

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-sixth Legislature

OF THE

STATE OF MAINE

From April 4, 1931, to March 31, 1933

AND MISCELLANEOUS STATE PAPERS

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Eighty-sixth Legislature

1933

[supplied from page 1 of volume]

Chapter 268.

AN ACT Relating to Malt Beverages and to Derive Revenue from the Manufacture and Sale Thereof.

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

Sec. 1. State licensing board; and appointment thereof. There is hereby created a state licensing board which shall consist of 3 members to be appointed by the governor, with the advice and consent of the council, to serve for 3 years or during the pleasure of the governor and council. The governor shall designate one of the members to be chairman of the board and not more than 2 members of the board shall belong to the same political party. Any vacancy shall be filled by appointment for a like term.

Sec. 2. Salaries and expenses. The members of the board shall each receive an annual salary of \$2000, together with their actual expenses incurred in the performance of their duties. Said state licensing board, subject to the approval of the governor and council, is hereby authorized to employ such clerical and other assistance and to make such expenditures as in its judgment may be necessary to effect the purposes of this act.

Sec. 3. Definition of the words "malt beverages." For the purposes of this act, the words "malt beverage" or "malt beverages" shall be interpreted to mean all non-intoxicating beverages containing malt and containing more than $\frac{1}{2}$ of 1% of alcohol by volume.

Sec. 4. Qualification of members and employees of state licensing board. No member of the state licensing board or any officer or employee thereof shall be financially interested, directly or indirectly in the manufacture or sale of malt beverages.

Sec. 5. Powers of the state licensing board. The state licensing board shall have the following powers and duties:—

1. To grant, and rescind for cause, any of the licenses provided for in this act.
2. To adopt rules and regulations for the administration of this act and for the supervision and regulation of the manufacture, sale and transportation of malt beverages throughout the state; the manufacture, sale and transportation of which is hereby permitted and authorized.
3. To make an annual report to the governor of its activities, of the amount of license fees collected and such other information as it deems advisable or as the governor may require.

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Sec. 6. Manufacture and sale without license forbidden. No malt beverage intended for sale shall be manufactured in this state or sold at wholesale or at retail within the state without a license therefor issued by the state licensing board as hereinafter provided.

Sec. 7. Manufacturers' licenses. Licenses for the manufacture of malt beverages intended for sale under such regulations as the state licensing board may prescribe may be issued by said state licensing board upon an application in such form as may be prescribed by said board and upon payment of an annual fee of \$2500 for each place of manufacture.

Sec. 8. License for wholesalers. Licenses for sale and distribution of malt beverages at wholesale under such regulations as the state licensing board may prescribe may be issued by the state licensing board upon an application in such form as may be prescribed by said board and upon payment of an annual fee of \$300. A manufacturer's license issued under the preceding section shall include the right to such licensee to sell and distribute malt beverages at wholesale without the payment of any additional fee.

Sec. 9. Retail licenses. Licenses for sale and distribution at retail under such regulations as the state licensing board may prescribe may be issued by the state licensing board upon an application in such form as may be prescribed by said board and upon payment of a fee as hereinafter provided. No person, firm or corporation licensed to sell at retail shall sell malt beverages for consumption on the premises where sold except as hereinafter provided.

Sec. 10. Licenses to hotels, restaurants and clubs. No license to sell malt beverages to be consumed on the premises where sold shall be issued to any person, firm or corporation for any premises except a bona fide hotel, restaurant or club nor unless the application therefor be approved by the municipal officers of the city or town where said hotel, restaurant or club is located, and if said hotel, restaurant or club is located in an unorganized place said application shall be approved by the county commissioners of the county, within which the same is located. No licensee under this section of this act shall maintain a bar where malt beverages are consumed. Clubs licensed under this act shall not sell malt beverages for consumption on the premises except to its members and their guests accompanying them. The word "club" as used in this act means a 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. Licenses issued under this section shall specify the premises to which the license shall apply.

Any applicant aggrieved by refusal to approve an application as here-

inbefore provided, may appeal to the state licensing board, 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. 11. Licenses non-transferable. No license issued pursuant to this act shall be transferable or assignable to any other person nor to any other premises than those specified therein.

