

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1963 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 2

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**Discard Previous Supplement**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1963

**Sec. 44. Penalties.**—Any person who willfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society, shall upon conviction be punished by a fine of not less than \$100 nor more than \$500 or imprisonment in the county jail for not less than 30 days nor more than 11 months, or both.

Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this state shall upon conviction be punished by a fine of not less than \$50 nor more than \$200.

Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of this chapter for which a penalty is not otherwise prescribed, shall, upon conviction, be punished by a fine of not more than \$200. (1957, c. 217, § 1.)

## Chapter 61.

### Laws Relating to Liquor.

Sections 31 to 31-A. Retail Sale of Liquor; Fees.

#### Definitions.

##### Sec. 1. Definitions.

“Catering” shall mean service of liquor with or without food by clubs having the catering privilege, to groups of nonmembers at a prearranged function.

“Club member” shall mean a person who, whether as a charter member or admitted in accordance with the by-laws of the club, has become a bona fide member and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with by-laws and whose name and address is entered on the list of members, and no person who does not have full club privileges shall be considered a bona fide member.

“Hotel” shall mean any reputable place operated by responsible persons of good reputation, where the public, for a consideration, obtains sleeping accommodations and meals under one roof and which has a public dining room or rooms operated by the same management open and serving food during the morning, afternoon and evening, and a kitchen, apart from the public dining room or rooms, in which food is regularly prepared for the public on the same premises. Each such hotel shall be equipped with at least 10 adequate sleeping rooms when it is located in a municipality of 3,000 or less population, 20 such sleeping rooms when located in municipalities having population of from 3,000 to 7,500 and 30 such sleeping rooms when located in municipalities having more than 7,500 population. All such rooms shall be in addition to rooms used by the owner or his employees. Each such hotel shall be open for the convenience of the traveling public 7 days per week and a reasonable proportion of the gross income of each such hotel shall be derived from rental of rooms and sale of food; except that a reasonable proportion, but not less than  $\frac{1}{3}$ , of the gross income of each hotel for which a part-time license has been issued shall be derived from rental of rooms and sale of food. Increase in population as shown by the 1950 and any subsequent federal census shall not affect the eligibility for license of premises licensed prior to any such census.

No additional requirements imposed by the provisions of this section shall affect premises licensed on August 13, 1947, and nothing in this section shall be

held to prevent the commission from issuing summer or part-time licenses to bona fide summer hotels where accommodations and meals are not provided under one roof, provided that such hotel can in no way be classed as overnight camps, and provided further, that no liquor shall be served or delivered by the licensee, his servants or agents to guests in rooms outside of the main building.

“Hotel guest” shall mean a person whose name and address is registered on the registry maintained by the hotel and who is the bona fide occupant of a room of the hotel. A person registering solely for the purpose of obtaining liquor is not to be deemed a hotel guest.

“Licensee” shall mean the person to whom a license of any kind is issued by the commission.

“Liquor” shall mean and include any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquors, intended for human consumption, which contains more than  $\frac{1}{2}$  of 1% of alcohol by volume.

“Malt liquors” shall mean all kinds and types of liquors as herein defined produced by the fermentation of malt wholly or partially or from any substitute therefor.

“Premise” or “premises” except as otherwise by law specifically designated premises shall mean and include all rooms interconnected with rooms where the license privilege is exercised in any building occupied by a licensee over which the licensee has direct or indirect control or interest.

“Class A restaurant” shall mean a reputable place operated by responsible persons of good reputation which is equipped for preparing and serving food on the premises. Year round class A restaurants must do a minimum of \$50,000 per year in sale and service of food to the public on their premises. Part-time licensees must do a minimum of \$30,000 business in sale or service of food to the public on their premises. In the case of both full-time and part-time licenses at least 60% of the total volume of business shall be sale of food. The commission, in the case of an applicant for an initial “class A restaurant” license, is authorized to and shall exercise its judgment as to the applicant’s probable qualification with the income provisions of this paragraph during the applicant’s initial license period where the applicant is the owner or operator of a year-round or part-time restaurant which operated in the calendar year prior to making application and substantially met the income requirements of this paragraph and where the applicant is a new restaurant establishment, either year-round or part-time, which operated as such for a minimum of 3 months prior to making application. If the judgment of the commission is that the applicant would probably so qualify, then a license shall issue. In no case shall the commission renew any license for the sale of liquor under this paragraph unless they are furnished with proof that the previous year’s business conformed to the income provisions of this paragraph. The commission is specifically authorized to make such rules and regulations as they deem necessary for carrying out the provisions of this paragraph.

“Retail sale” shall mean any single sale of liquor in the original package for off the premises consumption less than 20 gallons.

“Sale” or “sell” shall include any transfer or delivery of liquor for a consideration, and any gift thereof in connection with or as a part of a transfer of property.

“Tavern” shall mean a reputable place for men only operated by responsible persons where no food is sold other than prepared packaged bar snacks and no business is carried on except the sale of cigarettes and tobacco products and except the sale of malt liquor at a bar. There shall be no tables, chairs or other seating accommodations and all persons served shall remain standing at the bar.

“Vinous liquor” shall mean wine.

Places located on fairgrounds operated by agricultural societies or where pari

mutuel racing is conducted, which otherwise meet the definition of a hotel or a restaurant, shall be deemed to be a hotel or restaurant for purposes of this chapter notwithstanding the fact an admission charge must be paid to gain entrance to such place. (R. S. c. 57, § 1. 1947, c. 165, § 1; cc. 226, 246; c. 322, § 1. 1949, c. 349, § 96. 1951, c. 356, §§ 1, 2. 1953, c. 194. 1955, c. 217; c. 355, §§ 1, 2. 1957, c. 117, §§ 1-6. 1959, cc. 137, 160; c. 340, § 1; c. 363, §§ 37, 56. 1961, c. 201; c. 344, § 1. 1963, c. 400, § 1.)

**Effect of amendments.**—The first 1955 amendment inserted after the word "sold" in line two of the paragraph defining "tavern" the words "other than prepared packaged bar snacks." The second 1955 amendment rewrote the definition of "licensee" and inserted the definition of "malt liquors" in its proper place in alphabetical order in this section.

The 1957 amendment inserted the definitions of "catering", "club member", "hotel guest", "premise" or "premises", "retail sale", "sale" or "sell", and "vinous liquor" in their proper places in alphabetical order.

This section was amended four times in 1959. Chapter 137, which made a change in the definition of "liquor," was repealed by c. 363, § 56. Chapter 160 substituted "20" for "5" in the definition of "retail

sale." Chapter 340, § 1, inserted the definition of "Class A restaurant" before the definition of "restaurant." Chapter 363, § 37, substituted "½ of 1%" for "1%" in the definition of "liquor."

Chapter 201, P. L. 1961, effective on its approval, April 14, 1961, substituted the present fifth, sixth, seventh and eighth sentences of the definition of "Class A restaurant" for the former fifth and sixth sentences thereof. Chapter 344, P. L. 1961, added the last paragraph to this section.

The 1963 amendment, which provides that it shall become effective for all licenses issued for the calendar year 1965 or any part thereof, and thereafter, added the exception at the end of the fourth sentence of the paragraph defining "hotel."

Only the paragraphs added or changed by the amendments are set out.

### Local Option.

**Sec. 2. Local option.**—The aldermen of cities, the selectmen of towns and the assessors of plantations are empowered and directed to notify the inhabitants of their respective municipalities to meet, in the manner prescribed by law for the calling and holding of biennial meetings of said inhabitants for the election of senators and representatives, at the time of holding such biennial meeting to give in their votes upon the following questions:

- I. Shall state stores for the sale of liquor be operated by permission of the state liquor commission in this city or town? (State liquor store)
- II. Shall licenses be granted in this city or town for the sale herein of wine and spirits to be consumed on the premises? (Hotel and club)
- II-A. Shall licenses be granted in this city or town for sale herein of wine and spirits to be consumed on the premises of Class A restaurants?
- III. Shall licenses be granted in this city or town for sale herein of malt liquor (beer, ale and other malt liquors) to be consumed on the premises? (Beer and ale in restaurants, hotels and clubs)
- IV. Shall licenses be granted in this city or town for the sale herein of malt liquor (beer, ale and other malt liquors) to be consumed on the premises of taverns? (Beer and ale for men only)
- V. Shall licenses be granted in this city or town for the sale herein of malt liquor (beer, ale and other malt liquors) not to be consumed on the premises? (Beer and ale to take out)

Upon receipt of a petition of electors resident in that city or town in writing addressed to the secretary of state and signed by at least 15% of the number of voters voting for the gubernatorial candidates at the last state-wide election in that city or town, which petition shall be filed with the secretary of state on or before the 1st day of July preceding the day of the biennial election, the ballots for that city or town shall carry in accordance with the petition any or all of the following additional questions:

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

**VII.** Shall licenses be granted in this city or town for the sale herein of wine and spirits to be consumed on the premises of a club only?

**VIII.** Shall licenses be granted in this city or town for the sale herein of malt liquor (beer, ale and other malt liquors) to be consumed on the premises of a club only?

**IX.** Shall licenses be granted in this city or town for the sale herein of malt liquor to be consumed on the premises of part-time hotels only?

The secretary of state shall prepare and furnish to the several municipalities ballots in manner and form as prescribed in chapter 3-A, section 66 for constitutional amendment or other questions, together with all such other forms including those for instructions and returns as are prescribed in said chapter 3-A.

The inhabitants of the several municipalities shall vote by ballot on said questions, those in favor voting "Yes" on their ballots and those opposed "No," and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and return made to the office of the secretary of state in the same manner as votes for governor and members of the legislature, and the governor and council shall canvass the same and the result shall be determined as provided in chapter 3-A.

