

MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 1142

S. P. 409

In Senate, March 6, 1957

Referred to the Committee on Liquor Control, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Carpenter of Somerset by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT to Clarify Certain Liquor Laws.

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

Sec. 1. R. S., c. 61, § 2, sub-§ VI, amended. Subsection VI of section 2 of chapter 61 of the Revised Statutes, as repealed and replaced by section 3 of chapter 355 of the public laws of 1955, is hereby amended to read as follows:

'VI. Shall licenses be granted in this city or town for sale herein of ~~wines~~ **wine** and spirits to be consumed on the premises of part-time hotels and clubs?'

Sec. 2. R. S., c. 61, § 8, sub-§§ XIV, XIX, amended. Subsections XIV and XIX of section 8 of chapter 61 of the Revised Statutes, as amended by sections 4 and 5 of chapter 294 of the public laws of 1955, are hereby further amended to read as follows:

'XIV. To act as a review board ~~on the decisions of the administrator~~ and on all appeals from the decisions of municipal officers, and except as provided by section 57 the decisions of the Commission shall be final. All decisions of the Commission acting as a review board must be approved by at least 2 members.'

'XIX. Any member of the Commission ~~and the administrator~~ may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any question in dispute before them or to any matter involved in a hearing. Witness fees in all proceedings shall be the same as for witnesses before the Superior Court. Whoever, having been summoned as a witness by any member of the Commission

~~or the administrator~~ to appear before the Commission ~~or the administrator~~, without reasonable cause fails to appear at the time and place designated in the subpoena or summons shall be punished, on complaint or indictment, by a fine of not more than \$100 or by imprisonment for less than one year.'

Sec. 3. R. S., c. 61, § 12, amended. Section 12 of chapter 61 of the Revised Statutes is hereby amended to read as follows:

'Sec. 12. Business hours; sale to minors, etc. State stores shall not be open on Sundays, court holidays, or on the day of the holding of a general election or state-wide primary or between the hours of 8 P. M. and 9 A. M., except ~~that in municipalities operating on daylight saving time during the time when Eastern Daylight Time is in effect~~, state liquor stores may be opened at 8 A. M., standard time, and also except on Saturdays when, if open, they may be kept open until 10 P. M., and the Commission is authorized to regulate the opening and closing hours of each store within the provisions of this chapter. No sales shall be made therein to minors or persons under the influence of liquor.'

Sec. 4. R. S., c. 61, § 15, amended. The last sentence of the next to the last paragraph of section 15 of chapter 61 of the Revised Statutes 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 persons authorized to purchase wine under the provisions of section 63.'

Sec. 5. R. S., c. 61, § 22, amended. The last paragraph of section 22 of chapter 61 of the Revised Statutes is hereby amended to read as follows:

'~~All Excise taxes excise and deficiency~~ on malt beverages imposed by the State shall not apply to malt beverages sold by wholesalers holding licenses from the Commission to any instrumentality of the United States.'

Sec. 6. R. S., c. 61, § 23, amended. The next to the last paragraph of section 23 of chapter 61 of the Revised Statutes is hereby amended to read as follows:

'~~Provided, however, that if~~ If the total number of persons shown by returns of the State Tax Assessor in such unincorporated place is less than 20 or the number signing any petition for local option vote is less than 20, the Secretary of State shall not hold any election in such unincorporated place and in event no such vote is taken, the county commissioners ~~if their approval of application is required~~ or the liquor Commission may refuse approval of such application on the basis that such license is not warranted for any substantial public convenience, necessity or demand.'

Sec. 7. R. S., c. 61, § 27, amended. The last paragraph of section 27 of chapter 61 of the Revised Statutes, as enacted by section 1 of chapter 71 of the public laws of 1955, is hereby repealed and the following paragraph enacted in place thereof:

'If any licensee or any clerk, servant or agent of a licensee is convicted of a violation of the provisions of this section and appeals from the judgment and sentence of the trial court, the licensee's license to sell liquor shall be suspended

during the time such appeal is pending in the appellate court unless the trial court shall otherwise order and no new or renewal license to sell liquor shall be granted to the licensee during the time of such appeal.'

Sec. 8. R. S., c. 61, § 29, amended. The 3rd sentence of section 29 of chapter 61 of the Revised Statutes is hereby repealed and the following sentence enacted in place thereof:

'No license shall be issued to a corporation any of the principal officers of which would not personally be eligible for a liquor license because such officer had had a license for sale of liquor revoked.'

Sec. 9. R. S., c. 61, § 29, amended. Section 29 of chapter 61 of the Revised Statutes, as amended by section 2 of chapter 71 of the public laws of 1955, is hereby further amended by inserting before the last sentence thereof, a new sentence, as follows:

'No clerk, servant or agent of a licensee, who is convicted of sale of liquor on Sunday, shall himself be granted a license for sale of liquor for a period of 5 years from the date of such conviction.'

Sec. 10. R. S., c. 61, § 39, repealed and replaced. Section 39 of chapter 61 of the Revised Statutes is hereby repealed and the following section enacted in place thereof:

Sec. 39. Licenses; transfer; death; bankruptcy; receivership; guardianship; corporations. Except as otherwise provided in this section, no license privilege nor any interest in a license privilege shall be sold, transferred, assigned or otherwise subject to control by any person other than the licensee, and in case of sale, transfer or assignment of the business or any interest in the business in connection with which a licensed activity is conducted the license holder shall immediately send in his license to the Commission and submit a statement under oath showing the name and address of the purchaser or any other person directly or indirectly interested in the enterprise.

