; compensation.** The state tax assessor is hereby authorized to appoint a deputy whose duty it

shall be to administer and enforce the provisions of this act, including the collection of all stamp taxes provided for herein. In such enforcement the state tax assessor may call to his aid the attorney-general, any county attorney, or any peace officer of the state. The state tax assessor is further authorized to appoint such clerks or additional help as may be needed to carry out the provisions of this act. The compensation of all persons employed hereunder shall be approved by the governor and council and shall be paid from the revenues derived under the provisions of this act.

**Sec. 19. Disposition of proceeds.** The proceeds of revenues and fines collected under the provisions of this act shall be paid to the state tax assessor and credited to the tobacco tax fund. The state tax assessor shall remit to the treasurer of state all such revenues and fines under such rules and regulations as may be made by the state auditor. After the deduction of the costs of administration of this act the balance shall be credited by the state treasurer to the state school fund to be expended in accordance with the provisions of section 205 of chapter 19 of the revised statutes.

## TITLE VII.

### **Tax on Bottled Soft Drinks and Soft Drink Syrup**

**Sec. 1. Imposition of tax; rate.** There is hereby levied a tax upon the sale, use, consumption, handling or distribution of all bottled soft drinks and all soft drink syrups as hereinafter defined, as follows:

(a) On bottled soft drinks a tax of 1 cent on each 5 cents or fractional part thereof of the retail selling price thereof.

(b) On soft drink syrups a tax of 75 cents per gallon and a like or proportionate rate on more or less than a gallon.

**Sec. 2. Tax stamps and crowns provided.** The state tax assessor shall design and procure stamps of such size and denominations as he may determine upon. Stamps required to be affixed by the provisions of this act shall be so affixed that their removal will require continued application of steam or water. All soft drink tax stamps shall be purchased from and sold by the state tax assessor.

The state tax assessor is hereby empowered and directed to authorize the manufacture of soft drink tax crowns, and to promulgate rules and regulations covering the purchase, sale and distribution of soft drink tax crowns, with which to seal said bottled soft drinks. Said crowns shall carry a design approved by the state tax assessor, the use of which crowns shall be evidence of the payment of taxes provided for in this act. Manufacturers or distributors of crown shall be required to furnish bond satis-

factory to the state tax assessor to insure faithful compliance with such regulations. All purchasers of crowns shall be required to purchase crowns in accordance with rules and regulations promulgated by the state tax assessor. The price to be paid by purchasers of crowns shall be the manufacturers' price, plus all transportation charges to consignee at destination, and in addition thereto, shall be 1 cent per crown when to be used upon bottled drinks retailing for 5 cents each or less; 2 cents per crown when to be used upon bottled drinks retailing for more than 5 cents but not more than 10 cents each; 3 cents per crown when to be used upon bottled drinks retailing for more than 10 cents but not more than 15 cents, so that the tax will equal 1 cent for each 5 cents or fractional part thereof of the retail selling price, so as to comply with the soft drink license tax herein required.

Provided, further, that said stamps and crowns which are provided for in this act shall be supplied by the state tax assessor to all licensed soft drink dealers in the state at a discount of 5% from the tax value, when purchased in quantities of not less than \$100 face value; that said stamps or crowns may be supplied by said state tax assessor in any less quantity at face value to any and all persons, firms, corporations and association of persons, whether they may or may not be dealers in said products subject to tax in this act. All crowns shall be purchased through and upon order approved by the state tax assessor.

**Sec. 3. Purpose of act; exemptions.** It is the intent and purpose of this act to require all manufacturers and dealers in bottled soft drinks to affix either soft drink tax stamps or soft drink tax crowns to each individual bottle of soft drinks sold, used, consumed, handled or distributed, and when said stamps or crowns are so affixed, they shall be evidence of the payment of taxes provided therein. In the event the manufacturers of bottled drinks, either in or without the state, shall use the soft drink tax crown as herein provided for, the said manufacturer shall be relieved of the duty of stamping each individual bottle. Milk drinks sold direct to school children on school premises, or sold through a school organization to school children on school premises shall be exempt from the tax levied by this act. It is the intent and purpose of this act to levy an excise tax on all bottled soft drinks and syrup as defined in this act, when sold, used, consumed, handled or distributed in this state and to collect same from the dealer who first distributed, used, or handled the same within the state.

Where a dealer gives away bottled soft drinks or syrup for advertising or for any other purpose whatsoever, the same shall be taxed in the manner as if it were sold, used, consumed, handled or distributed in the state.

**Sec. 4. Dealers' permits; applications.** Every person, firm, corporation or association of persons in this state selling or about to engage in the business of either a retail dealer or a wholesale dealer in any or all of the article or articles taxed hereunder shall first apply to and obtain from the state tax assessor a permit or permits to engage in the business of wholesale dealer or retail dealer, as the case may be, and shall obtain a separate permit for each place of business of such dealer; and shall pay to the state tax assessor a fee of \$1 for each permit.