If a majority of the votes cast in any city or town in answer to any local option question is in the affirmative, the commission may issue licenses of the type authorized by such affirmative vote in such city or town for the 2 calendar years next following, subject to all provisions of law.

If a majority of the votes cast in any municipality in answer to questions VI, VII, VIII or IX is in the affirmative, the ballots for that municipality at the next biennial general election shall carry such question or questions without petition.

If the majority of the votes cast in any municipality in answer to questions VI, VII, VIII or IX is in the negative, the ballots for that municipality at the next biennial general election shall carry such question or questions only after the petition required by this section.

If a majority of the votes cast in any municipality in answer to any local option question is in the negative, no licenses for sale of the type denied by such negative vote shall be issued in such municipality for the 2 calendar years next following.

In case of a tie vote on any of the preceding questions, the law shall remain as it was before the voting.

Upon this ballot no other referendum question shall be printed. (R. S. c. 57, § 2. 1947, c. 273, § 1; c. 322, §§ 1-A, 1-B, 1-C. 1949, c. 349, § 97. 1951, c. 356, §§ 16, 17. 1955, c. 355, § 3; c. 427. 1957, c. 58; c. 218, § 1; c. 397, § 39. 1959, c. 139, § 1, 2; c. 140, §§ 1, 2; c. 141; c. 274, § 1; c. 327, §§ 1-3; c. 340, § 2; c. 378, § 52. 1961, c. 360, § 4.)

**Effect of amendments.**—The first 1955 amendment substituted the present fifth and the former ninth paragraphs for sixteen paragraphs relating to the results of the election. The second 1955 amendment added the question numbered IX at the end of the second paragraph.

The first 1957 amendment deleted the words "cities, towns and plantations" and substituted the word "municipalities" therefor in the first paragraph, and also added the parenthetical statements at the end of subsections I to V. The second 1957 amendment substituted the word

"wine" for "wines" in subsection VI. The third 1957 amendment re-enacted subsection IX without change.

P. L. 1959, c. 139, inserted the former sixth and tenth paragraphs relating to results in answer to question VI. P. L. 1959, c. 140, inserted the former seventh and eleventh paragraphs relating to results in answer to question VIII or IX. P. L. 1959, c. 141, added subsection II-A, but this chapter was repealed by § 3 of c. 327. P. L. 1959, c. 274, added "and clubs" following "hotels" in the parenthetical statement at the end of subsection III. P. L. 1959, c.

227, inserted the former eighth and twelfth paragraphs relating to results in answer to question VII. P. L. 1959, c. 340, again added subsection II-A. P. L. 1959, c. 378, effective on its approval, January 29, 1960, deleted the former sixth to fourteenth paragraphs and added the present sixth to tenth paragraphs.

The 1961 amendment substituted "municipalities" for "cities, towns and planta-

tions" near the beginning of the third and fourth paragraphs, substituted "chapter 3-A, section 66" for "section 5 of chapter 5" in the third paragraph, substituted "chapter 3-A" for "chapter 5" at the end of that paragraph and substituted "chapter 3-A" for "section 52 of chapter 5" at the end of the fourth paragraph.

Cited in *State v. Ouellette*, 150 Me. 44, 103 A. (2d) 785.

### Commission; Powers and Duties.

**Sec. 3. State liquor commission; appointment; chairman.**—The state liquor commission, as heretofore established, shall consist of 3 members to be appointed by the governor, with the advice and consent of the council, to serve for 3 years and may after notice and hearing be removed for cause by the governor and council. The governor shall designate one of the members to be its chairman, who shall devote each full working day to his duties, and not more than 2 members thereof shall belong to the same political party. Any vacancy shall be filled by appointment for a like term. The chairman shall be the chief administrative officer, having general charge of the office and records. (R. S. c. 57, § 3. 1947, c. 250. 1963, c. 363, § 1.)

**Effect of amendment.**—The 1963 amendment inserted "who shall devote each full working day to his duties" in the second

sentence and added the present fourth sentence.

**Sec. 4. Eligibility of members and employees.**—No person shall be eligible for appointment as a member of the commission or as an employee of the commission in any capacity including the business administrator, who has any connection with, 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, sale or transportation of intoxicating liquor. (R. S. c. 57, § 4. 1953, c. 396, § 1. 1955, c. 294, § 1.)

**Effect of amendment.**—The 1955 amend-

of licensing and enforcement" after the ment deleted the words "and the director word "administrator" in line three.

**Sec. 5. Salaries and expenses.**—The salary of the chairman of the commission shall be \$8,500 per year and the salary of each of the other members shall be \$5,625 per year, and in addition each member shall be allowed his reasonable expense incurred in the performance of his duties. Such expense 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 or in the city of Augusta. (R. S. c. 57, § 5. 1945, c. 373. 1951, c. 412, § 16. 1957, c. 296; c. 418, § 19; c. 429, § 53. 1963, c. 363, § 2.)

**Effect of amendments.**—The first 1957 amendment made a former proviso into a separate sentence and inserted the words "or in the city of Augusta" at the end of such sentence. The second 1957 amendment, effective July 1, 1957, which did not refer to or give effect to the first amendment, increased the salary of the

chairman from \$7,000 to \$7,875 and of the other members from \$5,000 to \$5,625. The third 1957 amendment, which became effective on its approval, October 31, 1957, referred and gave effect to both prior 1957 amendments.

The 1963 amendment increased the salary of the chairman from \$7,875 to \$8,500.

**Sec. 7. Repealed by Public Laws 1955, c. 294, § 2.**

**Sec. 8. Powers and duties.**

**I.** To have general supervision of manufacturing, importing, storing, transporting and sale of all liquors and to make such rules and regulations as

they deem necessary for such purpose and to make rules and regulations for the administration, clarification, carrying out, enforcing and preventing violation of all laws pertaining to liquor which rules and regulations shall have the force and effect of law, unless and until set aside by some court of competent jurisdiction or revoked by the commission. (1953, c. 396, § 3. 1959, c. 274, § 2)

**III.** Repealed by Public Laws 1959, c. 274, § 3.

**V.** Repealed by Public Laws 1957, c. 125.

**V-A.** The commission shall display in state stores, authorized under the provisions of sections 10 and 11, a separate list of all alcoholic beverage products manufactured or bottled in this state and listed by the commission, suitably marked to indicate that the same are Maine products. Such display shall be in addition to the regular listing of all the products sold by the commission. (1957, c. 258)

**VIII. Licensing.** To issue and renew all licenses provided for by this chapter and to hold hearings thereon.

**X.** Repealed by Public Laws 1959, c. 274, § 4.

**XII.** To assign to the business administrator under its supervision all powers and duties relating to all phases of the merchandising of liquor through state stores. (1953, c. 396, § 4. 1959, c. 274, § 5)

**XIII.** Repealed by Public Laws 1955, c. 294, § 3.

**XIV.** To act as a review board 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. (1953, c. 396, § 4. 1955, c. 294, § 4. 1957, c. 218, § 2)

**XV.** To publish at least annually on or before August 31st in a convenient pamphlet form all regulations then in force and to furnish copies of such pamphlets to every licensee authorized by law to sell liquor. (1957, c. 120)

**XVII.** To appoint, subject to the personnel law, a chief inspector and as many inspectors as may from time to time be found necessary. The inspectors shall be under the direct supervision and control of the chief inspector. They shall have the same powers and duties throughout the several counties of the state as sheriffs have in their respective counties relating to liquor. Their power and duties shall include the duty to inquire into and arrest for violations of any of the provisions of this chapter, to arrest for violations of chapter 22, section 159-A, to arrest for impersonation of or interference with liquor inspectors, and to arrest for disturbances of the peace in the pursuance of their duties relating to liquor under this chapter and to serve all processes necessary for and pertaining to enforcement of any of the provisions of this chapter. All complaints, records and reports of the enforcement division created by this section relating to licensing and enforcement of liquor laws, rules and regulations are declared to be confidential. (1947, c. 88. 1949, c. 246. 1959, c. 161; c. 274, § 6. 1961, c. 150.)

**XIX.** Any member of the commission 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 to appear before the commission 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. (1945, c. 61. 1953, c. 396, § 5. 1955, c. 294, § 5. 1957, c. 218, § 2)

**XXI.** The expenses for the administration of the state liquor commission in carrying out the duties as set forth in this chapter shall be paid from such



amounts as the legislature may allocate from the revenues derived from the operations of the commission. Such amounts shall become available in accordance with the provisions of chapter 15-A. (1955, c. 401, § 1. 1957, c. 340, § 4)

**XXII. Public meetings.** The commission shall hold public meetings 4 times a year at various locations within the state for the purpose of outlining operations under the liquor laws, receiving suggestions thereto and disseminating information to the public. (R. S. c. 57, § 6. 1945, c. 61. 1947, c. 88. 1949, cc. 246, 313. 1951, c. 355. 1953, c. 253; c. 255, §§ 1, 2; c. 286; c. 396, §§ 3, 4, 5. 1955, c. 294, §§ 3-5; c. 401, § 1. 1957, c. 120; c. 125; c. 218, § 2; c. 258; c. 340, § 4. 1959, c. 161; c. 274, §§ 2-6. 1961, c. 150. 1963, c. 373; c. 412, § 16.)

**Effect of amendments.**—The first 1955 amendment repealed subsection XIII, relating to assignment of powers and duties to the director of licensing and enforcement, and deleted references to the director of licensing and enforcement in subsections XIV and XIX.