I. The Commission upon application in writing may transfer any retail liquor license from one place to another within the same municipality, provided such transfer shall be made only with approval of municipal officers of such municipality in all cases which required such approval originally. No such transfer shall be made to premises for which the license could not have been originally lawfully issued.

II. In the case of death, bankruptcy or receivership of any licensee, the duly appointed executor or administrator of the deceased licensee or the duly appointed trustee or receiver of the bankrupt licensee or licensee in receivership may retain the license for the balance of the license year or transfer the license without additional fee. Personal representatives, receivers or trustees may operate the premise themselves or through a duly appointed manager for a year from the date of their appointment for the benefit of the estate but must renew the license on January 1st of any year at the regular license fee, and if the license or renewal thereof is not transferred during the year from date of appointment it shall be void and returned to the Commission for cancellation. No personal representative, receiver, trustee or manager appointed by them,

shall be eligible to operate under license unless and until approved by the Commission, and in event of suspension or revocation of the license by the Commission for any violation, such suspension or revocation shall apply against both the manager and the personal representative, receiver or trustee. In case of decease of a license holder with express written permission and approval of the Commission, any widow or widower or person who has filed a petition for appointment as executor or administrator for the estate of the deceased licensee or any sole heir of the deceased licensee or any person designated by all of the heirs of the licensee may continue the operation of the license for a period not to exceed one month pending appointment of a personal representative of the estate.

In cases where no administration of the estate of a deceased licensee is contemplated, the widow or widower or person designated by all of the heirs of the deceased licensee may take over the license under the same conditions as are provided for operation and transfer by executors and administrators.

III. Duly appointed and qualified guardians and conservators of the estate of a licensee may take over, operate and renew licenses of their wards during their term of office, provided they or their managers are approved by the Commission, and in all cases, except retail store licenses approved by the municipal officers in their municipality, they shall have no privilege of transferring their wards' licenses and must renew licenses each year. Penalty for violations shall apply to both guardians or conservators and their managers in the same manner provided in the case of executors or administrators and their managers. Any sale or stock of a corporate licensee which effects a change of control of the licensed premises shall be considered a transfer within the meaning of this section, and a new license must be purchased.'

Sec. 11. R. S., c. 61, § 51, amended. The last paragraph of section 51 of chapter 61 of the Revised Statutes, as enacted by chapter 196 of the public laws of 1955, is hereby amended to read as follows:

'Any person under the age of 21 years who purchases any ~~alcoholic beverage~~ intoxicating liquor, or any person under the age of 21 years who consumes any ~~alcoholic beverage~~ intoxicating liquor in any on-sale premises, or who presents or offers to any licensee, his agent or employee, any written or oral evidence of age which is false, fraudulent or not actually his own, for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any ~~alcoholic beverage~~ intoxicating liquor, or who has any ~~alcoholic beverage~~ intoxicating liquor in his possession except in the scope of his or her employment on any street or highway, or in any public place or in any automobile, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$50.'

Sec. 12. R. S., c. 61, § 56, sub-§ I, amended. Subsection I of section 56 of chapter 61 of the Revised Statutes as amended by section 13 of chapter 355 of the public laws of 1955, is hereby further amended to read as follows:

'I. 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.~~ **Service** of such notice shall be sufficient, if sent by registered mail or **certified mail** to the address given by the licensee at the time of his application for a license, 5 days at least before the day set for the hearing. Licensees ordered in for hearing ~~as herein provided~~ shall bring with them their licenses but the notice of hearing shall authorize the licensee to operate his licensed business the day of the said hearing, and all penalties imposed by the Commission shall start the day following the hearing, except that revocation shall start at the time such revocation is imposed by the Commission.'

Sec. 13. R. S., c. 61, § 56, sub-§ II, ¶ D, amended. Paragraph D of subsection II of section 56 of chapter 61 of the Revised Statutes is hereby amended to read as follows:

'D. Making sales to persons under age as prohibited by law ~~except that licensees selling to minors furnishing fraudulent proof of age as provided by subsection I may be held not administratively liable at the discretion of the commission;~~

Sec. 14. R. S., c. 61, § 64, sub-§ I, amended. The 3rd sentence of subsection I of section 64 of chapter 61 of the Revised Statutes is hereby amended to read as follows:

'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; and for manufacturers to transport within the State to state warehouses and state stores, **to persons authorized under the provisions of section 63** and to the state line for transportation outside the State.'

Sec. 15. R. S., c. 61, § 64, sub-§ II, amended. The 2nd sentence of subsection II of section 64 of chapter 61 of the Revised Statutes is hereby amended to read as follows:

'No person, other than a licensee of the Commission, shall transport malt liquor **in a quantity greater than one case** from place to place in this State unless the same is purchased from a retail store licensee of the Commission.'

Sec. 16. R. S., c. 61, § 66, amended. Section 66 of chapter 61 of the Revised Statutes is hereby amended to read as follows:

'Sec. 66. Illegal sale of liquor. Any person by himself, his clerk, servant or agent who sells liquor within the State without a license **in full force and effect** shall be punished for the first offense by a fine of not less than \$300 and costs nor more than \$500 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 30 days in jail at the discretion of the court; and for a 2nd offense by a fine of not less than \$500 and costs nor more than \$1,000 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 60 days in jail at the discretion of the court; and for

all subsequent offenses a fine of not less than \$1,000 and costs and 60 days in jail, which fine and costs and jail sentence shall not be suspended, and an additional penalty of 4 months in jail at the discretion of the court. Any clerk, servant, agent or other person in the employment or on the premises of another, who violates or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties.'