Application for permits must be subscribed by the person owning the business or having an ownership interest therein. If the applicant is a corporation, a duly authorized agent shall execute the application. The application shall be made on blanks to be provided and furnished by the state tax assessor and shall, in addition to such other information as the said state tax assessor may require, show the name of such dealer, and in case of partnership the name of each partner thereof, the dealer's post office address, whether the application is for a permit as a wholesale dealer or as a retail dealer and a statement giving the location of the place of business as to which the permit shall apply; and in the case of retail dealers the nature of any businesses carried on at the same place. Permits shall expire with the current year in which they are issued, but may be renewed on like application. The state tax assessor, after notice and opportunity for hearing, under regulations to be made by him, shall have jurisdiction, power and authority to revoke the permits of any wholesale dealer or any retail dealer for violation of this law, or for wilful or persistent violation of regulations made thereunder.

**Sec. 5. Wholesaler to affix stamps and crowns; bond; reports.** Every wholesale dealer in this state shall immediately after receipt of any unstamped syrup or any bottled soft drinks, unless sooner offered for sale, cause the same to have the requisite denominations and amount of stamp or stamps to represent the tax affixed as stated herein, and to cause same to be cancelled by writing or stamping across the face of each stamp the permit number of such wholesale dealer. The stamping of said unstamped syrup or bottled soft drinks shall actually begin within 1 hour after receipt of syrup or bottled soft drinks in the premises of the wholesale dealer, and said stamping shall be continued with reasonable diligence by the wholesale dealer until all of the unstamped taxable articles have been stamped and the stamps cancelled as provided by law.

Each and every wholesale dealer in syrup and bottled soft drinks in this state is required to furnish to the state tax assessor a bond in the minimum amount of \$1000, guaranteeing the payment of all taxes and penalties levied by this act, said bond to be executed by a surety company duly

qualified to do business in this state. The tenor, solvency and minimum amount of said bond shall be satisfactory to the state tax assessor; the maximum amount of said bond shall depend upon the volume of business of the said wholesale dealer and must be in an amount sufficient in the discretion of the state tax assessor to guarantee the state against any and all losses for taxes and penalties levied by the provisions of this act.

**Sec. 6. Records to be kept; reports; examination of records.** Every wholesale dealer shall at the time of shipping or delivering any articles taxable under this act make a true duplicate invoice of the same which shall show full and complete details of this sale or delivery of the taxable article, and said dealer shall retain the same subject to the use and inspection of the state tax assessor for a period of 2 years. Wholesale dealers shall also keep a record of purchases of all articles taxable under this act purchased by them, and hold all books and records pertaining to the purchase and sale of such articles open to the inspection of the state tax assessor for a period of 2 years.

Every wholesale dealer shall furnish to the state tax assessor a monthly report on the 5th day of each respective calendar month of all orders for articles taxable under this act purchased through said wholesale dealer from without this state on a drop shipment and consigned direct to the person, firm, corporation or association of persons ordering such taxable articles from without this state through such wholesale dealer.

After and upon examination of invoices of the dealer, should the state tax assessor find that any of the taxable articles have been sold, used, consumed, handled or distributed without stamps or tax crowns affixed, as the case may be, required in this act, he shall have the power to require such person, firm, corporation or association of persons to pay into the state treasury through him a sum equal to not less than twice the amount of the tax due. If upon examination of invoices the dealer is unable to furnish evidence to the state tax assessor of sufficient stamp or tax crown purchases to cover unstamped taxable articles purchased by him, the prima facie presumption shall arise that such taxable articles were sold, used, consumed, handled or distributed without the proper stamps or tax crowns affixed thereto.

**Sec. 7. Duty of retail dealer to affix stamps; records to be kept.** Every retail dealer shall, except in case of syrup and soft drinks on which the tax has been paid by the proper affixing of crowns and stamps and the cancellation of stamp or stamps by a wholesale dealer, affix the stamp or stamps for the wholesale dealer, affix the stamp or stamps for the denominations and amount necessary to represent the tax on each indi-

vidual article and cancel the same by stamping his permit number across the face of each stamp, in the manner required by this act, the same to be done, in all cases, immediately upon receipt by the retail dealer of the unstamped taxable articles.

If and whenever any of the articles taxed in this act are found in the possession of any retail dealer or any other person, firm, corporation or association of persons, without the stamps affixed and cancelled, except as may be provided by rules and regulations, the prima facie presumption shall be that such articles are kept in violation of the provisions of this act. Retail dealers shall keep a record of purchases of all syrups and bottled soft drinks purchased by them and all simple syrup made, compounded or manufactured by them, and shall hold all books and records pertaining to purchase, sale or manufacture of such taxable articles open to the inspection of the state tax assessor or his duly authorized agents for the period of 2 years.