The second 1955 amendment, which became effective July 1, 1955, added subsection XXI. Section 2 of the second 1955 amendatory act allocated specified amounts for the operation of the liquor commission for the years 1955-56 and 1956-57 and section 3 provided: "It is the intent of the legislature that the allocation of funds by the legislature, as provided by this act, shall apply to the administrative expenses only of the liquor commission and that such allocations shall be allotted and approved under provisions of Chapter 16 of the revised statutes of 1954. It is not intended to affect the use of the working capital, provided for by section 13 of chapter 61 of the revised statutes of 1954, or other activities required of the state liquor commission by chapter 61 of the revised statutes of 1954."

The first 1957 amendment changed the date of publication in subsection XV from "June 30th" to "August 31st". The second 1957 amendment repealed subsection V. The third 1957 amendment deleted the words "on the decision of the administrator" which formerly appeared following the word "board" in the first sentence of subsection XIV, deleted the words "and the administrator" which formerly appeared following the word "commission" in the first sentence of subsection XIX and deleted the words "or the administrator" which formerly ap-

peared in two places following the word "commission" in the last sentence of subsection XIX. The fourth 1957 amendment inserted subsection V-A. The fifth 1957 amendment substituted "chapter 15-A" for "chapter 16" in subsection XXI. Section 12 of such amendatory act provided that it should be retroactive to July 1, 1957.

This section was amended twice by the 1959 legislature. P. L. 1959, c. 274, amended this section five times. Section 2 of P. L. 1959, c. 274, added the provisions as to making rules and regulations in subsection I. Section 3 repealed subsection III. Section 4 repealed subsection X. Section 5 added the words "through state stores" to subsection XII. Section 6 added the last sentence to subsection XVII. P. L. 1959, c. 161 deleted the words "the provisions of", formerly appearing in the first sentence of subsection XVII and added the provisions as to service of processes at the end of the fourth sentence of the subsection.

The 1961 amendment inserted the provisions as to arrest for violations of c. 22, § 159-A, and for disturbances of the peace in the fourth sentence of subsection XVII.

The first 1963 amendment added subsection XXII. The second 1963 amendment, which became effective on its approval, June 27, 1963, substituted "issue and renew" for "issue, renew, suspend and revoke" near the beginning of subsection VIII.

Only the subsections added or changed by the amendments are set out.

**Cited in** Cross v. Guy Gannett Pub. Co., 151 Me. 491, 121 A. (2d) 355.

**Sec. 9. Penalty for violation of law.**—Whoever shall purchase, import, transport, manufacture, possess or sell alcohol in this state in violation of law shall be punished by a fine of not more than \$200 or by imprisonment for not more than 6 months, or by both. (R. S. c. 57, § 7. 1947, c. 245. 1953, c. 255, § 2-A. 1963, c. 181.)

**Effect of amendment.**—The 1963 amendment rewrote this section.

### State Stores.

**Sec. 10. State stores.**—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 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. The state warehouses and wholesale stores shall be located in places designated by the state liquor commission. Leases 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, measured from the main entrance of the state store to the main entrance of the school, church, chapel or parish house by the ordinary course of travel. (R. S. c. 57, § 8. 1947, c. 144. 1953, c. 330, § 1. 1959, c. 274, § 7. 1961, c. 417, § 159.)

**Effect of amendments.** — The 1959 amendment pluralized the words “warehouse”, “store” and “place”, and struck out the article “a”, formerly appearing after the word “in” and before the word “places” in the second sentence of this section.

Chapter 344, P. L. 1961, added at the end of this section “subject to the same terms and conditions as are provided for the location of licensed premises in sec-

tion 26.” Chapter 159, P. L. 1961, had previously added at the end of the section “measured from the main entrance of the state store to the main entrance of the school, church, chapel or parish house by the ordinary course of travel.” Chapter 417, P. L. 1961, which referred to both prior 1961 amendments, again added the phrase at the end of the section beginning with “measured from the main entrance.”

**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 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. (R. S. c. 57, § 10. 1947, c. 95. 1957, c. 218, § 3.)

**Effect of amendment.** — The 1957 amendment substituted the words “except during the time when Eastern daylight time is in effect” for the words “except

that in municipalities operating on daylight saving time.”

**Cited in** State v. Fantastic Fair, 158 Me. 450, 186 A. (2d) 352.

### Working Capital.

**Sec. 13. Working capital.** — The net profits of the commission shall be general revenue of the state. The commission is authorized to keep and have on hand a stock of wines 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. The maximum permanent working capital of the commission is established at \$3,500,000 and permanent advances up to this amount may be authorized by the governor and council upon recommendation of the commission with the approval of the commissioner of finance and administration. The permanent working capital of the commission may be supplemented by temporary loans from other state funds upon recommendation of the commission and by approval of the commissioner of finance and administration and the governor and council. (R. S. c. 57, § 11. 1945, c. 92, § 1. 1953, c. 265, § 6. 1957, c. 218, § 3-A. 1963, c. 364.)

**Effect of amendments.** — The 1957 amendment repealed the former last sentence relative to return of excess working capital to the general fund.

The 1963 amendment deleted “liquor”

preceding “commission” near the beginning of the third sentence and substituted “\$3,500,000” for “\$3,000,000” in such sentence.

**State Liquor Tax.**

**Sec. 14. Consumers' tax on spirituous and vinous liquor.**—All spirits and wines shall 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 65% based on the less carload cost f. o. b., state liquor commission warehouse, and in addition thereto there shall be levied and imposed an excise tax of 24¢ per gallon on wines containing 10% to 14% alcohol by volume, 75¢ per gallon on wines containing 15% to 21% alcohol by volume and \$1 per gallon on sparkling wines; except that spirits and wines sold at wholesale under section 43 may be sold at wholesale prices established pursuant to the provisions thereof. Prices for sale of spirits and wines bought by the commission from Maine licensees to manufacture liquor under section 15 shall be based on minimum truck load delivery prices f. o. b. warehouse as the same are filed with the public utilities commission. Special orders by the commission for unstocked merchandise shall be priced at not less than 65% over actual cost delivered f. o. b. warehouse. In all cases the commission is authorized to round off costs to the next highest 5 cents. Any increased federal taxes levied on or after November 1, 1941 shall be added to the established price without markup. All net revenue derived from such tax shall be deposited to the credit of the general fund of the state. Notwithstanding the other provisions of this section, the commission with approval of the commissioner of finance and administration may reduce the price of discontinued items of liquor by an amount of 10% of the listed selling price and no item shall be discontinued by the commission for a period of at least 6 months after such item has been listed and on sale in state stores. (R. S. c. 57, § 12. 1953, c. 255, § 3. 1955, c. 359, § 9. 1961, cc. 370, 398.)

**Effect of amendments.** — The 1955 amendment, which became effective July 1, 1955, inserted the provisions for additional taxes on wines in the present first sentence. It also substituted "November" for "April" in the present fifth sentence.

P. L. 1961, c. 370, effective on July 1, 1961, divided the former first sentence into

three sentences, substituted "65%" for "61%" and "\$1 per gallon" for "\$5 per gallon" in the present first sentence, substituted "65%" for "61%" in the present third sentence and made other minor changes in the present first two sentences. The P. L. 1961, c. 398, added the present last sentence.

**Liquor; Manufacture.**

**Sec. 15. Licenses to manufacture liquor; sales; transportation; fees.**

All licenses issued under the provisions of this section shall authorize the licensees to sell their finished product to the commission, to other licensed Maine manufacturers and to purchasers outside of the state. In the case of breweries, the license shall authorize sale to licensed Maine wholesalers; and all manufacturers' licenses shall authorize the transportation within the state for the purposes herein provided and to the state border for delivery to out of state purchasers. 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.

(1957, c. 218, § 4.)

**Effect of amendment.** — The 1957 amendment added the words "and persons authorized to purchase wine under the provisions of section 63" at the end of

the next to the last paragraph of this section. As the rest of the section was not changed by the amendment, it is not set out.

**Malt Liquor; Manufacture.**

**Sec. 17. Manufacturers and officers not interested in wholesalers; commercial credit; furnishing materials and equipment.**—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 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 liquor is sold, excepting only the usual and customary commercial credit for malt liquor sold; excepting that a manufacturer or holder of a certificate of approval may furnish a wholesale licensee materials and equipment for the use of the wholesale licensee or his employees such as painting the wholesale licensee's vehicles, and furnishing legal advertising signs used by the wholesale licensee in the course of his business, and furnishing the wholesale licensee uniforms for his employees, excepting only the usual and customary commercial credit for malt liquor sold and delivered. (R. S. c. 57, § 15. 1959, c. 148, § 1.)

**Effect of amendment.**—The 1959 amendment struck out the words "and delivered" immediately preceding the last semicolon in the section and added all the language which follows such semicolon.

**Editor's note.** — The repetition of the words "excepting only the usual and customary commercial credit for malt liquor sold" appears in P. L. 1959, c. 148, § 1.

**Sec. 18. Certificate of approval; reports; fees.**—No manufacturer or foreign wholesaler of malt liquor shall hold for sale, sell or offer for sale, in intrastate commerce, any malt liquor or transport or cause the same to be transported into this state for resale unless such manufacturer or foreign wholesaler has obtained from the commission a certificate of approval. The fee therefor shall be \$300 per year, which sum shall accompany the application for such certificate.

All manufacturers or foreign wholesalers to whom certificates of approval have been granted shall furnish promptly the commission with a copy of every invoice sent to Maine wholesale licensees, with the licensee's name and purchase number thereon. 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 shall not ship or cause to be transported into this state any malt liquor until the commission has certified that the excise tax has been paid or that the Maine wholesale licensee, to whom shipment is to be made, has filed a bond to guarantee payment of the excise tax as provided in section 21.

