

MAINE STATE LEGISLATURE

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NINETY - FIRST LEGISLATURE

Legislative Document

No. 503

S. P. 328

In Senate, February 11, 1943.

Referred to Committee on Temperance, sent down for concurrence and ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Farris of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT to Provide Strict Enforcement Provisions Covering the Operation of Retail Outlets of Malt Beverages.

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

Sec. 1. License, fee; applicant, qualifications of. No license shall be issued to any person authorizing the sale of ale, beer or malt beverages for consumption on the premises where sold unless such person shall file with the Maine state liquor commission a verified application therefor, accompanied by the required fee, and shall show that he or she possesses the following qualifications:

(1) Applicant must be a person of good moral character, a citizen of the United States, and a resident of the municipality or political subdivision in which the premises described in the application are located and have been such a resident continuously for a period of not less than 6 months next preceding the date of filing such application.

(2) Applicant shall not have been convicted of a felony or of pandering or of keeping or maintaining a house of prostitution, or have been convicted within 5 years of the date of his application of any violation of the laws of this state or the laws of the United States relating to intoxicating liquors.

(3) Applicant shall not have had revoked, within 5 years next preceding his application, any license issued to him by the laws of this state, or any other state, to sell or manufacture intoxicating liquors of any kind.

(4) Applicant shall be the owner of the premises for which the license is sought or the holder of any existing lease thereon.

(5) If applicant is to a co-partnership, all members of the co-partnership must be qualified to obtain a license.

(6) If applicant is a corporation, all officers and directors thereof, and any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications required herein for an individual licensee; provided, however, that the requirement as to residence shall not apply to officers, directors and stockholders of such corporation.

Any misstatement or concealment of fact in an application shall be ground for revocation of the license issued thereon.

Sec. 2. Restrictions. No holder of a license authorizing the sale of ale or beer for consumption on the premises where sold, or any servant, agent, or employee of the licensee shall do any of the following upon the licensed premises:

- (1) knowingly sell beer or malt beverages to any person under the age prohibited by law;
- (2) knowingly sell beer or malt beverages to any person while such person is in an intoxicated condition;
- (3) sell beer or malt beverages upon the licensed premises or permit beer to be consumed thereon, on any day or at any time when such sale or consumption is prohibited by law;
- (4) knowingly permit any prostitute to frequent the licensed premises;
- (5) permit gambling or games of chance upon the licensed premises;
- (6) permit on the licensed premises any disorderly conduct, or any lewd, immoral, or improper entertainment, conduct, or practices;
- (7) sell, offer for sale, possess, or knowingly permit the consumption on the licensed premises of any kind of alcoholic liquors, the sale or possession of which is not authorized under his license.

Sec. 3. Proceedings for revocation or suspension of license. Proceed-

ings for the revocation or suspension of any license authorizing the sale of ale or beer at retail for consumption on the premises may be brought in the superior court of the county in which the licensed premises are located. Such proceedings shall be entitled in the name of the state and against the licensee and shall be instituted by the filing with the clerk of said court a complaint. Said complaint may be filed by the assistant attorney-general assigned to the state liquor commission upon his own initiative, and it shall be mandatory upon said assistant attorney-general to file a complaint when requested to do so by the commission or any inspector or agent thereof and any said inspector or agent who learns that a licensee within his jurisdiction has violated any of the provisions of section 2 of this act shall file with the attorney for the commission an affidavit specifying in detail the facts alleged to constitute said violation, and requesting that a complaint be filed against said licensee for the revocation or suspension of his license. A like affidavit may be filed with the said assistant attorney-general by one or more persons, who reside and have for at least 6 months prior thereto resided within 2 miles of the licensed premises of licensee, requesting that a complaint be filed for the revocation or suspension of said licensee's license. Promptly upon receiving any such affidavit the said assistant attorney general shall prepare a proper complaint, which shall be signed and sworn to by the person or persons filing the affidavit with him, and the said assistant attorney general shall file the complaint with the clerk of the said superior court.

Sec. 4. Complaint; notice; hearing. Upon filing a complaint with the clerk of the said court, the assistant attorney-general shall in vacation or term time promptly move the court to set the complaint for hearing without the intervention of a jury, and the court shall set the complaint for hearing as soon as convenient. Upon a date for hearing being set by the court, the assistant attorney-general shall serve or cause to be served upon the licensee by personal service or by United States registered mail a notice of the filing of said complaint, together with a copy of said complaint, and shall set forth in said notice the time and place of the hearing thereon. Said notice shall be served upon the licensee at least 10 days prior to the date set for hearing if personal service be made. If service be made by mail, such notice shall be deposited in the United States mail not less than 12 days prior to the date set for hearing.

Sec. 5. Court to adjudge revocation or suspension of license. On hearing the said complaint the court shall adjudge and determine whether the facts alleged in the complaint and established by the evidence constitute a ground or grounds for the revocation or suspension of the license, and if

it be found that such grounds are established, the court shall further adjudge the revocation or suspension of the license. If the court finds that there has been no previous violations or any previous suspension of the license and finds that such violation is not likely to again occur and that to revoke the license would be unduly severe, then the court may suspend the license for such period of time as the court deems proper. Provided, however, that if the licensee has previously had his license suspended it shall be mandatory upon the court upon a finding of guilty to revoke the said license. The judgment of the court revoking or suspending such a license shall not be suspended or stayed during the pendency of an appeal therefrom.

Sec. 6. Jurisdiction. After the filing of a complaint with the clerk of the superior court for the revocation or suspension of a license, as hereinbefore provided, the court shall retain jurisdiction to hear and determine such complaint and to enter judgment decree or order revoking or suspending such license. For the purpose of such hearing and as to the effect of the judgment of the court entered pursuant thereto, the license shall be in full force and effect even though the licensee, after the filing of such complaint, may have surrendered his license, or such license may have expired, or the right of the licensee thereunder may have otherwise terminated. It is the purpose of this section to preclude the licensee from avoiding the effect of a judgment of revocation or suspension by a court by reason of conditions arising subsequent to the filing of a complaint.

Sec. 7. Revocation or suspension of state license automatically revokes or suspends municipal or county license. The jurisdiction herein conferred upon the superior court to hear and determine complaints for the revocation or suspension of licenses shall not be exclusive and any authority conferred on the state liquor commission to revoke or suspend licenses shall remain in full force and effect. Provided, however, that when a complaint is filed with the court any proceedings which may then be pending before the commission against the same licensee on the same charges shall abate, and no proceedings for the revocation or suspension of a license for a violation of the provisions of section 2 of this act shall be filed with the commission when proceedings are pending before the court against the licensee on the same charges. The revocation or suspension of a licensee's state license by the court or by the commission shall automatically revoke or suspend any municipal or county license held by such person. The revocation or suspension of a licensee's license as herein provided shall be in addition to and not in lieu of or limitation of any other penalty imposed by law.