

# MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

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Legislative Document

No. 700

S. P. 370

In Senate, February 16, 1937.

Referred to Committee on Temperance and 500 copies ordered printed.  
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Worthen of Penobscot.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-SEVEN

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**AN ACT to Regulate and Restrain the Manufacture, Sale, Transportation, Importation, Traffic in and Use of Liquor, Malt Liquor, Wine and Spirits and to Increase the Fees for Licenses.**

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**Emergency preamble.** Whereas, there is urgent necessity for amendment to existing legislation regulating and restraining the manufacture, transportation, sale and consumption of intoxicating liquors, malt liquors, wines and spirits to correct abuses that have arisen since the enacting of such laws; for the purpose of defining and limiting the rights and privileges granted under such laws and to provide for a more rigid enforcement thereof; and

Whereas, a continuation of the abuses that have arisen under the existing laws is injurious to the public health, peace and safety of the citizens of the state; and

Whereas, there is urgent need for additional revenue to meet new demands upon the state to promote health, happiness and comfort of its citizens; and

Whereas, the malt liquor license fees as now provided are inadequate and ought to be increased; 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, requires 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. P. L., 1935, c. 179, § 1, amended.** Section 1 of chapter 179 of the public laws of 1935 is hereby amended to read as follows:

**‘Sec. 1. Powers and duties.** The state liquor commission shall have general supervision of the business of manufacturing, importing, storing, transporting and selling liquor, and shall have power to issue, remove, suspend and revoke all licenses and to hold hearing. It shall refuse to issue licenses to persons, including individuals, corporations, associations or partnerships who have been convicted, or whose officers have been convicted of a breach of any state or federal law relating to the manufacture, sale or transporting of intoxicating liquor within 5 years next prior to the filing of his or its application. The commission shall have power to import spirits and wines and shall have exclusive control of the sale of all liquors. It shall have power to remove employees for cause. **The commission shall designate from among its employees certain persons to be known as inspectors who shall have all of the powers and shall perform the duties in the enforcement of the laws relating to malt liquors, wines and spirits and for violation of any provision of the state liquor license law relative to the sale of malt liquors, wines and spirits as have sheriffs and their deputies.’**

**Sec. 2. P. L., 1933, c. 300, § 4, amended.** Section 4 of chapter 300 of the public laws of 1933 is hereby repealed and the following enacted in place thereof:

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

**“Commission” shall mean the state liquor commission.**

**“Person” shall mean an individual, co-partnership, corporation or voluntary association. Whenever used in a clause prescribing or imposing a penalty or requiring the performance or non-performance of any act, as applied to “association,” shall mean the partners or members thereof, and, as applied to “corporation” shall mean the officers thereof, except, as to incorporated clubs, the term “person” shall mean such individual or individuals who under the by-laws of such club shall have jurisdiction over the possession and sale of liquor therein.**

“Association” shall mean a partnership, a limited partnership or any form of unincorporated enterprise owned by 2 or more persons.

“Corporation” shall mean a corporation or joint stock association organized under the laws of this state, the United States or any other state or foreign country or dependency.

“Liquor,” any alcoholic beverage fit 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.

“Manufacturer” shall mean any person, association or corporation within or without the state engaged in producing, manufacturing, distilling, rectifying or compounding of liquor, malt liquor, wine or spirits.

“Package” shall refer to liquor, wine or spirits and shall mean any container or containers or receptacle used for holding liquor, wine or spirits as marketed by the manufacturer.

“Original Container” shall be applied to malt liquor and shall mean and include bottles or other suitable containers that have been securely capped, sealed or corked by the manufacturer at the place of manufacture with the name and address of the manufacturer permanently affixed to the bottle or container or to the cap or cork used in sealing the same, or to a label securely affixed to the bottles.

“Hotel” shall mean any reputable place operated by respectable persons of good reputation where the public may for a consideration obtain sleeping accommodations with meals and which in a city has at least 10, and in any other place, at least 6 permanent bed-rooms for the use of guests, a public dining room accommodating at least 30 persons at one time, and a kitchen apart from the public dining room in which food is regularly prepared for the public. Summer hotels, summer clubs and summer restaurants shall mean those hotels, clubs and restaurants which operate only between the 1st day of May and the following October 1st.

