

MAINE STATE LEGISLATURE

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N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 352

H. P. 586

House of Representatives, February 4, 1943.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Grua of Livermore Falls.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT to Clarify and Improve the Administration of the Liquor Laws.

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

Sec. 1. P. L., 1933, c. 300, § 4, amended. Section 4 of chapter 300 of the public laws of 1933, as amended, is hereby repealed and the following enacted in place thereof :

‘Sec. 4. Definitions. The following words and phrases, unless the context clearly indicates otherwise, shall have the following meaning when used in any statute or law relating to intoxicating liquor: “Alcohol” shall mean that substance known as ethyl alcohol, hydrated oxide of ethyl or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar, potatoes, or other substances including all dilutions and mixtures of these substances.

“Club” shall mean any reputable group of individuals incorporated and which is organized and operated in a bona fide manner, solely for objects of a recreational, social, patriotic, or fraternal nature and not for pecuniary gain and shall have been in continuous existence and operation for at least 2 full years immediately preceding the date of its application for a license under this act, and which regularly occupies, as owner or lessee, a clubhouse or quarters for the use of members and shall hold regular meetings,

conduct its business through officers regularly elected, and charge and collect dues from elected members.

“Commission” shall mean the state liquor commission.

“Corporation” shall mean a corporation organized and incorporated under the laws of Maine, or authorized to transact business within the state of Maine.

“Dining cars” and “cars supplying food” shall mean and include cars in which food is prepared and served and also other cars, for accommodations in which an extra charge is made, in which food is served from a dining car, or from a car supplying food, in the same train.

“Hotel” shall mean any reputable place, operated by responsible persons of good reputation, where the public may, for a consideration, obtain sleeping accommodations and meals and which has a public dining room or rooms operated by the same management, and a kitchen, apart from the public dining room or rooms, in which food is regularly prepared for the public.

“Licensee” shall mean and include both the person to whom a license of any kind is issued by the commission and the premises upon which the privileges of the license are to be exercised and includes all licenses issued by the commission.

“Liquor” shall mean and include any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquors, intended for human consumption, which contains more than 1% of alcohol by volume.

“Person” shall mean an individual, copartnership, corporation, or voluntary association.

“Restaurant” shall mean a reputable place, operated by responsible persons of good reputation, and habitually and principally used for the purpose of providing food for the public and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for the public.

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

“Wholesaler” shall mean and include persons licensed by the commission to engage in the purchase and resale of malt or brewed beverages in the

original containers, as prepared for the market by the manufacturer at the place of manufacture, but not for consumption on the premises where sold.

“Wine” shall mean any liquor produced by natural fermentation.’

Sec. 2. P. L., 1933, c. 268, § 8, amended. Section 8 of chapter 268 of the public laws of 1933, as amended by section 2 of chapter 235 of the public laws of 1937, is hereby further amended to read as follows:

‘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, **except that the commission may issue special permits, upon application in writing, for the temporary storage of malt liquors under such terms and upon such conditions as the commission may prescribe.**

Such wholesaler’s 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. 3. P. L., 1937, c. 237, § 14, amended. Section 14 of chapter 237 of the public laws of 1937 is hereby repealed and the following enacted in place thereof:

‘Sec. 14. Sundays and hours of sale. No spirituous or vinous liquor shall be sold in this state on Sundays or on the day of holding a general election or state-wide primary and no licensee by himself, clerk, servant, or agent shall between the hours of midnight and 6 A. M. sell or deliver any spirituous or vinous liquors, except no spirituous or vinous liquors shall be sold or delivered on Saturdays after 11:45 P. M. No spirituous or vinous liquor licensee shall permit the consumption of, on his premises, except by bona fide guests in their rooms, spirituous or vinous liquors on Sundays or after 15 minutes past the hours prohibited for sale thereof.’

Sec. 4. P. L., 1933, c. 268, § 17, amended. Section 17 of chapter 268 of the public laws of 1933, as repealed and reenacted by section 18 of chapter 237 of the public laws of 1937, is hereby repealed and the following enacted in place thereof:

‘Sec. 17. Hours of sale of malt liquors. No malt liquors shall be sold in

this state on Sundays or on the day of holding a general election or statewide primary and no licensee by himself, clerk, servant, or agent shall between the hours of midnight and 6 A. M. sell or deliver any malt liquors, except no malt liquors shall be sold or delivered on Saturdays after 11:45 P. M. No malt liquor licensee shall permit the consumption of, on his premises, except by bona fide guests in their rooms, malt liquors on Sundays or after 15 minutes past the hours prohibited for sale thereof.'

