

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Legislative Document

No. 553

H. P. 540

House of Representatives, February 10, 1953.

Referred to Committee on Liquor Control. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Dickey of Brooks

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Relating to the Retail Sale of Wine.

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

Sec. 1. R. S., c. 57, § 1, amended. The next to last paragraph of section 1 of chapter 57 of the revised statutes is hereby amended to read as follows:

“Wholesaler” shall mean and include persons licensed by the commission to engage in the purchase and resale of **wine** or malt or brewed beverages in the original containers or **bottles**, as prepared for the market by the manufacturer at the place of manufacture, but not for consumption on the premises of said wholesaler.’

Sec. 2. R. S., c. 57, § 2, amended. Section 2 of chapter 57 of the revised statutes, as amended, is hereby further amended by adding thereto a new subsection, to be numbered IV-A, to read as follows:

‘IV-A. Shall licenses be granted in this city or town for sale herein of wine not to be consumed on the premises?’

Sec. 3. R. S., c. 57, § 2, amended. Section 2 of chapter 57 of the revised statutes, as amended, is hereby further amended by inserting after the 14th paragraph from the end of said section a new paragraph to read as follows:

'If a majority of such votes in answer to question IV-A is in the affirmative, the commission may issue licenses for the sale therein of wine not to be consumed on the premises for the 2 calendar years next following, subject to all provisions of law.'

Sec. 4. R. S., c. 57, § 2, amended. Section 2 of chapter 57 of the revised statutes, as amended, is hereby further amended by inserting after the 6th paragraph from the end of said section a new paragraph to read as follows:

'If a majority of such votes cast on question IV-A is in the negative, licenses for the sale therein of wine not to be consumed on the premises shall not be issued for the 2 calendar years next following.'

Sec. 5. R. S., c. 57, § 6, sub-§§ III, IV, V and VII, amended. Subsections III, IV, V and VII of section 6 of chapter 57 of the revised statutes, as amended, are hereby further amended to read as follows:

'III. To adopt rules and regulations for the administration of the law relating to malt liquor and vinous liquor and for the supervision and regulation of the manufacture, sale and transportation of malt liquor and vinous liquor throughout the state; the manufacture, sale and transportation of which is permitted and authorized.'

'IV. To buy and have in their possession ~~wine~~ spirituous liquor and spirits for sale to the public. Such ~~wine~~ spirituous liquor and spirits shall be purchased by the commission directly and not through the state purchasing agent and shall be free from adulteration and misbranding. The commission shall in their purchases of liquors give priority, wherever feasible, to those made from the agricultural products of this state.'

'V. To sell at retail in original packages and for cash, either over the counter or by shipment to points within the state, ~~wine and spirits~~ spirituous liquor of all kinds for consumption off the premises at state stores to be operated under the direction of the commission.'

'VII. To adopt rules, requirements and regulations, not inconsistent with this chapter or other laws of the state, the observance of which shall be conditions precedent to the granting of any license to sell liquor, including malt and vinous liquor. These rules, requirements and regulations may include the character of any applicant, the location of the place of business, and the manner in which it has been operated.'

Sec. 6. R. S., c. 57, § 8, amended. The 1st sentence of section 8 of chapter 57 of the revised statutes is hereby amended to read as follows:

'The commission is authorized to lease and equip in the name of the state,

such stores, warehouses and other merchandising facilities for the sale of **spirituous** liquor as are necessary to carry out the provisions of this chapter but any lease or contract made pursuant hereto shall be approved by the attorney-general before becoming effective.'

Sec. 7. R. S., c. 57, § 9, amended. Section 9 of chapter 57 of the revised statutes is hereby amended to read as follows:

'**Sec. 9. Special stores.** The commission shall have authority to establish in cities and towns which vote in favor of the operation of state stores under local option provisions and where there is no state store, special or temporary stores to be occupied exclusively for the purpose in such cities or towns of selling **spirituous** liquor in sealed bottles, containers or original packages for consumption off the premises under such regulations as they may determine.'

Sec. 8. R. S., c. 57, § 11, amended. The 2nd sentence of section 11 of chapter 57 of the revised statutes, as repealed and replaced by section 1 of chapter 92 of the public laws of 1945, is hereby amended to read as follows:

'The commission is authorized to keep and have on hand a stock of ~~wines~~ **spirituous liquor** and spirits for sale, the value of which, computed on less carload price quotations f. o. b. warehouse filed by liquor ~~and wine~~ vendors, shall not at any time exceed the amount of working capital authorized.'