“First class restaurant” shall mean a reputable place operated by responsible persons of good reputation, and habitually and principally used for the purpose of providing meals for the public; the place to have an area within a building of not less than 500 square feet, equipped with tables and chairs accommodating at least 50 persons at one time, and a kitchen apart from such area, regularly used for the preparation of food for the public, and in which kitchen at least 3 persons are regularly em-

ployed in the preparation of meals incidental thereto, and where not over 25% of the revenue of said restaurant is received from the sale of malt liquors.

“Second class restaurant” shall mean a reputable place operated by responsible persons of good reputation, having a total area of not less than 300 square feet available to the public in other than living quarters, and equipped with tables and chairs and other equipment to accommodate 15 persons at one time, and where more than 25% of the revenue of such restaurant is received from the sale of malt liquors.’

Sec. 3. P. L., 1933, c. 268, § 15, amended. Section 15 of chapter 268 of the public laws of 1933 is hereby repealed and the following enacted in place thereof:

‘Sec. 15. Persons to whom licenses shall not be granted. No license shall be issued to any natural person unless he shall be 21 years of age, and shall have been a citizen of the United States, and of this state for a period of at least 2 years. No license shall be issued to an association unless all persons having an interest therein shall be citizens of the United States, and shall have been a citizen of this state for at least 2 years. No license shall be issued to any corporation, unless it shall be incorporated under the laws of Maine, or authorized to transact business within the state of Maine, and unless all of its officers and directors are citizens of the United States, and shall have been citizens of the state of Maine for a period of at least 2 years, and unless a majority of the stock of such corporation is actually owned, (both legally and equitably) by natural persons who are citizens of the United States, and have been citizens of the state for at least 2 years. No person, firm or corporation, having had his or its license under this act revoked for cause shall be granted a license until the expiration of 5 years from the date of such revocation. No license under this act shall be issued to any person, firm, or corporation, who within 5 years next prior to his or its application therefor has been convicted of violating any of the laws of the state of Maine or of the United States of America with respect to the manufacture or sale of intoxicating liquors.

All applicants for license shall be required to file applications in such form as the commission shall require, and every application shall disclose the complete and entire ownership in the establishment for which a license is requested. All questions required to be answered in applications for licenses shall be sworn to, and intentional, untruthful answers shall constitute the crime of perjury. All applications must be signed and sworn to by a natural person who has full knowledge of the facts involved.

Every applicant for an original license, or for a renewal of license, shall remit to the commission a filing fee of \$10.'

Sec. 4. P. L., 1933, c. 268, § 8, amended. Section 8 of chapter 268 of the public laws of 1933 is hereby repealed and the following enacted in place thereof:

'Sec. 8. License for wholesalers. Licenses for sale and distribution of malt liquors at wholesale under such regulations as the state liquor commission may prescribe may be issued by the commission upon an application in such form as may be prescribed by said commission upon payment of an annual fee of \$300 for the principal place of business, and \$300 for each additional warehouse maintained by such wholesale licensee.

Such wholesalers' licenses may be transferable as to premises in the town originally specified or to premises in another town.

A manufacturer's license issued under the preceding section shall include the right to such licensee to sell and distribute malt liquors at wholesale without the payment of any additional fee.'

Sec. 5. P. L., 1933, c. 268, § 13, amended. Section 13 of chapter 268 of the public laws of 1933, as amended by chapter 179 of public laws of 1935 is hereby repealed and the following enacted in place thereof:

'Sec. 13. Retail license fees. The fee for licenses for each hotel, first class restaurant, club, passenger boat and dining car, for consumption on the premises only, shall be \$100 per annum; for other retailers not authorized to sell for consumption on the premises \$50 per annum, for each place to which licenses apply; providing that the commission may fix the license fee for summer hotels, summer clubs and summer first class restaurants as hereinbefore defined, from \$25 to \$100, depending upon the size of such hotel, club and first class restaurant, and their volume of business.