Sec. 5. P. L., 1937, c. 237, § 13, amended. The 1st paragraph of section 13 of chapter 237 of the public laws of 1937 is hereby amended to read as follows:

'The ~~liquor~~ commission, upon application in writing, may transfer ~~any~~ **the spirituous and vinous** liquor license of any hotel or club, or the vinous liquor license of any restaurant, **or the malt liquor license of any hotel, club, restaurant, or retail licensee** from one place to another within the same municipality, as the commission may determine only with the approval of the municipal officers thereof, but no transfer shall be made to premises for the transaction of business at which place the license could not have been originally issued lawfully.'

Sec. 6. P. L., 1933, c. 301, § 3, amended. Section 3 of chapter 301 of the public laws of 1933, as amended, is hereby further amended to read as follows:

'Sec. 3. Licenses for consumption sale. Licenses for the sale of liquor to be consumed on the premises where sold may be issued in the discretion of the commission to clubs which have been in operation for a period of 2 full years prior to the application therefor and to bona fide hotels, restaurants, steamboats, and railroad dining cars on payment of the fees herein provided, subject, however, to the condition that the application therefor be approved by the municipal officers of the ~~city or~~ town in which such intended licensee, if operating a club, restaurant, or hotel, is operating the same, and subject to the further condition that licenses issued to restaurants shall be limited to malt liquor and wine. ~~No liquor shall be sold under any license issued under the provisions of this section except during such hours as the dining room of the licensee is regularly open for the purpose of supplying food to guests except that hotel licensees may sell in the original packages to registered room guests.~~ **Subject to the provisions of law and the rules and regulations of the commission, hotel licensees may sell liquor in the original packages to registered room guests.**

Any applicant aggrieved by the refusal to approve an application as hereinbefore provided, may appeal to the ~~state liquor~~ commission, who shall

hold a public hearing thereon in the ~~city or~~ town for which said license is requested and if it finds the refusal arbitrary or without justifiable cause, it may issue such license notwithstanding the lack of such approval.'

Sec. 7. P. L., 1937, c. 237, § 15, amended. Section 15 of chapter 237 of the public laws of 1937, as repealed and reenacted by chapter 216 of the public laws of 1941, is hereby amended to read as follows:

'Sec. 15. Revocation of license. The ~~liquor~~ commission may revoke or suspend for a definite period licenses in accordance with the following provisions after due notice and hearing as herein provided:

Notice of hearings to be held by the commission shall be served on the licensee and shall state the place, day and hour, thereof, and warn the licensee that he may then and there appear in person or by counsel at a hearing on the revocation of his license for the cause or causes in the notice alleged; service of such notice shall be sufficient, if sent by registered mail to the address given by the licensee at the time of his or its application for a license, 5 days at least before the day set for the hearing.

Licenses may be revoked or suspended at the discretion of the commission for the following causes:

(a) Violation of any law relating to alcoholic beverages or substantial infraction of any rule or regulation issued by the commission.

(b) For knowingly making falsely a material statement of fact in the application for the license.

(c) Knowingly making inaccurate and misleading statements as to brands or labels; giving of rebates to a customer for the purposes of influencing a sale.

(d) Making sales to persons under age as prohibited by law; suspension shall be for not less than 3 months.

It shall be the duty of the commission to revoke licenses for the following causes:

(a) Conviction of violation of the law of the United States or of the state of Maine relating to the manufacture, possession, transportation and sale of intoxicating liquor.

(b) Conviction of violation of the laws of the United States relating to carrying on the business of a wholesale or retail dealer without a federal tax stamp.

(c) Conviction of violating the laws of the United States relating to having in possession distilled spirits in unstamped containers in violation of section 30 of the United States liquor taxing act of 1934.

(d) Transferring, assigning or hypothecating a license.

(e) Making sales after the permitted hours of sale.

(f) Making sales on Sundays.

(g) The making of sales by hotels, clubs and restaurants for off-premises consumption.

(h) Making sales of spirituous or vinous liquor on the day of the holding of a general election or state-wide primary.