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

The certificate of approval shall be subject to the laws of the state of Maine and the rules and regulations which the commission has or may make. Any violation of such rules and regulations shall be grounds for suspension or revocation of such certificate at the discretion of the hearing examiner.

The fees received under the provisions of this section shall be deposited in the general fund of the state. (R. S. c. 57, § 16. 1947, c. 96. 1949, c. 226. 1953, c. 255, § 3-A. 1959, c. 378, § 53. 1961, c. 133; c. 344, §§ 3, 4; c. 413, § 1.)

**Effect of amendments.**—P. L. 1959, c. 378, effective on its approval, January 29, 1960, substituted "hearing examiner" for "commission" at the end of the present fourth paragraph.

P. L. 1961, c. 133, substituted "\$300" for

"\$100" in the second sentence of the first paragraph. P. L. 1961, c. 344, added "promptly" following "furnish" near the middle of the first sentence of the second paragraph and added "the laws of the state of Maine and" in the middle of the first

sentence of the fourth paragraph. P. L. by the Maine wholesale licensee at the 1963, c. 413, effective July 1, 1963, added end of the second paragraph. the provisions as to the filing of a bond

### **Malt Liquor. Wholesalers. Excise Tax.**

**Sec. 20. Licenses for wholesalers of malt liquor.** — Licenses for the sale and distribution of malt liquor 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 upon payment of an annual fee of \$300 for the principal place of business, and \$300 for each additional warehouse maintained by such wholesale licensee, except that the commission may issue special permits, upon application in writing, for the temporary storage of malt liquors under such terms and upon such conditions as the commission may prescribe. Any wholesaler, if a person, shall have been a resident of this state for 6 months or, if a corporation, shall have conducted business in this state for 6 months before a license may be issued.

Such wholesalers' licenses may be transferable as to premises in the town originally specified or to premises in another town. (R. S. c. 57, § 18. 1963, c. 189.)

**Effect of amendment.**—The 1963 amendment added the second sentence to the first paragraph.

**Sec. 21. Interstate purchase or transportation of malt liquor by wholesalers; bond for payment of excise tax.**—No Maine wholesale licensee shall purchase or cause to be transported into this state any malt liquor from any 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 are to be executed in quintuplet. First, the wholesaler ordering malt liquor shall mail 3 copies to the commission with a check for the amount of excise taxes required to cover the amount of the order. Thereafter, the wholesaler may mail the original copy of the order to the qualified brewery or wholesaler with whom he wishes to place his order. On receipt of the 3 copies and check for excise taxes, the commission shall promptly receipt 2 copies and return one copy to the wholesaler and send one to the brewery or foreign wholesaler designated to receive the order and no brewery or foreign wholesaler shall ship or release malt liquor for delivery in Maine until notified by the commission that the excise tax has been paid thereon in accordance with the provisions of this section and shall ship only to a licensed Maine wholesaler.

No Maine wholesale licensee shall sell any malt liquor to another Maine wholesale licensee, which has not been purchased from a brewery or foreign wholesaler holding a certificate of approval.

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 purchased and sold during the preceding month.

By filing the bond hereafter required, a Maine wholesale licensee may pay monthly the excise tax imposed by section 22 on all malt liquor shipped into this state as shown by invoice of the shipment by the out-of-state wholesaler or holder of certificate of approval. The tax shall be paid by the wholesale licensee on or before the 10th day of the calendar month following that in which shipment occurs. Each Maine wholesale licensee shall, at the time of payment of the excise tax on or before the 10th day of each month, furnish to the commission in such form as may be prescribed a verified monthly report of all malt liquor purchased or imported based on the date of shipment invoice during the preceding calendar month and all such additional information as may be deemed necessary to compute and assure the accuracy of the excise tax payment accompanying the report.

In order to secure payment of the excise tax, each wholesale licensee shall file with the commission a corporate surety bond, in form and amount approved and determined by the commission, guaranteeing payment of the proper excise tax due the state from him. The commission shall fix the amount and terms of the bond in such manner and subject to such conditions as it deems most appropriate. Said bond shall be equal to double the highest monthly excise tax paid by the wholesale licensee during the period of his prior calendar year license. All such bonds shall be provided and effective only for each calendar licensed year. New licensees desiring to furnish bond under this section shall furnish corporate surety bond in an amount to be determined by the commission. Failure to pay the excise tax when due shall be grounds for the suspension of the license of the Maine wholesale licensee. (R. S. c. 57, § 19. 1953, c. 18. 1955, c. 188; c. 355, § 4. 1957, c. 397, § 40. 1961, c. 413, § 2.)

**Effect of amendments.**—The first 1955 amendment added the words “and shall ship only to a licensed Maine wholesaler” at the end of the second paragraph. The second 1955 amendment rewrote the second paragraph.

The 1957 amendment re-enacted the second paragraph of this section as changed by the 1955 amendments.

The 1961 amendment, effective July 1, 1963, added the last two paragraphs.

**Sec. 22. Excise taxes; deficiency account; credits; refunds.**—There shall be levied and imposed an excise tax on all malt liquor manufactured in this state of  $5\frac{1}{3}\phi$  per gallon to be paid by the manufacturer in addition to the fee provided by law. A wholesale licensee who imports malt liquor shall pay an excise tax of  $25\phi$  per gallon and at a like rate for any multiple or fraction thereof. All money received by the commission under the provisions of this section shall be forthwith turned over to the treasurer of state and shall be credited to the general fund of the state.

A refund shall be granted for the excise tax imposed by this state on malt beverages sold by wholesalers to any instrumentality of the United States or any Maine army national guard state training site accredited with exemption by the commission. A refund shall be granted for the excise tax imposed by this state on malt beverages sold to any vessel of foreign registry. Any wholesaler selling to such an instrumentality, training site or vessel shall present proof of such sale to the commission and shall thereupon receive from the treasurer of state a refund of all state excise taxes paid in connection with such sale. (R. S. c. 57, § 20. 1945, c. 133. 1947, c. 195. 1949, c. 349, § 99. 1955, c. 443. 1957, c. 218, § 5. 1959, c. 355. 1961, c. 371. 1963, c. 303.)

**Effect of amendments.**—The 1955 amendment rewrote the second sentence of the first paragraph. The 1957 amendment substituted the words “excise taxes” for “all taxes, excise and deficiency” at the beginning of the last paragraph.

The 1959 amendment added the words, “or to any vessel of foreign registry” at the end of the last paragraph.

The 1961 amendment, effective on July

1, 1961, substituted “ $25\phi$ ” for “ $16\phi$ ” in the second sentence of the first paragraph.

The 1963 amendment rewrote the last paragraph, which formerly exempted from excise taxes malt beverages served by licensed wholesalers to any instrumentality of the United States or to foreign vessels.

As the second and third paragraphs were not affected by the amendments, they are not set out.

### Provisions for All Licensees.

#### Sec. 23. Liquor licenses in unincorporated places.

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 or the commission may refuse approval of such application on the

basis that such license is not warranted for any substantial public convenience, necessity or demand.

(1957, c. 218, § 6.)

**Effect of amendment.**—The 1957 amendment deleted the words “Provided, however, that” formerly appearing at the beginning of the fourth paragraph, deleted the words “if their approval of application is required” formerly appearing

following the word “commissioners” and deleted the word “liquor” formerly preceding the word “commission” in such paragraph. As the rest of the section was not changed by the amendment, only the fourth paragraph is set out.

**Sec. 24. Hearings on applications for liquor licenses; publication; appeal.**

Any applicant for license aggrieved by the refusal of municipal officers or county commissioners to approve any application for license requiring their approval or a transfer of location of licensed premises under the provisions of section 39 may appeal to the commission, who shall hold a public hearing thereon in the city, town or unincorporated place where such license is applied for and, if it finds the refusal arbitrary or without justifiable cause, it may issue license or transfer notwithstanding the lack of such approval. Upon notification of appeal, the municipal officers or county commissioners refusing approval shall promptly certify to the commission their reasons for refusal and evidence on such appeal shall be limited to the reasons specified. The commission shall furnish the appellant with a copy of such reasons for refusal and give adequate public notice of the time and place of such hearing. In no event shall the commission issue a license to any person who has moved a retail store or restaurant into or opened a new retail store or restaurant in an unincorporated place contiguous to any organized or unincorporated place where a local option vote has resulted in his being unable to procure a license in the place of his prior location of business for a period of one year after such local option vote. (R. S. c. 57, § 22. 1947, c. 75. 1951, c. 356, § 12. 1961, c. 271; c. 344, § 5.)

**Effect of amendments.**—P. L. 1961, c. 271, added the present last sentence to this section. The P. L. 1961, c. 344, deleted “as herein provided” following “appeal” in the second sentence of the second paragraph

and added “promptly” following “shall” in such sentence.

As the first paragraph was not affected by the amendments, it is not set out.

**Sec. 25.** Repealed by Public Laws 1955, c. 355, § 14.

**Sec. 27. Sale on certain days and hours.**—No liquor shall be sold in this state on Sundays and no licensee by himself, clerk, servant or agent shall between the hours of midnight and 6 A. M. sell or deliver any liquors, except no liquors shall be sold or delivered on Saturdays after 11:45 P. M. Liquor may be sold on January 1st of any year from midnight to 2 A. M. unless January 1st falls on Sunday. Liquor may be sold in any municipality on the day of holding a general election or state-wide primary only after the closing of the polls in such municipality. No licensee shall permit the consumption of liquors on his premises on Sundays or after 15 minutes past the hours prohibited for sale thereof, except by bona fide guests in their rooms. No liquor shall be sold in this state on May 30 prior to 12 noon. The hours of selling or delivering above referred to shall be United States Eastern standard time. Any person, except an officer in performance of his duties, who purchases liquor on Sunday, in any retail store, shall be guilty of a misdemeanor and shall be subject to the same penalty provided in this section for Sunday sale of liquor.