Sec. 12. Display of licenses. All licensees shall publicly display their licenses on the premises to which the same apply.

Sec. 13. Retail license fees. The fee for licenses for each hotel, restaurant and club shall be \$100 per annum; for other retailers not authorized to sell for consumption on the premises \$50 per annum, for each place to which licenses apply; providing that the state licensing board is authorized to fix the license fee for summer hotels and restaurants from \$25 to \$100, depending upon the size of said summer hotels and restaurants, and their volume of business.

Sec. 14. License fees; when due and payable and renewals.

1. Licenses shall be issued for the license year expiring on the 30th day of June following the date of issuance, and the fee prescribed therefor shall accompany the application.

2. Licenses may be renewed upon application therefor by a licensee and the payment of the annual fee for the same, and the state licensing board shall make rules and regulations regarding applications for renewal of licenses and the time when such applications shall be made.

Sec. 15. Persons to whom licenses shall not be granted. No person under the age of 21 years shall be granted a license under the provisions of this act. 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 5 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 or sale of intoxicating liquors.

Sec. 16. Revocation of licenses. The violation of any law of the state of Maine or of the United States of America with respect to intoxicating liquors shall be cause for the revocation of any license issued under this act and said state licensing board shall forthwith revoke licenses issued under this act for either of said causes, after notice and hearing to the licensee. The conviction of the servant, agent or employee of a licensee for the violation of any of the laws of the state of Maine or the United

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States of America relating to intoxicating liquors on the premises licensed shall be sufficient cause for the revocation of any licenses issued under this act, and shall be prima facie evidence that such violation was in the scope of the employment of said licensee and in his or its behalf. Nothing contained in this section shall be construed as restricting the power of said state licensing board to revoke licenses for any reasonable cause after notice and hearing.

Sec. 17. Hours of sale of malt beverages. No malt beverages as defined in this act shall be sold in this state on Sundays and no licensed hotel, restaurant or club shall, between the hours of midnight and 6 A. M., sell any malt beverages to be consumed upon the premises.

Sec. 18. Sale to certain minors prohibited. No licensee under the provisions of this act shall sell any malt beverage to any person under the age of 18 years.

Sec. 19. Excise tax. Whereas the license fees hereinbefore provided for under this act are for the purpose of regulating the manufacture and sale of malt beverages, now, therefore, in addition thereto, there is hereby levied and imposed an excise tax on all malt beverages of \$1.24 on each and every barrel containing not more than 31 gallons and at a like rate for any other quantity or for the fractional parts of a barrel. The payment of said tax shall be evidenced by a stamp affixed to each barrel, bottle or other container containing malt beverages. Said stamp shall express the amount of the tax paid evidenced thereby. No malt beverage shall be sold in or from a container unless such stamp shall be affixed thereto.

Sec. 20. Sale of stamps. The state licensing board shall cause to be prepared and shall furnish and sell all stamps to carry into effect the provisions of the foregoing section.

Sec. 21. Counterfeiting of stamps. Any person who shall make, forge or utter any false stamps provided for in this act shall be guilty of a felony and shall be subject to the same penalties as provided for counterfeiting of public securities under the laws of the state of Maine.

Sec. 22. Disposition of moneys. All moneys received by the state licensing board under this act shall be forthwith turned over to the state treasurer and by him deposited in the general fund of the state of Maine.

Sec. 23. Members of state licensing board shall give a bond. Members of the state licensing board shall give a bond to the state of Maine for the faithful performance of their duties in such sum as the governor and council may require and subject to their approval.

Sec. 24. Penalties. Whoever violates any of the provisions of this

act, other than making or uttering false stamps as hereinbefore provided, shall be punished by a fine of not more than \$500 or by imprisonment for a term of not more than 11 months, or by both fine and imprisonment.

Sec. 25. Constitutionality of act. If any section, subsection, sentence, clause, or phrase of this act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Sec. 26. Manufacture and sale of intoxicating beverage forbidden. Nothing in this act shall be interpreted as permitting the manufacture or sale of any beverage which is intoxicating within the meaning of Article XXVI of the Constitution of Maine.

Approved March 31, 1933.