~~(i) Making sales to minors.'~~

Sec. 8. P. L., 1933, c. 268, § 21-A, amended. Section 21-A of chapter 268 of the public laws of 1933, as enacted by section 2 of chapter 236 of the public laws of 1937 is hereby amended to read as follows:

'Sec. 21-A. Excise taxes. There shall be levied and imposed an excise tax on all malt liquors manufactured in this state of 5 1/3c per gallon to be paid by the manufacturer in addition to the fee herein provided by law. A wholesale licensee who imports malt liquors shall pay an excise tax on the following basis: case containing 24 12-ounce bottles, ~~9c~~ 36c; case containing 24 16-ounce bottles, ~~12c~~ 48c; case containing 12 24-ounce bottles, ~~9c~~ 36c; case containing 12 32-ounce bottles, ~~12c~~ 48c; ~~\$1.24~~ \$4.96 for a barrel; ~~62c~~ \$2.48 for a half barrel; and ~~37c~~ \$1.24 for a quarter barrel. **All money received by the commission under this section shall be forthwith turned over to the state treasurer. For such money so turned over to the state treasurer there shall be credited the sum of \$100,000 annually to the account entitled "1937 deficiency account" on the books of the state controller until the said "1937 deficiency account" shall be entirely cancelled. All other money so turned over to the state treasurer shall remain in the general funds of the state.**

(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.'

Sec. 9. P. & S. L., 1937, c. 15, §§ 2, 5, repealed. Sections 2 and 5 of chapter 15 of the private and special laws of 1937, as amended, are hereby repealed.

Sec. 10. P. L., 1937, c. 223, § 1, amended. Section 1 of chapter 223 of the public laws of 1937 is hereby amended to read as follows:

‘Sec. 1. Importation of liquors, regulated. No person, association, partnership or body corporate, other than the state liquor commission, shall import spirituous ~~and~~ or vinous liquors into this state. Any person importing, or causing to be shipped into the state, or transporting spirituous ~~and~~ or vinous liquors into the state, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment; provided, however, it shall be lawful for an individual to transport into this state and to transport from place to place within the state, spirituous or vinous liquors for his personal use, in a quantity not to exceed 3 quarts; **provided further, that the commission, in its discretion and by its written authorization, may permit and authorize the importation of spirituous or vinous liquors into this state and the transportation of the same from place to place within this state to the following:**

(a) To industrial establishments for use as an ingredient in the manufacture of food products, or for use as an ingredient in the manufacture of commodities which by reason of their nature cannot be used for beverage purposes, or for use in the manufacture of commodities unfit for beverage purposes.

(b) To duly licensed distillers and manufacturers of spirituous or vinous liquors in this state for use as an ingredient in distilling or manufacturing spirituous or vinous liquors.

(c) Said commission, in its discretion and by its written authorization, may permit and authorize the importation of wine into this state and the transportation of the same from place to place within this state to churches or to the respective pastor of any church for sacramental purposes or like religious rites.

The commission shall have the right and power to prescribe such conditions as it deems necessary or advisable as conditions precedent to granting permission and authority to import spirituous and vinous liquors into this state and to transport the same within this state under the provisions of subsections (a), (b), (c), above, and to make rules and regulations for

clarifying and carrying out said provisions, and preventing violations of the laws relating to liquor.'

Sec. 11. P. L., 1941, c. 295, § 1, amended. Section 1 of chapter 295 of the public laws of 1941 is hereby amended to read as follows:

'Sec. 1. Consumers tax on spirituous and vinous liquor. All spirits and wines as defined in section 4 of chapter 300 of the public laws of 1933 shall hereafter be sold by the state at a price to be determined by the liquor commission which will produce a state liquor tax of not less than 61% based on the less carload cost f. o. b., ~~Augusta, Maine, state liquor commission warehouse,~~ excepting only that spirits and wines sold at wholesale under the provisions of section 5 of chapter 301 of the public laws of 1933, as amended, may be sold at wholesale prices established pursuant to the provisions thereof. Any increased federal taxes levied on ~~or after April 1, 1941 shall be added to the established price without mark-up~~ said liquors shall be included in the selling price by a corresponding change in mark-up, so that the gross state tax revenue will not be less than the state tax revenue received prior to the increased federal tax. All net revenue derived from such tax shall be deposited to the credit of the general funds of the state.'