Any licensee by himself, clerk, servant or agent who sells liquor on Sunday shall be punished by a fine of not less than \$100 nor more than \$500, and costs, and a penalty of not less than 2 months nor more than 6 months, in jail, at the discretion of the court, and in default of fine and costs an additional penalty by imprisonment for 6 months. Any clerk, servant, agent or other person in the em-

ployment of a licensee, who violates or in any manner aids or assists in violating the law relating to Sunday sale of liquor, shall suffer like penalties.

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. (1949, c. 349, § 102. 1951, c. 252. 1953, c. 261; c. 392, § 1. 1955, c. 71, § 1; c. 355, § 4-A; c. 403, § 2. 1957, c. 218, § 7. 1959, c. 311.)

**Effect of amendments.**—The first 1955 amendment added the last paragraph. The second 1955 amendment added the last sentence of the first paragraph. The third 1955 amendment, which became effective on its approval, May 20, 1955, deleted a former proviso relating to daylight saving time at the end of the first sentence, deleted the words "Eastern standard time" at the end of the fifth sentence, and added the sixth sentence of the first paragraph.

The 1957 amendment rewrote the last

paragraph which was added in 1955.

The 1959 amendment rewrote the first sentence and added the present second and third sentences of the first paragraph.

The provision "that liquor may be sold on January 1st of any year from midnight to 2 A. M." controls the hours of sale by a licensee and does not authorize a sale in 1953 upon a 1952 license. *State v. Ouellette*, 150 Me. 44, 103 A. (2d) 785.

Cited in *State v. Fantastic Fair*, 158 Me. 450, 186 A. (2d) 352.

**Sec. 28. Applications for license.**—All applicants for license shall be required to file applications in such form as the commission shall require and every application shall disclose the complete and entire ownership or any interest in the establishment for which a license is sought and if applicant is a purchaser by contract, in addition, the terms of the contract. All questions required to be answered in applications for licenses shall be sworn to, and intentionally untruthful answers shall constitute the crime of perjury. All applications shall be signed by the owner, if a natural person, who shall be at least 21 years of age, or in the case of a partnership by the partners thereof, or in the case of a corporation by an executive officer thereof or any person thereto specifically authorized by the corporation, except a bona fide prospective purchaser may apply. No applicant whose application is denied by the commission shall be eligible to apply for a liquor license of the same type again for a period of 6 months from the date of such denial unless the commission denial is overruled by the court under appeal provided by section 57, and no license for the same premises shall be issued to the husband, wife, father, mother, child or other close relation by blood or marriage of a person whose license has been denied by the commission or revoked by the hearing examiner for a period not exceeding 6 months after such denial or revocation.

Every applicant for a license for sale of liquor to be consumed on the premises where sold shall include in his application a description of the premises for which he desires license and shall further set forth such other material information, description or plan of that part of the premises where it is proposed to keep or sell liquor as the commission may require. (1949, c. 264, § 1. 1951, c. 356, § 4. 1953, c. 366. 1955, c. 355, § 5. 1957, c. 127. 1959, c. 274, §§ 8, 9.)

**Effect of amendments.**—The 1955 amendment repealed the former second paragraph, relating to the contents of hotel or club applications, and the former third paragraph, which required retail store licensees to maintain an adequate stock of merchandise compatible with a stock of liquor, and enacted in lieu thereof the present second paragraph.

The 1957 amendment added the provi-

sions relative to issuance of licenses to relatives at the end of the last sentence of the first paragraph.

This section was amended twice by P. L. 1959, c. 274. Section 8 of P. L. 1959, c. 274, added the words "or any interest" after the word "ownership" and before the word "in" in the first sentence of the first paragraph. Section 9 deleted the words "or revoked," formerly appearing after the word "denied"



and before the word "by", and added the words "or revoked by the hearing examiner" after the word "commission" and before the word "for" in the last sentence of the first paragraph.

**Sec. 29. Persons to whom licenses not granted.**—No license shall be issued to any natural person unless such person is at least 21 years of age and is a citizen of the United States and of this state; provided, however, that a part-time or 6 months' license, as authorized by law, may be issued to any natural person who is at least 21 years of age and is a citizen of the United States. No license shall be issued to a partnership or to an association unless all persons having an interest therein are at least 21 years of age and are citizens of the United States and of this state; provided, however, that a part-time or 6 months' license, as authorized by law, may be issued to a partnership or association if all persons having an interest therein are at least 21 years of age and are citizens of the United States. No license shall be issued to any corporation unless it shall be incorporated under the laws of this state, or authorized to transact business in this state. 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. No person, who is not at the time of the offense the holder of a liquor license, convicted of violating any of the laws of this state or the United States with respect to manufacture, transportation, importation, possession or sale of intoxicating liquor shall be granted a license for sale of liquor for a period of 5 years from the date of such conviction, and no person who sells liquor of a greater alcoholic content than authorized by his license shall be considered the holder of a license for the purpose of this sentence. No person whose license for sale of liquor expires pending an appeal from conviction of a violation of law forbidding sale of intoxicating liquor on Sunday, by himself or his clerk, servant or agent, on his licensed premises, shall, after subsequent final conviction of himself, clerk, servant or agent be eligible for a liquor license for a period not exceeding 5 years from the date of such final conviction. 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 not exceeding 5 years from the date of such conviction. No license shall be issued in which any law enforcement official benefits financially either directly or indirectly. (1949, c. 259, § 1. 1951, c. 87: c. 356, § 5. 1953, c. 64, § 1; c. 255, § 4. 1955, c. 71, § 2. 1957, c. 202; c. 218, §§ 8, 9.)

**Effect of amendments.** — The 1955 inserted the sixth sentence. The second amendment rewrote the fifth sentence of 1957 amendment rewrote the fourth sentence and inserted the seventh sentence.

**Retail Sale of Liquor; Fees.**

**Sec. 31. Fees for retail licenses, renewals, filing fee.**—Fees for full-year licenses shall be:

Hotel—Spirituous and vinous, in cities or towns having population of 10,000 or more .....	\$600.00
Hotel—Spirituous and vinous, in cities or towns having population of less than 10,000 .....	\$300.00
Population shall be determined according to each federal decennial census as shown by any official report authorized by the federal census act and shall apply to the licensing period next following such official report.	
Hotel—Malt liquor .....	\$200.00
Club—Spirituous and vinous .....	200.00
Club—Malt liquor .....	100.00
Public service—Spirituous and vinous .....	200.00
Public service—Malt liquor .....	100.00
Restaurant, class A—Spirituous and vinous .....	750.00

Restaurant—Malt liquor only .....	200.00
Restaurant—Vinous liquor only .....	200.00
Tavern—Malt liquor only .....	300.00
Retail store—Malt liquor only .....	100.00

Any club maintaining a dining room and catering either privately or for functions to a group of nonmembers of the club, and any club with dining rooms letting rooms to nonmembers, must pay the same fee as required by a hotel located in the same municipality.

The commission may grant part-time licenses for a period not in excess of 6 consecutive months in any calendar year.

Fees for part-time licenses shall be:

Part-time—Hotels and Clubs—Spirituos and vinous— $\frac{1}{2}$ full-time fee at their location.	
Part-time—Restaurant, class A—Spirituos and vinous .....	\$375.00
Part-time—Hotel or restaurant—Malt liquor only .....	125.00
Part-time—Club—Malt liquor only .....	50.00
Part-time—Tavern—Malt liquor only .....	150.00

One public service license shall be sufficient to cover all steamboats and cars operated by any one owner.

All full-year licenses shall be issued for the license year and on a calendar year basis and the prescribed fee shall accompany the application for license.

Licenses may be renewed upon application therefor and payment of the annual fee, subject to commission rules and regulations.

Every applicant for an original or renewal malt liquor license shall remit with his application a filing fee of \$10, except in unorganized places the filing fee of \$10 shall be paid to the county treasurer of the county in which the unincorporated place is located, and all such applications for license in unincorporated places shall be accompanied by evidence of payment of filing fee to the county treasurer.

Any licensee applying for license to operate more than one premise shall pay the fee prescribed for the type of license to be exercised at each such premise. (1949, c. 85, § 1. 1951, c. 356, § 6. 1953, c. 373. 1955, c. 355, §§ 6, 7, 8. 1957, c. 144. 1959, c. 340, § 3. 1961, c. 344, § 6.)

**Effect of amendments.** — The 1955 amendment deleted the word "public" before the words "dining room" in line 20, added at the end of the next to the last paragraph the requirement that applications for licenses in unincorporated places be accompanied by evidence of payment of filing fee, and added the last paragraph.

The 1957 amendment rewrote the third paragraph.

The 1959 amendment substituted "and" for "also" in line 21 and added the provisions as to full-year and part-time license

fees for restaurants, class A.

The 1961 amendment deleted the former second sentence of the third paragraph requiring a part-time hotel licensee to conduct his hotel business only while his license is in effect.

**Section has no bearing on period covered by license.**—The "hours of sale" statute, this section, controls the hours of sale by a licensee. It has no bearing upon the period covered by the license to sell. *State v. Ouellette*, 150 Me. 44, 103 A. (2d) 785.

