

MAINE STATE LEGISLATURE

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N I N E T I E T H L E G I S L A T U R E

Legislative Document

No. 735

H. P. 1489

House of Representatives, February 11, 1941.

Referred to the Committee on Temperance and 650 copies ordered printed. Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Slosberg of Gardiner by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

**AN ACT to Regulate the Sale of Wines Produced by Natural Fermentation
or Fortified.**

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

Sec. 1. Definition. In this act unless the context otherwise requires, the word "Wine" shall mean any vinous liquor produced by natural fermentation or fortified, or any liquor or combination of liquors having an alcoholic content not greater than 24% by volume.

Sec. 2. Powers. The state liquor commission is hereby empowered to grant licenses for the sale of wines either naturally fermented or fortified, both at wholesale and retail.

Sec. 3. License for wholesalers. Combination licenses for the sale and distribution of wines and malt liquors at wholesale under such regulations as the state liquor commission may prescribe may be issued by the state liquor commission upon an application in such form as may be prescribed by said commission upon payment of an annual fee of \$600 for the principal place of business, and \$600 for each additional warehouse maintained for the warehousing of wines, by such wholesale licensee. Such wholesalers' licenses may be transferable as to premises in the town originally specified or to premises in another town.

Definition: "Restaurant"—A space in a suitable building leased or rented or owned by a person holding a duly issued and valid license for common victualers, and provided with accurate and sanitary kitchen and dining-room equipment and capacity for preparing, cooking and service suitable food for strangers, travellers and other patrons and customers. Provided further that no restaurant shall be entitled to a combination wine and malt liquor license unless 60% of the gross income is from foods served."

Sec. 4. Retail licenses. Combination licenses for sale and distribution of wines and malt liquors at retail under such regulations as the state liquor commission may prescribe may be issued by the state liquor commission upon an application in such form as may be prescribed by said commission and upon payment of a fee as hereinafter provided. No person, firm or corporation licensed to sell at retail shall sell wine for consumption on the premises where sold except as hereinafter provided.

Sec. 5. Retail license fees. The fee for a combination license for each hotel and restaurant shall be \$250 per annum, and the fee for combination licenses for clubs shall be \$125 per annum. For other retailers not authorized to sell for consumption on the premises, \$150 per annum, for each place to which licenses apply except that a store certified by the Maine pharmaceutical board to be a genuine drug store may be issued a license for the sale therein of wines to be sold by the package at retail only for a fee of \$100 per annum.

Sec. 6. Part time combination wine and malt liquor licenses for hotels, clubs and restaurants. The liquor commission may also grant to any person upon written application in such form as the commission may from time to time prescribe a 6 months license which will permit the person to whom the license is granted to sell wines and malt liquors for consumption on said licensed premises during the months of May, June, July, August, September and October. The person licensed shall not sell wines or malt liquors or conduct any other business on said licensed premises during the months of November, December, January, February, March and April. The fee for said license shall be \$150 for each hotel or restaurant and \$75 for each club.

Sec. 7. Persons to whom licenses shall not be granted. No license shall be issued to any natural person unless such person is at least 21 years of age, and is a citizen of the United States, and of this state. No license shall be issued to a partnership or an association unless all persons having an interest therein are at least 21 years of age, and are citizens of the

United States, and of this state. 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. 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 five 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, transportation, possession 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 renewal of license shall remit to the commission a filing fee of \$10.

Sec. 8. Manufacturers and foreign wholesalers. No manufacturer or foreign wholesalers of wines shall hold for sale, sell, offer for sale, in intrastate commerce, wines or transport or cause the same to be transported into the state of Maine for resale unless such manufacturer or foreign wholesaler has obtained from the state liquor commission a certificate of approval. The fee for a certificate of approval issued shall be \$100 per annum, which sum shall accompany the application for such certificate.

(A). All manufacturers or foreign wholesalers of wines to whom a certificate of approval has been granted shall furnish the commission with a copy of every invoice sent to Maine wholesale licensees. They shall also furnish a monthly report on or before the 10th day of each calendar month in such form as may be prescribed by the commission, and, further, shall not ship or cause to be transported into the state of Maine wines until the commission has certified that the excise tax has been paid to the commission.