The annual fee for the second-class restaurant as herein defined shall be \$200 per annum providing that the commission shall not issue any additional second-class restaurant licenses in any municipality if the number of second-class restaurant licenses in any such municipality shall exceed one license to every 1000 of the population of said municipality as number of second-hand restaurant licenses in such municipality shall not be construed to affect any existing licenses, but if any of such existing licenses shall not be renewed by said licensee or if any such existing licenses have been revoked by the commission, such licenses shall not be replaced by any new licenses if the number of such second-class restaurant

licenses in the municipality shall exceed 1 to each 1000 of population in such municipality according to the last preceding United States census.

All existing licenses unless revoked shall be in full force and effect until the 1st day of July, 1937.'

**Sec. 6. Prohibiting dancing or entertainment in licensed premises.**

No licensee shall permit in the licensed premises contiguous or adjacent thereto, under his control, any music, except radio, any dancing or entertainment of any sort unless the licensee shall have first obtained from the commission a special amusement permit for which he shall pay to the commission a filing fee of \$10 and a permit fee of \$100. Such permit shall be valid only for the license year of the existing license for the sale of malt liquor. The commission shall not issue such permits unless the applicants shall have first obtained the approval of the municipal officers of the municipality in which his licensed premises are situated, and each permit shall require that the music, dancing, or entertainment provided shall not, in any event, continue beyond the legal hours for the sale of malt liquors, and that if the laws of the municipality in which the licensed premises are situated shall fix an earlier closing hour for music, dancing, or entertainment, than the hour provided by law for the closing of licensed premises licensed for the sale of malt liquor, such music, dancing, or entertainment shall cease at the hour fixed by the municipality.

**Sec. 7. Licensees shall not sell on credit.** No licensee shall sell, or offer to sell, any malt liquor, wine or spirits, except for cash, excepting credits extended by a hotel or club to bona fide registered guests or members. No right of action shall exist to collect any claims for credits extended contrary to the provisions of this section. Nothing herein contained shall prohibit a licensee from giving credit to a purchaser for the actual price charged for packages or original containers to be returned by the original purchaser as a credit on any sale, or from refunding to a purchaser the amount actually paid by such purchaser for packages or original containers.

No licensee shall sell, offer to sell, or furnish any liquor, malt liquor, wines, or spirits to any person on a pass book or store order, or receive from any person any goods, wares, merchandise or other article in exchange for liquor, malt liquors, wines, or spirits, except only such packages or original containers as were originally purchased from such licensee by the person returning the same. No licensee shall sell, furnish, give, serve, or permit to be served any liquor, malt liquor, wine, or spirits to any person visibly intoxicated, to any insane person, to a known habitual drunkard,

to persons of known intemperate habits, or to any minor under the age of 18 years.

**Sec. 8. Advertising signs.** No licensee shall advertise or hold out for sale any malt liquor by trade name or other designation which would indicate the manufacturer or place of manufacture of such malt liquor unless he actually have on hand and for sale a sufficient quantity of the particular malt liquor so advertised to meet requirements to be normally expected as the result of such advertisement or announcement.

No licensee shall furnish or serve any malt liquor from any faucet, spigot, or other dispensing apparatus, unless the trade name or brand of the malt liquor served shall appear in full sight of the customer in legible lettering upon such faucet, spigot, or dispensing apparatus, and the names of such malt liquors in letters 3 inches high shall be plainly posted upon the counter or wall in plain sight of the customer.

No licensee shall directly or indirectly offer or give any liquor, malt liquor, wine, or spirits, or any price premium, gift or inducement of any sort to other trade or consumer buyers, except such advertising novelties of nominal value which the commission has approved.

No licensee shall offer to pay, make, or allow, and no licensee shall solicit or receive any allowance, rebate, refund, or concession, whether in the form of money or otherwise, in connection with the purchase of liquors, malt liquors, wines, or spirits, dealt in by such licensee.

**Sec. 9. Licensee to keep records.** Every licensee shall keep for a period of at least 2 years complete records separate and apart from records relating to any other transactions engaged in by the licensee showing all transactions of the licensee in liquor, malt liquors, wine and spirits and particularly showing the date of all purchases, the actual price paid therefor, and the fact that the licensee received cash for all liquors, malt liquors, wine or spirits sold by him at the time of or prior to delivery of such liquors, malt liquors, wine or spirits, also the name and address of the persons from whom such liquors, malt liquors, wines and spirits were purchased, and in the case of wholesalers, the names and addresses of the purchasers of said malt liquors. All such records shall be open to the commission or its representatives at any time and the commission or its representatives shall have the right to make copies thereof.