**Sec. 31-A. Payments to the commission by check.**—The commission may accept personal checks of licensees and persons applying for license for fees, excise taxes and permits authorized to be collected by them under the provisions of this chapter and for liquor sold to licensees through its wholesale store. If any such checks are not honored on presentation by the state, the commission shall withhold licenses not issued and immediately take back licenses already issued voiding them until such check, together with all costs of check failure, have been paid by the person paying by such personal check. The commission may further order that all payments made to it by such person for a period not to exceed 1 year shall be only by cash, certified check or money order. (1955, c. 355, § 9.)

**Retail Sale of Malt Liquor; Licenses.****Sec. 32. Retail licenses.**

No licenses shall be issued to any new retail premise under 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, or unless such applicant proves to the satisfaction of the commission that all proper standards and requirements of laws and rules and regulations of the commission have been met and said applicant has been a resident of the state for at least 6 months prior to filing his application, except that anyone who formerly held a Maine malt liquor license or who formerly was owner of a retail store within the state of Maine, shall not be subject to this sentence.

All retail store licensees must have and maintain an adequate stock of merchandise reasonably compatible with a stock of liquor in no case less than \$1,000 wholesale value. No merchandise shall be considered to be reasonably compatible with a stock of malt liquor, for the purposes of licensing a retail store, which consists of gasoline and oil; used or new cars, parts or accessories; clothing; hardware; paints or building materials; electric appliances or equipment; or household furniture or furnishings or such other items of stock as may be equally incompatible in nature. (R. S. c. 57, § 23. 1945 c. 345. 1947, c. 164; c. 372, § 2. 1949, c. 216. 1951, c. 13, § 2; c. 356, § 18. 1953, c. 255, § 5. 1955, c. 355, § 10. 1963, c. 337, § 1.)

**Effect of amendments.** — The 1955 amendment added the fourth paragraph.

The 1963 amendment substituted "new retail premise" for "retail establishment" near the beginning of the third paragraph, inserted the provisions as to satisfying the commission that all standards

and requirements have been met and that the applicant has been a resident of the state for six months in such paragraph, and made other minor changes therein.

As the first two paragraphs were not affected by the amendments, they are not set out.

**Sec. 33. Licenses to hotels, restaurants, taverns and clubs.**—No license to sell malt liquor to be consumed on the premises where sold shall be issued to any person for any premises except a bona fide hotel, restaurant, tavern or club, nor unless the application therefor be approved by the municipal officers of the city or town where such hotel, restaurant, tavern or club is located, and if such hotel, restaurant, tavern or club is located in an unorganized place, the application shall be approved by the county commissioners of the county within which such unorganized place is located. No license shall be issued to a new restaurant premise unless it has been in operation as such for a period of at least 3 months next prior to the application therefor or unless such applicant proves to the satisfaction of the commission that all proper standards and requirements of laws and rules and regulations of the commission have been met and said applicant has been a resident of the state for at least 6 months prior to filing his application. Any honorably discharged member of the armed forces of the United States who formerly held a malt beverage license or who formerly was the owner of a restaurant shall not be subject to the provisions of this section, and provided in the case of part-time premises that operation next prior to time of application shall be held to mean operation during the season when such part-time premise is ordinarily open for business. No licensee under the provisions of this section, except taverns, shall maintain a bar where malt liquor is consumed. Licenses issued under the provisions of this section shall specify the premises to which the license shall apply. (R. S. c. 57, § 28. 1945, cc. 159, 259. 1947, c. 197, § 2; c. 322, §§ 2, 5; c. 372, § 3. 1951, c. 13, § 3. 1953, c. 255, §§ 6, 11. 1963, c. 337, § 2.)

**Effect of amendment.**—The 1963 amendment divided the second sentence into two sentences, substituted "new restaurant premise" for "restaurant" near the beginning of the second sentence, inserted the provisions as to satisfying the commission that standards and require-

ments have been met and that the applicant has been a resident for six months at the end of such sentence, substituted "section" for "sentence" in the present third sentence and made other minor changes.

**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 hearing examiner 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 60 days 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 of 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. (R. S. c. 57, § 35. 1945, c. 179. 1947, c. 90. 1951, c. 356, § 7. 1953, c. 255, § 7. 1957, c. 218, § 10. 1959, c. 274, § 10; c. 378, § 54.)

**Effect of amendments.** — The 1957 amendment rewrote this section.

P. L. 1959, c. 274, substituted "60 days" for "one month" in the last sentence of the

first paragraph of subsection II of this section. P. L. 1959, c. 378, effective on its approval January 29, 1960, substituted "hearing examiner" for "commission" in the third sentence of subsection II.

**Sec. 40. Music, dancing or entertainment on licensed premises.**—No licensee for sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the commission a special amusement permit for which he shall pay to the commission a fee of \$10. Any violation of this section or commission rules and regulations related thereto, upon conviction after hearing before the hearing examiner, shall be grounds for suspension or revocation of license, or suspension or revocation of the amusement permit, or both. The commission is authorized to make whatever rules and regulations governing such dancing and entertainment as it deems necessary. Such permit shall be valid only for the license year of the existing license. The commission shall not issue such a permit unless the applicant shall have first obtained the approval of the municipal officers of the municipality in which the licensed premises are situated.

Licensed hotels and restaurant malt liquor licensees who have been issued such special amusement permit may charge admission. (R. S. c. 57, § 37. 1945, c. 184. 1951, c. 356, § 8. 1955, c. 355, § 11. 1961, c. 344, § 8. 1963, c. 128.)

**Effect of amendments.** — The 1955 amendment inserted the words "for sale of liquor to be consumed on his licensed premises" and substituted the words "his licensed premises" for the words "the licensed premises or premises contiguous or adjacent thereto, under his control" near the beginning of the first sentence. The

amendment also deleted the words "for the sale of malt liquor" at the end of the present fourth sentence.

The 1961 amendment added the present second sentence to this section.

The 1963 amendment added the second paragraph.

### Sale of Liquor to Be Consumed on the Premises; Licenses.

**Sec. 42. Licenses for consumption sale.**—Licenses for the sale of spirituous and vinous liquor to be consumed on the premises where sold may be issued to clubs and to bona fide hotels, restaurants, steamboats and railroad dining cars on payment of the fees provided; subject to the condition that the application therefor be approved by the municipal officers of the town or city in which such intended licensee, if operating a club, restaurant or hotel, is operating the same, 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 such unorganized place is located, and subject to the further condition that licenses issued to restaurants, except class A restaurants, shall be limited to malt liquor or wine. No licensee for the sale of liquor to be consumed on the premises where sold shall by himself, clerk, servant or agent, sell, give, furnish or deliver any liquor to be consumed elsewhere than upon the licensed premises, except, subject to the provisions of law and the rules and regulations of the commission, hotel licensees may sell liquor in the original packages to bona fide registered home guests. (R. S. c. 57, § 40. 1945, c. 185. 1947, c. 322, § 3; c. 372, § 4. 1949, c. 349, § 104; c. 419, § 1. 1951, c. 13, § 4; c. 266, § 82; c. 356, § 10. 1953, c. 308, § 82. 1959, c. 378, § 55.)

**Effect of amendment.**—The 1959 amendment, effective on its approval, January 29, 1960, added the exception as to class A

restaurants near the end of the first sentence and made other minor changes therein.

**Sec. 43. Liquor bought from commission; commission may sell to approved government instrumentalities.**—All persons, except public service corporations operating interstate, licensed to sell spirituous or vinous liquor shall purchase all such liquor from the commission. 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 November 1, 1941. The commission may sell spirituous and vinous liquor to approved government instrumentalities within the state at a price to be set by the commission which shall be approved by the governor and council. (R. S. c. 57, § 41. 1949, c. 200. 1955, c. 72; c. 359, § 10. 1959, c. 274, § 11.)

**Effect of amendments.**—The first 1955 amendment added the last sentence. The second 1955 amendment, which became effective July 1, 1955, substituted "November" for "April" near the end of the second sentence. The second amendment did

not refer to or give effect to the first; however, both amendments have been given effect in the section as set out above.

The 1959 amendment rewrote the last sentence of this section.

**Sec. 45. Bond for hotels, clubs and restaurants.**—No spirituous or vinous license shall be granted to a hotel, club or restaurant until the applicant therefor has filed with the commission a bond to the state of Maine in the penal sum of \$1,000 as liquidated damages in case of default as hereinafter mentioned. Such bond shall have as surety a duly authorized surety company or 2 individuals to be approved by the commission. All such bonds shall be conditioned for the faithful observance of all the laws relating to spirituous and vinous liquor. Such bonds shall be filed with and retained by the commission. Upon the revocation, for a 3-year period or more, of the license of any licensee in this section mentioned, the attorney general shall bring a civil action in any county in the state, upon the bond given by such licensee, to recover the penal sum thereof as liquidated damages. (R. S. c. 57, § 46. 1951, c. 356, § 11. 1953, c. 64, § 2. 1961, c. 317, § 209.)

**Effect of amendment.**—The 1961 amendment substituted "a civil action" for "an

action of debt" in the last sentence of this section.

**Sec. 48. Club registers; sales to nonmembers.**—Every club shall keep and maintain a register which shall disclose the name, identity and address of each member of the club and shall be open for inspection at all reasonable times to any inspector or other authorized agent of the commission. Licensed clubs shall not sell liquor except to members and their guests accompanying them, except that veterans' and fraternal organizations duly licensed may sell liquor to members of the same national organization and to members of auxiliaries of the same national organization and their guests accompanying them. (R. S. c. 57, § 51. 1953, c. 255, § 8. 1961, c. 151. 1963, c. 130.)

**Effect of amendments.**—The 1961 amendment added the exception at the end of this section.

fraternal" in the exception at the end of this section and also added "and their guests accompanying them" at the end of the section.