(B). The purposes of this section are to regulate the importation, transportation, and sale of wines, also in addition thereto, to regulate and control the collection of excise taxes.

(C). The fees received under this section shall be used by said commission for carrying out the purposes of this section.

Sec. 9. Wholesalers. No Maine wholesale licensee shall purchase or cause to be transported into this state wines from an individual, partnership, or corporation, manufacturer of wines or foreign wholesalers of said wines, to whom a certificate of approval has not been granted.

a. All purchase order forms are to be furnished by the commission and all orders are to be executed in quintuplet. The original copy is to be sent direct to the winery or foreign wholesaler. Three copies of the order are to be mailed to the commission with a check for the amount of excise taxes required to cover the amount of the order. The commission shall mail one copy, after having certified thereon that the excise taxes thereon have been paid, to the winery or foreign wholesaler with whom the order has been placed. One copy shall be mailed to the Maine wholesale licensee with a notation that the excise taxes have been paid. The winery or foreign wholesaler may ship upon receipt of the original order upon permission being granted to do so by the commission.

b. No Maine wholesale licensee shall sell wines to another Maine wholesale licensee, which were not purchased from a winery or foreign wholesaler holding a certificate of approval.

c. Maine wholesale licensees shall furnish a monthly report of all wines purchased to the commission on or before the 10th day of each calendar month, in such form as may be prescribed by the commission.

Sec. 10. Excise Taxes. There shall be levied an imposed and excise tax on all wines, naturally fermented or fortified, manufactured in this state of 20 cents per gallon to be paid by the manufacturer in addition to the fee herein provided by law. A wholesale licensee who imports wines, naturally fermented or fortified, shall pay an excise tax of 40 cents on each gallon of wine purchased and sold and at a like rate for any other quantity for the fractional part of a gallon.

A. The commission shall open an excise tax account with all wholesale licensees.

B. The commission is hereby authorized to give proper credits and to make proper tax adjustments as it may deem from time to time the wholesale licensee may be entitled to upon the filing of affidavits in such form as the commission may prescribe.

C. The tax herein levied shall not apply to wines sold by or through the state liquor commission.

Sec. 11. Regulatory powers. Said commission shall have all the

regulatory powers in connection with licenses for the sale of wines that are vested in said board, in connection with the sale of malt beverages.

Sec. 12. P. L., 1935, § 6, amended. Section 6 of chapter 179 of the public laws of 1935 is hereby amended by striking out the words "or restaurant" in the fourth line of said section.

Sec. 13. P. L., 1933, c. 301, § 5, amended. Section 5 of chapter 301, public laws of 1933, is hereby amended to read as follows: All persons licensed under the provisions of section 3 of this act shall purchase all liquor sold under license within the state from the commission, except that holders of spirituous and vinous liquor licenses and holders of combination wine and malt liquor licenses shall be authorized to purchase wines, naturally fermented or fortified from licensed wholesalers within the state.

Sec. 14. P. L., 1933, c. 300, § 4, amended. That part of section 4 of chapter 300 of the public laws of 1933 referring to "Wine" is hereby amended to read as follows: "Wine", any liquor produced by natural fermentation **or fortified**.

Sec. 14-A. P. L., 1933, c. 300, § 4, amended. That part of section 4 of chapter 300 of the public laws of 1933 referring to "spirits" is hereby amended to read as follows: "Spirits" any liquor produced by distillation ~~or if produced by any other process~~ or strengthened, or fortified by the addition of distilled spirits of any kind.

Sec. 15. Section 1 of chapter 223 of the P. L., 1937 is hereby amended by inserting the following words at the end of the first sentence of said section, "unless authorized to do so by the state liquor commission".

Sec. 16. Section 3 of chapter 223 of the P. L. of 1937 is hereby amended by inserting the following words "Unless authorized to do so by the state liquor commission", at the beginning of the first sentence in said section.

Sec. 17. The state liquor commission may grant to holders of wholesale and retail malt liquor licenses at the effective date of this act upon application a combination wine and malt liquor license upon payment of the difference between the cost of the new license and the amount paid for the original license.

Sec. 18. Amendatory clause. All acts or parts of acts inconsistent with the provisions hereof are hereby repealed or amended to conform with the provisions hereof.