

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-sixth and Eighty-seventh
Legislatures

OF THE

STATE OF MAINE

From April 1, 1933, to April 6, 1935

AND MISCELLANEOUS STATE PAPERS

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Eighty-Sixth Legislature

AT THE
SPECIAL SESSION, NOVEMBER 6-10

1934

Supplementary to Public Laws of the Regular Session and Special
Sessions of November 14, and December 4-20, 1933.

[supplied from page 177 of volume]

Chapter 300

AN ACT to Regulate the Sale of Intoxicating Liquors.

Emergency preamble. Whereas, constitutional prohibition, after an experience of 50 years, has been decisively rejected by the people of Maine, and

Whereas, present statutory law in accordance with the mandate of the constitutional provision heretofore in effect, contains many provisions of enforcement which exist palpably contrary to the wishes of the great majority of the people of the state, and

Whereas, there is urgent necessity for proper legislation to provide immediately for regulating the sale of intoxicating liquors, and to enable residents of the state to procure such liquors for medicinal purposes therein, and

Whereas, in the judgment of the legislature these facts constitute an emergency within the meaning of the constitution of the state of Maine and therefore require the following legislation as immediately necessary for the preservation of the public peace, health and safety; therefore

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

Sec. 1. The state licensing board. The state licensing board as created by chapter 268 of the public laws of 1933 shall hereafter be known as the state liquor commission.

Sec. 2. Salaries and expenses of members. The salary of the chairman of the commission shall be four thousand dollars (\$4000) per year, and the salary of each of the other members shall be three thousand dollars (\$3000) per year, and in addition each member of the commission shall be allowed his reasonable expenses incurred in the performance of his duties, provided, however, that such expenses shall not include travel between his place of residence and the commission office, or board and lodging in the city or town where such office is located.

Sec. 3. Eligibility of employees. No person shall be eligible for appointment as a member of the commission or appointment as an employee of the commission in any capacity who has any connection, official, professional or otherwise, or who owns any stock in a corporation interested either directly or indirectly in the manufacture or sale of liquor or who has been convicted of the breach of any state or federal law regulating the manufacture, the sale or the transportation of intoxicating liquor.

Said commission may employ, subject to the approval of the Governor and council such clerical and other assistants, and make such expenditures, as may be necessary to carry into effect the purposes of this act, and

subject to the same approval may fix the compensation of all such employees or assistants. All appointments of individuals as employees or agents of the commission shall take effect only on confirmation by the governor and council.

Sec. 4. Definitions. In this act unless the context otherwise requires, the words and phrases herein defined shall have the following meaning:

“Commission,” the state liquor commission.

“Person,” an individual, co-partnership, corporation or voluntary association.

“Liquor,” any alcoholic beverage intended for human consumption which contains more than 1% of alcohol by volume.

“Malt liquor,” any liquor produced by the brewing or fermentation of malt.

“Wine,” any liquor produced by natural fermentation.

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

Sec. 5. State licensing board abolished; transfer of duties. All the powers and duties conferred on said state licensing board by law shall hereafter be exercised by the state liquor commission. Said chapter shall hereafter be administered as if the words “malt beverage” as therein defined included all liquor coming within the meaning of the words “malt liquor” as herein defined.

Sec. 6. P. L., 1933, c. 268, §§ 2, 3 and 26, repealed. Sections 2, 3 and 26 of chapter 268 of the public laws of 1933 are hereby repealed.

Sec. 7. Sale of liquors by commission regulated. It shall be the duty of the commission to buy and have in its possession wine and spirits for sale to the public. Such wine 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 sell at retail in original packages and for cash, either over the counter or by shipment to points within the state, wine and spirits of all kinds for consumption off the premises at state stores to be operated under the direction of the commission. The commission shall establish prices for retail sale which shall be uniform throughout the state.

Sec. 8. State stores, etc., to be provided. Said commission is hereby authorized to lease and equip in the name of the state, such stores, warehouses and other merchandising facilities for the sale of liquor as are necessary to carry out the provisions of this act. Any lease or contract

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made pursuant hereto shall be approved by the attorney general before becoming effective. Leases shall be limited to terms of not more than 2 years, and may be for seasonal occupancy. No such store shall be established within 300 feet of any public or private school, church, chapel, or parish house.

Sec. 9. Business hours for state stores. 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 7 P. M. and 9 A. M. except on Saturdays when, if open, they may be kept open until 10 P. M. No sales shall be made therein to minors or persons under the influence of liquor.

Sec. 10. Limitation on sales of malt, wine and liquor. After the expiration of the term of licenses now outstanding issued by the state licensing board no malt liquor shall be sold within the state except under license of the commission. No wine or spirits shall be sold within the state except by said commission, unless otherwise expressly authorized by law.