Every retail dealer in taxable articles as set out in this act purchasing or receiving any taxable articles from without the state, whether the same shall have been ordered through a wholesale dealer within this state or by drop shipment, or otherwise, shall within 24 hours after receipt of same, mail a duplicate invoice of all such purchases or receipts to the state tax assessor.

**Sec. 8. Duties, powers and authority of assessor; refunds.** It is hereby made the duty of the state tax assessor to collect, supervise and enforce the collection of all taxes and penalties that may be due under the provisions of this act, and to that end the said state tax assessor is hereby vested with all the power and authority conferred by this act. He is further authorized and empowered to promulgate rules and regulations to provide for the collection of the amount of tax due on all bottled soft drinks and syrup taxable under the provisions of this act in possession of dealers, on the effective date of this act, so as to prevent any bottled soft drinks and syrup being sold within this state, without the tax herein provided for being paid.

The state tax assessor may promulgate rules and regulations providing for the refund to dealers for the cost of stamps and the amount of tax paid on soft drink tax crowns affixed to goods, which, by reason of damage, become unfit for sale and are destroyed by dealer or returned to manufacturers or jobbers. The refund herein referred to shall be made only on a proper showing and authentic proof by the dealer satisfactory to the state tax assessor. He is further authorized and empowered to promulgate rules and regulations for the refund to dealers for unused tax stamps and tax value of unused tax crowns.



**Sec. 9. Definitions.** As used in this act: "Dealer" shall include every person, firm, corporation or association of persons manufacturing or importing any bottled soft drinks or soft drink syrup as herein defined for distribution, sale use, or consumption within this state.

"Wholesale dealer" shall include only those dealers who shall sell any bottled soft drinks or soft drink syrup as herein defined to licensed retail dealers for the purpose of resale.

"Retail dealer" shall include every dealer, other than a wholesale dealer, as defined above, who shall sell or offer for sale said taxable articles irrespective of quantity or amount or the number of sales.

"Retail selling price" means the ordinary, customary or usual price paid by the consumer.

"Place of business" shall be construed to include the place where orders are received, or where articles taxed under this act are sold, or if sold upon a railroad train or on or from any other vehicle, the vehicle on which or from which such taxable articles are sold shall constitute a place of business.

"Bottled soft drinks" shall include any and all beverages, whether carbonated or not, and whether manufactured or not without use of any syrup, such as soda water, gingerale, nu-grape, coco-cola, lime-cola, pepsi-cola, fruit juice, milk drinks when any flavoring or syrup is added, cider, cordial, bottled carbonated water, or any and all bottled preparations commonly referred to as soft drinks of whatsoever kind and description.

"Soft drink syrup" shall be defined as being the compound mixture or basic ingredient used in the making, mixing or compounding of soft drinks as soda fountains by the mixing with same of carbonated or plain water, ice, fruits, milk or any other product suitable to make a soft drink, among such syrups being such products as coco-cola syrup, chero-cola syrup, lemon syrup, vanilla syrup, chocolate syrup, rock candy syrup, simple syrup, nu-grape syrup, cherry smash syrup or all prepared syrups sold or used for the purpose of mixing soft drinks at soda fountains. "Simple syrup" is further defined to mean any syrup made, mixed, compounded or manufactured by dissolving sugar and water or any other mixture that will create what is commonly referred to as simple syrup for use at soda fountains.

**Sec. 10. Penalty.** Each of the following acts is declared to be a misdemeanor and punishable as such; provided that the minimum fine shall be \$25 in case of convictions:

(a) To sell or offer for sale at wholesale or at retail any of the articles herein taxed without first having procured a permit as a wholesale or retail dealer, accordingly as the case may be.

(b) To sell, except as a licensed wholesale dealer engaged in interstate commerce as to articles herein taxed sold in interstate commerce, any of the articles taxed herein without the stamp or stamps or crowns herein provided for first being affixed and cancelled as herein provided.

(c) To violate any lawful rule and regulation made and published by the state tax assessor hereunder.

(d) To use any stamp or stamps more than once; or to remove, erase, alter, or deface the cancellation mark or marks on any stamp.

(e) To refuse to allow, on demand, the state tax assessor or any officer or any of his agents to make a full inspection of any place of business where any of the articles herein taxed are sold or in any other wise to hinder or prevent such inspection.

(f) For any person, firm, corporation or association of persons to have in possession any of the articles herein taxed unless the same shall have the proper stamps or crowns affixed thereto.

**Sec. 11. Part of act invalid not to affect entire act.** That if for any reason any section, paragraph, provision, clause, or part of this act shall be held unconstitutional or invalid, that section shall not affect or destroy any other section, paragraph, provisions, clause or part of this act not in and of itself invalid, but the remaining portions hereof shall be and remain in full force without regard to that so invalidated.