No licensee shall refuse the commission or its representatives the right to completely inspect the entire licensed premises at any time or to audit the books and records of the licensee at any time.



**Sec. 10. Employees of licensee.** No licensee, except with the specific approval of the commission, shall employ, accept service from or permit service to be rendered by any minor under the age of 18 or by any person who would be ineligible to receive a license from the commission.

**Sec. 11. Licensee not to be indebted.** Beginning 60 days after the enactment of this act, no person shall be issued a license or a renewal of a license by the commission, if he shall be indebted in any manner directly or indirectly to any other person for liquor, malt liquor, wine or spirits. It shall be unlawful for any licensee or any applicant for license directly or indirectly to receive any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person, association or corporation within or without the state if such person, association or corporation shall be engaged directly or indirectly in the manufacture, distribution, sale, storage or transportation of liquors, malt liquors, wines or spirits; or if such person, association or corporation shall be engaged in the manufacture, distribution, sale or transportation of any commodities, equipment, materials or advertisements used in connection with the manufacture, distribution, sale, storage or transportation of liquors, malt liquors, wines or spirits. No license shall be issued for any premises in which any interest whatsoever is owned or controlled, directly or indirectly by any person, association, or corporation within or without the state engaged or interested directly or indirectly in the manufacture, distribution, sale or transportation of liquor, malt liquors, wines or spirits. This section shall not prohibit any wholesaler from receiving normal credits for purchase of malt liquors from manufacturers thereof within or without the state.

No licensee shall issue, publish, post or cause to be issued, published or posted any advertisement of a malt liquor including a label which shall refer in any manner to the alcoholic strength of the malt liquor manufactured, sold or distributed by such licensee or used in any advertisement or label such words as "full strength," "extra strength," "high test," "high proof," "pre-war strength," or similar words or phrases which would indicate or suggest alcoholic content, or use in any advertisement or label any numeral unless adequately explained in type of the same size, prominence and color. It shall likewise, be unlawful for any licensee to purchase, transport, sell or distribute any malt liquors advertised or labeled contrary to the provision of this section.

**Sec. 12. Fee for soliciting business.** The commission is hereby authorized and directed to require from all persons engaged outside the state of

Maine in the manufacture, sale or distribution of liquor, malt liquor, wine or spirits, an annual fee of \$500 from each such person for permission to solicit any business within the state of Maine. Such permit shall authorize the permittee to employ within the state 1 representative who must be registered with the commission and receive such identification data as the commission shall prescribe. If such permittee shall desire to employ additional representatives within the state, the commission may issue such authority upon payment to the commission of an additional annual fee of \$50 for each such additional representative who must likewise be registered with the commission, and receive such identification data as the commission shall prescribe. Any person who shall solicit business for a person not so registered shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than \$100 nor more than \$300 and costs or imprisonment for not more than 2 months, or both said fine and imprisonment. Any person who shall have been permitted or authorized to solicit business within the state of Maine and shall thereafter permit solicitation by unauthorized representatives shall be guilty of a violation of this section and the commission shall immediately revoke the permit theretofore granted to such person. Any licensee who shall place any orders with or through any unauthorized solicitor shall have his license revoked immediately. In all cases where a person shall apply for such permit, he shall agree as a condition for receiving the permit that the proper officers of the commission shall be permitted at reasonable times, at the expense of the permittee to inspect the books of the permittee which relate in any manner to sales in the state of Maine.

**Sec. 13. Gasoline and malt liquor.** No license shall be issued by the commission for any premises in connection with which there is operated a gasoline filling station, the gasoline business of which shall be the major portion of the activity in connection with such premises.

**Sec. 14. Attorney.** The governor and council are authorized to appoint an attorney at law to conduct license hearings on application for licenses or revoking of licenses and render such other services as the commission may request.