Sec. 9. R. S., c. 57, § 12, amended. Section 12 of chapter 57 of the revised statutes is hereby amended to read as follows:

'**Sec. 12. Consumers tax on spirituous liquor.** All ~~spirits and wines~~ **spirituous liquor** shall hereafter be sold by the commission at a price to be determined by the commission which will produce a state liquor tax of not less than 61% based on the less carload cost f. o. b., state liquor commission warehouse, excepting only that ~~spirits and wines~~ **spirituous liquor** sold at wholesale under the provisions of section 41, 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. All net revenue derived from such tax ~~and all taxes~~ **on liquor** shall be deposited to the credit of the general fund of the state.'

Sec. 10. R. S., c. 57, § 13, amended. The last sentence of the next to last paragraph of section 13 of chapter 57 of the revised statutes, as enacted by section 3 of chapter 356 of the public laws of 1951, is hereby amended to read as follows:

'In the case of wine bottlers and wineries, the license shall authorize sale

and delivery of wine to holders of sacramental wine permits issued by the commission and to **wholesale wine licensees.**'

Sec. 11. R. S., c. 57, § 15, amended. Section 15 of chapter 57 of the revised statutes is hereby amended to read as follows :

'**Sec. 15. Manufacturers and officers not interested in wholesalers; commercial credit.** No officer, director or stockholder of a corporation which is the holder of a manufacturer's certificate of approval shall in any way be interested, either directly or indirectly, as a director, officer or stockholder in any other corporation which is the holder of a wholesale license for the sale of malt **or vinous** liquor granted by this state; nor shall a manufacturer or holder of a certificate of approval either directly or indirectly loan any money, credit or equivalent thereof to any wholesaler for equipping, fitting out, maintaining or conducting, either in whole or in part, a business establishment where malt **or vinous** liquor is sold, excepting only the usual and customary commercial credit for malt **or vinous** liquor sold and delivered.'

Sec. 12. R. S., c. 57, § 16, amended. The first 3 paragraphs of section 16 of chapter 57 of the revised statutes are hereby amended to read as follows :

'No manufacturer or foreign wholesaler **or bottler** of malt liquor **or wine** shall hold for sale, sell or offer for sale, in intrastate commerce, any malt liquor **or wine** or transport or cause the same to be transported into this state for resale unless such manufacturer or foreign wholesaler **or bottler** has obtained from the commission a certificate of approval. The fee therefor shall be \$100 per year, which sum shall accompany the application for such certificate.

All manufacturers or foreign wholesalers **or bottlers** to whom certificates of approval have 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 this state any malt liquor **or wine** until the commission has certified that the excise tax has been paid.

The purposes of this section are to regulate the importation, transportation, and sale of malt liquor **or wine**, also in addition thereto, to regulate and control the collection of excise taxes.'

Sec. 13. R. S., c. 57, § 18, repealed and replaced. Section 18 of chapter 57 of the revised statutes is hereby repealed and the following enacted in place thereof :

'Sec. 18. Licenses for wholesalers of malt liquor and wine. Licenses for the sale and distribution of malt liquor and wine at wholesale, under such regulations as the commission may prescribe, may be issued by the commission upon an application in such form as they may prescribe and payment of the following annual license fees:

Malt liquor only—Principal place of business	\$300.00
Each additional warehouse	300.00
Wine only—Principal place of business	300.00
Each additional warehouse	300.00
Malt liquor and wine—Principal place of business	500.00
Each additional warehouse	500.00

The commission may issue special permits, upon application in writing, for the temporary storage of malt liquors or wines under such terms and upon such conditions as the commission may prescribe.

Wholesalers' licenses may be transferred by the commission from premises in the municipality originally specified to other premises in the same or other municipalities.'

Sec. 14. R. S., c. 57, § 19, amended. Section 19 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Sec. 19. Interstate purchase or transportation of malt liquor or wine by wholesalers. No Maine wholesale licensee shall purchase or cause to be transported into this state or buy in this state any malt liquor or wine from any person not a Maine licensee or a person to whom a certificate of approval has not been granted by the commission.

All purchase order forms are to be furnished by the commission and all orders whether from in or outside of this state are to be executed in quintuplet. The original copy is to be sent direct to the brewery, winery, bottler or foreign wholesaler. Three copies 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 brewery, winery, bottler 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 brewery, winery, bottler or foreign wholesaler may ship upon receipt of the original order upon being granted permission to do so by the commission.