Sec. 11. Appropriation. There is hereby appropriated from funds in the state treasury not otherwise appropriated the sum of \$250,000 or so much thereof as shall be necessary for the purpose of providing operating capital under this act. All the provisions of sections 10, 15 and 16 of chapter 216 of the public laws of 1931, so far as the same are appropriate, shall apply to the operation of state stores hereby established; provided, however, that the appropriation fund of \$250,000 shall be treated as operating capital and expended recurrently for the purpose of maintaining a stock of wines and spirits for sale therein and the operation of said stores.

Sec. 12. Cities and towns to receive pro rata abatement of taxes on profits. The fiscal year for the operation of said stores shall close each year upon the 30th day of June beginning in the year 1935; and the annual net profits from the operation of said stores shall be determined as of that date. The amount of said annual net profits shall be determined by the commission subject to audit by the state auditor and when so determined and audited, the state auditor shall certify the amount thereof to the state tax assessor. Upon receipt of such certificate from the state auditor the state tax assessor shall apportion to each city, town, plantation and person to whom a state tax is directly assessed upon property, that proportion of said annual net profits certified to him as aforesaid, that the valuation of said city, town, plantation and the property of such person directly assessed by the state as valued for the purpose of levying the state tax thereon bears to the total valuation of all of the property in the state as valued for the purpose of levying the state tax thereon. The state tax assessor shall thereupon certify to the state treasurer the amount

so apportioned to each city, town, plantation and person as aforesaid and the state treasurer shall thereupon credit said amount to each city, town, plantation and person to whom the same is apportioned as aforesaid upon the state tax assessed against such city, town, plantation and person for the then current tax year, and such credit shall have the same effect as though said sum apportioned had been paid to the state treasurer by the city, town, plantation or person to whom the same is credited upon the tax to which the same is applied. Said annual net profits shall thereupon be applied and used by the state in the same manner and for the same purposes as though paid into the state treasury by the several cities, towns, plantations and persons as partial payments on the state tax assessed against them. Provided, however, that for each of the 5 years commencing July 1, 1935, in determining the annual net profits of the stores for such year, the sum of \$50,000 shall first be deducted from the gross receipts and repaid into the state treasury to reimburse it for the \$250,000 hereinbefore appropriated from the general funds of the state to provide operating capital under this act.

Sec. 13. Limitation of actions against employees of board. No action or proceeding shall be taken against any member, official, manager, agent or employee of the commission for anything legally done in or arising out of the performance of his duties under this act.

Sec. 14. R. S., c. 137, §§ 9 and 10, repealed. Sections 9 and 10 of chapter 137 of the revised statutes are hereby repealed.

Sec. 15. R. S., c. 137, § 42, amended. Section 42 of chapter 137 of the revised statutes is hereby repealed and the following enacted in place thereof:

Sec. 42. Seizure and forfeiture of vehicles containing liquor. All automobiles, trucks, wagons, boats or vessels and vehicles of every kind, not common carriers, containing liquor intended for illegal sale shall be seized by any officers seizing the liquor transported therein, and shall be libeled as is provided for the libeling of intoxicating liquors and the vessels in which they are contained, and shall be declared forfeited by the court and sold in the same manner as is provided for the sale of vessels containing intoxicating liquors.'

Sec. 16. "Intoxicating liquors" defined. Wherever the words "intoxicating liquors" are now used in any statute or law said words shall be interpreted as having the same meaning as the word "liquor" herein defined.

Sec. 17. Local option. The following question shall be submitted to the voters in cities and towns on the usual ballot at each biennial election hereafter:

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"Shall state stores be operated by permission of the state liquor commission in this city or town under the provisions of 'An Act to regulate the sale of intoxicating liquors,' passed at the 1934 special session of the legislature?"

If a majority of the qualified voters voting at any biennial election of a city or town signifies disapproval of the question above, the commission shall not operate state stores under the provisions of this act in said city or town.

Prior to the next biennial state election, state stores may be established in any town which at the last biennial election voted in favor of the repeal of the 26th amendment to the constitution.

Sec. 18. Emergency clause. In view of the emergency recited in the preamble, this act shall take effect when approved.

Approved November 10, 1934.

Chapter 301

AN ACT to Provide for the Issue of Consumption Licenses by the State Liquor Commission.

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

Sec. 1. Liquor, how sold on the premises. The state liquor commission may from time to time in cities and towns where state stores are in operation or where such stores have been authorized either under the terms of the act creating said commission or at any biennial state election commencing with the election to be held on the 2nd Monday of September, 1936, grant licenses for the sale of liquor to be consumed on the premises where sold in accordance with the provisions of this act.

Sec. 2. Regulatory powers. Said commission shall have all the regulatory powers in connection with licenses for the sale of liquor that are vested in said board, in connection with the sale of malt beverages.

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