The 1963 amendment inserted "and fra-

**Sec. 50. Licensee to keep record.**—Every retail licensee shall keep for 2 years, in each premise for which he has a license, complete records separate and apart from records relating to any other transactions engaged in by the licensee showing the date of all purchases, the actual prices paid therefor and the fact that the licensee paid cash for all liquor bought by him at the time of or prior to delivery of such liquor together with the name and address of every person from whom such liquor was purchased. In the case of wholesalers records shall be kept for 2 years in the principal licensed establishment of the wholesale licensee showing that all sales and purchases are in accordance with the law relating to cash sales including detailed accounts of all its transactions with brewers, other wholesalers and retailers. All such records shall be open to the commission for its representatives at any time and the commission or its representatives shall have the right to make copies thereof which may be used as evidence of violations of this section.

No licensee shall refuse the commission or its representatives the right at any time completely to inspect the entire licensed premises or to audit the books and records of the licensee. (R. S. c. 57, § 54. 1955, c. 355, § 12.)

**Effect of amendment.**—The 1955 amendment rewrote the first paragraph.

**Sec. 51. Credit sales; sales to certain persons.**—No licensee by himself, clerk, servant or agent shall sell or offer to sell any liquor except for cash, excepting credits extended by a hotel or club to bona fide registered guests or members; and excepting credits extended by a hotel or class A restaurant to the holder of a credit card which authorizes such holder to charge goods or credits. No right of action shall exist to collect claims for credits extended contrary to the provisions of this section. Nothing herein contained shall prohibit a licensee from giving credit to a purchaser for the actual price charged for packages or original containers as a credit on any sale, or from paying the amount actually charged for packages or original containers.

No licensee by himself, clerk, servant or agent shall sell, offer to sell or furnish any liquor to any person on a passbook 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 not to be consumed on the premises shall sell, furnish, give or deliver such malt liquor 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. Any licensee who accepts an order or receives payment for liquor from a minor shall be considered as in violation of this paragraph.

Any person under the age of 21 years who purchases any intoxicating liquor, or any person under the age of 21 years who consumes any 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 intoxicating liquor, or who has any 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. (R. S. c. 57, § 55. 1945, c. 194. 1949, c. 88. 1951, c. 77. 1955, c. 196. 1957, c. 218, § 11. 1961, c. 344, § 7. 1963, c. 36.)

**Effect of amendments.** — The 1955 amendment rewrote the last paragraph of this section. The 1957 amendment substituted the words "intoxicating liquor" for the words "alcoholic beverages" in four places in such last paragraph.

The 1961 amendment added the last sen-

tence of the second paragraph of this section.

The 1963 amendment added the exception as to credits extended to the holder of a credit card at the end of the first sentence.

**Sec. 51-A. Transportation of intoxicating liquor in motor vehicles by minors.**—No person under the age of 21 years shall knowingly transport or knowingly permit to be transported any intoxicating liquor in a motor vehicle under his control except in the scope of his or her employment, or at the request of his or her parent or guardian. (1961, c. 324.)

**Sec. 51-B. Suspension of operator's license of minor transporting liquor.**—Upon conviction of any offense under section 51-A, the court shall

suspend the operator's license, if any, for a period of 10 days and shall forthwith forward said license to the secretary of state together with the record of conviction on the form furnished for reporting convictions of violations of chapter 22. The court may recommend a further suspension of the license for an additional period not to exceed a total of 60 days, in which case such recommendation shall be noted on the abstract of conviction sent to the secretary of state.

Immediately upon receipt of said record, the secretary of state shall suspend the license, or right to operate, or right to obtain a license, of such person for the recommended period not to exceed 60 days, including the 10-day suspension imposed by the court, without further hearing.

It is intended that the penalty herein defined shall be the sole and exclusive penalty for the conviction of this offense, and shall not be in conflict with chapter 152-A, but is additional to the criminal offense defined in section 51. (1961, c. 324.)

**Sec. 51-C. Minor's license and right to operate not suspended during appeal.**—If any person convicted of violation of section 51-A shall appeal from the judgment and sentence of the trial court, his license and right to operate a motor vehicle in this state shall not be suspended until conviction on appeal or withdrawal of the appeal. (1961, c. 324; c. 417, § 160.)

**Effect of amendment.**—The 1961 amendment substituted "section 51-A" for "the provisions of this section."

**Sec. 52. Licensee not to be indebted, obligated or involved.**—Except as provided by section 17, no person shall be issued a license or a renewal of a license if he shall be indebted in any manner, directly or indirectly, to any other person for liquor. It shall be unlawful for any licensee or any applicant for license, directly or indirectly, to receive any money, credit, thing of value, indorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person, association or corporation within or without the state if such person, association or corporation shall be engaged, directly or indirectly, in the manufacture, distribution, sale, storage or transportation of liquor; or if such person, association or corporation shall be engaged in the manufacture, distribution, sale or transportation of any commodity, equipment, material or advertisement used in connection with the manufacture, distribution, sale, storage or transportation of liquor. No Maine retail liquor licensee shall have any interest, direct or indirect, in any Maine manufacturer's or wholesaler's license or certificate of approval issued to an out of state manufacturer or foreign wholesaler of malt liquor; and no out of state manufacturer or foreign wholesaler having a state certificate of approval, nor any state wholesale or manufacturing licensee, shall have any interest, direct or indirect, in any state retail liquor license. Minor investment in securities of a corporation engaged in liquor business not amounting to more than 1% shall not be held to be an interest forbidden by the foregoing sentence. This section shall not prohibit a wholesaler from receiving normal credits for the purchase of malt liquor from the manufacturer thereof within or without the state. (R. S. c. 57, § 56. 1951, c. 99. 1959, c. 148, § 2.)

**Effect of amendment.**—The 1959 amendment added the words "Except as provided by section 17," to the beginning of the first sentence of this section.

**Sec. 53. Premiums and rebates.**—Except as provided by section 17, no licensee shall, directly or indirectly, offer or give any liquor, or any price premium, gift or inducement of any sort to other trade or consumer buyers, except such advertising novelties of nominal value as the commissioner may approve.

(1959, c. 148, § 3.)



**Effect of amendment.**—The 1959 amendment added the words “Except as provided by section 17,” at the beginning of the first paragraph.

As the second paragraph was not affected by the amendment, it is not set out.

**Sec. 54-A. Obstructions in windows.**—No licensee of a malt liquor licensed restaurant shall place any object in the street floor windows of his premises that would obstruct in a material or substantial manner a clear view of the interior of said premises. The license of any person violating the provisions of this section shall be suspended until such obstruction has been removed. (1957, c. 335.)

**Sec. 54-B. Lighting.**—All premises licensed for sale of liquor to be consumed on the premises shall be adequately lighted. The license of any person violating this section shall be suspended until the licensee has conformed to the requirements of this section. (1959, c. 261. 1961, c. 344, § 9.)

**Effect of amendment.** — The 1961 amendment substituted “the licensee has conformed to the requirements of this section” for “such lighting has been installed” at the end of this section.

### Licenses; Revocation.

#### Sec. 56. Revocation of licenses.—

**I.** The administrative hearing commissioner, as designated in chapter 20-A, shall conduct hearings on all matters concerning violations by licensees of any federal or state law or regulation relating to intoxicating liquor or infractions of any rule or regulation issued by the commission after notice of such violation or infraction has been reported to him on a signed complaint by a duly designated enforcement officer of said commission. In lieu of a signed complaint the duly designated enforcement officer of said commission may issue warnings to licensees. The hearing examiner shall conduct hearings on all matters concerning violations by licensees of any federal or state law or regulation relating to intoxicating liquor or infractions of any rule or regulation issued by the state liquor commission after notice of such violation or infraction has been reported to him on a signed complaint by a duly designated enforcement officer of said commission. The hearing examiner shall thereupon notify the licensee by serving on him a copy of the complaint and a notice stating the time and place of hearing and that he may appear in person or by counsel at the hearing. Service of such complaint and 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, 7 days at least before the date of hearing. The hearing examiner shall thereupon conduct a hearing limited to the facts and law, and rules and regulations of the state liquor commission, as specified in said complaint. The hearing examiner is authorized to subpoena and examine witnesses and to administer oaths. In the conducting of hearings, no hearsay testimony shall be admissible and the licensees named in the complaint shall have the right to have all witnesses testify in person at the hearing. The hearing examiner shall state in writing his findings and decision in each case, based upon the facts and the law, and the rules and regulations of the state liquor commission. Said findings shall specify the facts found and the law, rules or regulations found to be violated. The hearing examiner shall conduct hearings in such designated place or places as may be most convenient and economical for all parties concerned in said hearing.

The hearing examiner may suspend or revoke licenses. Except as provided by subsection II, paragraph C, suspensions must be for a definite period of time. If the hearing examiner revokes a license, he shall specify that no license shall issue to the person whose license is revoked for a period of not less than one year nor more than 5 years from the date of such revocation.

**II.** Licenses may be revoked or suspended by the hearing examiner for the following causes:

**A.** Violation of any federal or state law or regulation relating to intoxicating liquor or substantial infraction of any rule or regulation issued by the commission; except that licensees selling to minors furnishing fraudulent proof of age may be held not administratively liable by the hearing examiner;

**B.** Knowingly making a false material statement of fact in the application for the license;

**C.** Failure to have and maintain throughout the entire license period all of the requirements of definitions, laws, rules and regulations, necessary to qualify for a license. For this particular offense the hearing examiner shall be authorized to suspend licenses for an indefinite period of time until he is satisfied that the licensee has conformed to all qualifications required for licensing.