No Maine wholesale licensee shall sell any malt liquor or wine to another Maine wholesale licensee, which has not been purchased from a brewery,

winery, bottler or foreign wholesaler holding a certificate of approval, or a Maine licensed brewery, winery or bottler. No wholesale licensee shall sell malt liquor or wine to any person, firm or corporation not the holder of a Maine license authorizing purchase and sale at retail of such malt liquor or wine except malt liquor to approved government instrumentalities.

Maine wholesale licensees shall furnish to the commission, in such form as may be prescribed, a monthly report, on or before the 10th day of each calendar month, of all malt liquor or wine purchased during the preceding month.'

Sec. 15. R. S., c. 57, § 20, amended. Section 20 of chapter 57 of the revised statutes, as amended, is hereby further amended by adding after the 1st paragraph thereof a new paragraph, to read as follows:

'Wholesale wine licensees shall pay an excise tax of 40c per gallon on all wine purchased by them for sale to retail wine licensees.'

Sec. 16. R. S., c. 57, § 22-A, amended. Section 22-A of chapter 57 of the revised statutes, as enacted by chapter 243 of the public laws of 1947 and repealed and replaced by section 81 of chapter 266 of the public laws of 1951, is hereby amended to read as follows:

'Sec. 22-A. Notice of application for license published. No new license for the sale of liquor shall be issued, except licenses for sale of malt liquor and sale of wine in retail stores, until notice of application for same has been published by the commission in the official state paper and a 10-day period has elapsed from the date of such publication.'

Sec. 17. R. S., c. 57, § 22-F, amended. Section 22-F of chapter 57 of the revised statutes, as enacted by section 1 of chapter 85 of the public laws of 1949 and as amended, is hereby further amended as follows: After the line reading "Retail store—Malt liquor only 100.00" add the following lines:

'Retail store—Wine only	100.00
Retail store—Malt liquor and wine	200.00'

and at the end of said section add a new paragraph to read as follows:

'All fees for liquor licenses collected by the commission shall be deposited in the general fund of the state.'

Sec. 18. R. S., c. 57, § 23, amended. Section 23 of chapter 57 of the revised statutes, as amended, is hereby further amended to read as follows:

'Sec. 23. Retail licenses. Licenses for sale and distribution of malt

liquor or wine or both in retail stores may be issued by the commission upon application and under such regulations as the commission may prescribe. No such license shall be issued to any person who is not engaged in a bona fide retail business other than the sale of ~~malt liquors~~ liquor at retail and no person licensed to sell malt liquor or wine under the provisions of this section shall sell ~~malt~~ any such liquor for consumption on the premises where sold.

Provided, however, that licenses in an unincorporated place, where no local option vote is taken under the provisions of section 21-A, shall require the approval of the county commissioners of the county.

No licenses shall be issued to any retail establishment under the provisions of this section unless it has been in operation as such for a period of at least 3 months next prior to the date of the application, except that anyone who formerly held a ~~malt~~ liquor license or who formerly was owner of a retail store, shall not be subject to the provisions of this sentence.'

Sec. 19. R. S., c. 57, § 34, amended. Section 34 of chapter 57 of the revised statutes is hereby amended to read as follows:

'Sec. 34. Unlawful to peddle. It shall be unlawful for any wholesale or retail licensee of malt liquor or wine, either directly or indirectly, by any agent or employee, to go from town to town, or from place to place in the same town selling or bartering or carrying for sale or exposing for sale any malt liquor or wine from any vehicle. All sales of such malt liquor or wine where transportation and delivery are required shall be made only upon orders actually received at the principal place of business or warehouse or distributing center, if licensed, or the seller prior to shipment thereof. An invoice stating the names of the purchaser and the seller, and the kind and quantity of malt liquor or wine ordered by the sale, together with the date of the sale, shall be carried by the driver or any other employee of the seller.

Whoever violates the provisions hereof 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.'

Sec. 20. R. S., c. 57, § 41, amended. Section 41 of chapter 57 of the revised statutes, as repealed and replaced by chapter 200 of the public laws of 1949, is hereby amended to read as follows:

'Sec. 41. Spirituous liquor bought from commission. All persons, except public service corporations operating interstate, licensed to sell spirituous or vinous liquor shall purchase all such liquor from the commis-

sion. The commission shall sell to such licensees spirituous ~~and vinous~~ liquor for a price of 10% less than the retail price in state retail stores provided that such discount shall not apply to federal taxes levied on and after April 1, 1941.'