**Sec. 15. Licenses revoked or suspended.** Section 16 of chapter 268 of the public laws of 1933 is hereby amended by adding at the end thereof the following: **'In all cases where the commission shall revoke a license, the licensee may appeal to a justice of the superior court in term time or vacation, within 10 days from the date of such revocation. In such case the said justice shall review the testimony upon which the revocation was based**

and in his judgment, to be declared immediately upon conclusion of such hearing, shall either approve or reverse the action of the commission. There shall be no further appeal. In all cases of appeal to the said justice, the costs shall follow the judgment of the justice, and shall be paid either by the licensee or the commission as the appeal may be determined.'

**Sec. 16. P. L., 1933, c. 268, § 19, amended.** Section 19 of chapter 268 of the public laws of 1933 is hereby repealed and the following enacted in place thereof:

'**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 liquors, now, therefore, in addition thereto, there is hereby levied and imposed an excise tax on all malt liquors of \$1.24 on each barrel containing not more than 31 gallons; on each half barrel containing not more than 15 one-half gallons, 64 cents; on each quarter barrel containing not more than 7 three-quarter gallons, 32 cents; on each one-eighth barrel containing not more than 3 seven-eighths gallons, 16 cents; on each bottle or container containing more than 12 fluid ounces and not more than 32 fluid ounces, 1 cent; on each bottle or container containing not more than 12 fluid ounces,  $\frac{1}{2}$  cent. All such taxes shall be collected by the commission in such manner and under such rules and regulations as it shall prescribe.'

**Sec. 17, P. L., 1935, c. 157, amended.** Chapter 157 of the public laws of 1935 is hereby repealed and the following enacted in place thereof:

**Sec. 17-A. Local option.** The aldermen of cities, the selectmen of towns and the assessors of the several plantations of this state are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for the calling and holding of biennial meetings of said inhabitants for the election of senators and representatives at the time of holding such aforesaid biennial meetings, to give in their votes upon the 4 following questions:

"(1) Shall state stores for the sale of liquor be operated by permission of the state liquor commission in this city or town?"

"(2) Shall licenses be granted in this city or town under regulation of the state liquor commission for the sale therein of wine and spirits to be consumed on the premises?"

"(3) Shall licenses be granted in this city or town for the sale therein of malt liquor (beer and ale) in the original containers not for consumption on the premises?"

“(4) Shall licenses be issued in this city or town for the sale therein of malt liquor (beer and ale) to be consumed upon the premises?”

The secretary of state shall prepare and furnish to the several cities, towns and plantations ballots in manner and form as prescribed in section 20 of chapter 8 of the revised statutes for constitutional amendment or other questions; together with all other forms including those for instructions and returns as may be prescribed in said chapter 8 of the revised statutes.

And the inhabitants of said cities, towns and plantations shall vote by ballot on said questions, those in favor voting “Yes” on their ballots and those opposed “No”, and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and return made to the office of the secretary of state in the same manner as votes for governor and members of the legislature, and the governor and council shall count the same and the results may be determined as provided in section 56 of chapter 8 of the revised statutes.

If a majority of the votes cast in a city or town in answer to question (1) are in the affirmative, the commission may operate therein a state store or stores for the sale of liquor subject to all provisions of law.

If a majority of the votes cast in the city or town in answer to question (2) are in the affirmative, the commission may issue licenses for the sale therein of wine and spirits for consumption on the premises, subject to all provisions of law.

If a majority of the votes cast in a city or town in answer to question (3) are in the affirmative, the commission may issue licenses for the sale of malt liquor therein in original containers not to be consumed on the premises.

If a majority of the votes cast in a city or town in answer to question (4) are in the affirmative, the commission may issue licenses for the sale of malt liquor therein for consumption upon the premises.

If a majority of the votes cast on question (1) are in the negative, the operation of state stores in that city or town for a period of 2 calendar years next following shall be unlawful.

If a majority of the votes cast on question (2) are in the negative, licenses shall not be issued for the sale of wines and spirits for consumption on the premises in that city or town, for the 2 calendar years next following.

If a majority of the votes cast on question (3) are in the negative, licenses for the sale of malt liquor in the original containers not for consumption on the premises in that city or town shall not be issued, for the 2 calendar years next following.

If a majority of the votes cast on question (4) are in the negative, licenses for the sale of malt liquor for consumption on the premises in that city or town shall not be issued, for the 2 calendar years next following.

In the case of a tie vote upon any of the foregoing questions then the status quo shall remain unchanged.'

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