Sec. 21. R. S., c. 57, § 55, amended. The 2nd paragraph of section 55 of chapter 57 of the revised statutes, as amended, is hereby further amended to read as follows:

'No licensee by himself, clerk, servant or agent shall sell, offer to sell or furnish any liquor to any person on a pass book or store order or receive from any person any goods, wares, merchandise or other articles in exchange for liquor, except only such packages or original containers as were originally purchased from such licensee by the person returning the same. No licensee, by himself, clerk, servant or agent entitled to sell malt liquor ~~or wine~~ not to be consumed on the premises shall sell, furnish, give or deliver such malt liquor ~~or wine~~ to any person visibly intoxicated, to any insane person, to a known habitual drunkard, to any pauper, to persons of known intemperate habits or to any minor under the age of 21 years. No licensee by himself, clerk, servant or agent shall sell, furnish, give, serve or permit to be served any liquor to be consumed on the premises to any person visibly intoxicated, to any insane person, to a known habitual drunkard, to any pauper, to persons of known intemperate habits or to any minor under the age of 21 years.'

Sec. 22. R. S., c. 57, § 63, amended. The 1st paragraph of section 63 of chapter 57 of the revised statutes is hereby amended to read as follows:

'~~Except as provided by section 18, no~~ ~~no~~ person, other than the state liquor commission, shall import spirituous or vinous liquor into this state. ~~Any~~ Except as provided by section 18, any person importing, or causing to be shipped into the state, or transporting spirituous or vinous liquor 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 such spirituous or vinous liquor 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:'

Sec. 23. R. S., c. 57, § 63, sub-§ II, repealed and replaced. Subsection

II of section 63 of chapter 57 of the revised statutes is hereby repealed and the following enacted in place thereof :

'II. To duly licensed manufacturers, distillers, rectifiers and bottlers of spirituous or vinous liquors in this state for use in manufacturing, distilling, rectifying or bottling spirituous or vinous liquors;'

Sec. 24. R. S., c. 57, § 64, sub-§ I, amended. Subsection I of section 64 of chapter 57 of the revised statutes is hereby amended to read as follows :

'I. No person shall knowingly transport from place to place in this state any intoxicating liquor with intent to sell the same in this state in violation of law, or with intent that the same shall be so sold by any person, or to aid any person in such sale, and, except as provided by section 18, no person shall transport any spirituous or vinous liquor in this state in a greater quantity than 3 quarts, unless such liquor was purchased from a state store or the state liquor commission or a licensed wine retail store. Provided, however, that the commission in its discretion may grant to an individual, upon his application, a permit to transport liquor purchased for his own personal use. It shall be lawful for common carriers and contract carriers duly authorized as such by the public utilities commission to transport liquor to state stores, to state warehouses, to licensees of the state liquor commission, to purchasers of liquor at state stores, and from manufacturers to state warehouses, state stores, and to the state line for transportation outside the state; for licensees of the commission to transport liquor from state stores to their places of business; for wholesale wine licensees to transport wine to licensed retail wine stores and licensed retail wine stores to transport wine to purchasers subject to all other provisions of law and commission rules and regulations; and for manufacturers to transport ~~within the state~~ spirituous liquor to state warehouses and ~~state stores and wineries~~ and wine bottlers to transport wine to licensed wine wholesalers within the state and for licensed manufacturers, distillers, rectifiers and bottlers to transport spirituous and vinous liquor to the state line for transportation outside the state. All shipments of wine by wineries and bottlers to wholesale licensees must be accompanied by an invoice with the wholesale licensee's name and purchase number thereon. Whoever knowingly violates any of the provisions of this subsection shall be punished by a fine of not less than \$100, nor more than \$1,000, and costs, and by imprisonment for not less than 2 months, nor more than 6 months, and in default of payment of fine and costs, by imprisonment for not less than 2 months, nor more than 6 months, additional.'

Sec. 25. R. S., c. 57, § 65, amended. The 1st sentence of section 65 of chapter 57 of the revised statutes is hereby amended to read as follows:

'No Except as herein otherwise provided, no person shall knowingly transport to, or cause to be delivered to any person, other than the state liquor commission, unless upon written permission of the commission, any spirituous or vinous liquor, except liquors purchased from a state store or the state liquor commission or wine purchased from a state retail store wine licensee.'