**III. License subsequent to violation.** Whenever violations by licensees occur in one year's license period and remain undiscovered or carry over into the next license year pending investigation or final disposition either in criminal courts or before the hearing examiner, any license issued subsequent to violation for a new license year may be suspended or revoked by the hearing examiner.

**IV.** After hearing, the hearing examiner may suspend the operation of a penalty or in lieu of imposing any penalty at all he may place a case on file. Upon the written recommendation of the duly designated enforcement officer of the commission the hearing examiner, in lieu of notifying a licensee against whom a complaint is pending to appear for hearing, may send such licensee a warning. Warnings shall be sent by registered or certified mail and contain a copy of the complaint. A licensee to whom a warning is sent may demand a hearing by so notifying the hearing examiner by registered or certified mail within 10 days from the date the warning was mailed.

In cases of ownership, direct or indirect, in more than one license, suspensions shall apply only to the premise where the violation occurs. The hearing examiner may order that a revocation shall apply to any premises in which the licensee is, directly or indirectly, interested.

In cases of corporations the officers, directors and substantial stockholders shall be treated in the same manner as though they were partners in a partnership. (R. S. c. 57, § 60. 1947, c. 163, §§ 1, 2, 3; c. 194. 1949, c. 192, §§ 1, 2. 1951, c. 38; c. 266, § 83. 1953, c. 19; c. 64, § 3; cc. 99, 100; c. 255, § 9; c. 259; c. 392, §§ 2, 3. 1955, c. 355, § 13. 1957, c. 218, §§ 12, 13; c. 410, §§ 1-5; c. 429, §§ 54, 55. 1959, c. 218; c. 274, § 12; c. 378, § 56. 1961, c. 395, § 29. 1963, c. 81; c. 412, § 17.)

**Effect of amendments.** — The 1955 amendment added an exception at the end of the last sentence of former subsection I.

Section 12, c. 218, P. L. 1957, also made changes in former subsection I. Section 13 of chapter 218, P. L. 1957, deleted an exception at the end of former paragraph D, subsection II, relating to sales to minors.

Chapter 410, P. L. 1957, which did not refer to or give effect to the first 1957 amendment, rewrote subsection I, made changes in former paragraph D of subsection II and in former subsection IV, and substituted "hearing examiner" for "commission" throughout this section, except in the first paragraph. Chapter

429, which became effective on its approval, October 31, 1957, and which referred to the 1955 and both 1957 amendments, re-enacted subsection I and former paragraph D of subsection II, giving effect to the changes made by the second 1957 amendment.

The first 1959 amendment rewrote the entire section. The second 1959 amendment, which did not refer or give effect to the first, made changes in the former first paragraph of the section. The third 1959 amendment, effective on its approval, January 29, 1960, repealed the second 1959 amendment.

The 1961 amendment, effective upon its approval, June 17, 1961, substituted "or"

for "of" following "investigation" and before "final" in subsection III.

The first 1963 amendment inserted the present second sentence of subsection I. The second 1963 amendment, which became effective on its approval, June 27, 1963, deleted the former first five sentences of subsection I, relating to the hearing

examiner, and substituted "administrative hearing commissioner, as designated in chapter 20-A" for "hearing examiner" near the beginning of the present first sentence of such subsection, and deleted "state liquor" preceding "commission" in such sentence.

**Sec. 56-A. Appeal from decision of hearing examiner.**—A full and complete record shall be kept of all proceedings had before the hearing examiner on the revoking and suspending of any license issued by the commission, but the hearing examiner need not have a transcript of the testimony prepared unless required for rehearing or appeal.

If any person is aggrieved by the decision of the hearing examiner in revoking or suspending any license issued by the commission, he may within 10 days thereafter appeal to the commission by presenting to it a petition therefor. The commission shall forthwith fix a time and place for immediate hearing; and after hearing, the commission may affirm, modify or reverse the decision of the hearing examiner. Pending judgment of the commission, the decision of the hearing examiner in revoking or suspending any license shall remain in full force and effect. (1957, c. 410, § 6. 1963, c. 412, § 18.)

**Effect of amendment.**—The 1963 amendment, which became effective on its approval, June 27, 1963, added "but the hearing examiner need not have a tran-

script of the testimony prepared unless required for rehearing or appeal" at the end of the first paragraph.

**Sec. 57. Additional appeal.**—If any person is aggrieved by the decision of the commission in revoking or suspending any license issued by the commission or by refusal of the commission to issue any license applied for, he may within 30 days thereafter appeal to the superior court, by filing a complaint therefor. The 30-day period for appeal shall commence on the effective date of any suspension or revocation of a license, and, in the case of refusal of the commission to issue license, on the day when the commission sends by registered or certified mail notice to the applicant at the address of his business given in his application for license. Filing appeal in the superior court shall stop the running of the limitation period. The court shall forthwith fix a time and place for immediate hearing and cause notice thereof to be given to the commission. After hearing, the court may affirm, modify or reverse the decision of the commission. Pending judgment of the court, the decision of the commission in revoking or suspending any license shall remain in full force and effect. Appeal by such aggrieved person to the law court from such decision may be taken. Upon such appeal, the law court may, after consideration, reverse or modify any decree so made by the court based upon an erroneous ruling or finding of law. (1949, c. 419, § 2. 1957, c. 218, § 13-A. 1961, c. 317, § 210; c. 344, § 10.)

**Effect of amendments.** — The 1957 amendment inserted the present second and third sentences.

P. L. 1961, c. 317, rewrote the former second paragraph of this section, now the only paragraph, increasing the time for appeal from 10 days to 30 days, requiring

appeal to be by complaint to the court and not by petition to a justice and deleting provisions as to equity procedure in appeals to the law court. P. L. 1961, c. 344, deleted the former first paragraph requiring records of proceedings of the commission.

**Sec. 58.** Repealed by Public Laws 1955, c. 294, § 6.

### Salesmen.

**Sec. 60. Salesmen.**—All concerns selling liquor to the state shall furnish to the commission a list of all officers and directors, if a corporation, or a list of

all partners, if a partnership, and also the name of the salesman representing the concern within the state.

Such salesman shall apply to the commission for a license disclosing the person, firm or corporation for whom he is employed. The license fee shall be \$10 and shall expire on the last day of December of the year in which it is obtained. It may be renewed annually on payment of \$10.

Licenses so issued by the commission shall be revoked for the violation of the liquor laws or any rule or regulation promulgated by the commission. (1953, c. 396, § 7. 1955, c. 294, § 7.)

**Effect of amendment.**—The 1955 amendment substituted “commission” for “director of licensing and enforcement” near the beginning of the second and third paragraphs.

**Sec. 61.** Repealed by Public Laws 1955, c. 294, § 8.

### Illegal Importation, Transportation and Delivery.

**Sec. 63. Importation of liquors.**—No person, other than the state liquor commission, shall import spirituous or vinous liquor into this state. 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. 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 4 quarts. 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:

**II.** To duly licensed distillers and manufacturers of spirituous or vinous liquors in this state for use as an ingredient in distilling or manufacturing spirituous or vinous liquors and such other spirituous or vinous products as may be authorized by federal regulations 26CFR; (1957, c. 200. 1963, c. 122, § 1.)

**Effect of amendments.** — The 1957 amendment added the words “and such other spirituous or vinous products as may be authorized by federal regulations 26CFR” at the end of subsection II.

The 1963 amendment divided the second sentence of the introductory paragraph into three sentences, deleted “such fine

and imprisonment” at the end of the present second sentence, and substituted “4 quarts” for “3 quarts” at the end of the present third sentence.

As the rest of the section was not change by the amendments, only the introductory paragraph and subsection II are set out.

**Sec. 64. Transportation of intoxicating liquor and malt liquor; prima facie evidence of.—**

**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 no person shall transport or cause to be transported any spirituous or vinous liquor in this state in a greater quantity than 4 quarts, unless such liquor was purchased from a state store or the commission. 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;

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. 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. (1957, c. 218, § 14. 1963, c. 122, § 2.)

**II.** No person, other than a wholesale licensee of the commission under and subject to the provisions of this chapter, shall transport or cause to be transported malt liquor into this state in a greater quantity than 1 case, unless said malt liquor was legally purchased in the state; and all shipments of malt liquor transported or caused to be transported by wholesale licensees into this state shall be accompanied by an invoice with the wholesale licensee's name and purchase number thereon. 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. However, it shall be lawful for common carriers and contract carriers, duly authorized as such by the public utilities commission, to transport malt liquor both into and within the state to licensees of the state liquor commission and to purchasers of malt liquor from licensees of the state liquor commission and to the state line for transportation outside the state. Whoever is convicted of illegal transportation of malt liquors into or illegal transportation from place to place within 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. [1949, c. 359. 1957, c. 218, § 15]. (R. S. c. 57, § 64. 1949, c. 358. 1957, c. 218, §§ 14, 15. 1963, c. 122, § 2.)

**Effect of amendments.** — The 1957 amendment inserted the words "to persons authorized under the provisions of section 63" in the third sentence of subsection I and inserted the words "in a quantity greater than one case" in the second sentence of subsection II.

The 1963 amendment inserted "or cause to be transported" near the middle of the first sentence, substituted "4 quarts" for "3 quarts" in such sentence, and deleted "state liquor" formerly preceding "commission" at the end of such sentence.

### Illegal Sales.

**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. (R. S. c. 57, § 66. 1951, c. 137. 1953, c. 392, § 4. 1957, c. 218, § 16.)

**Effect of amendment.** — The 1957 force and effect" in the first sentence of amendment inserted the words "in full this section.

**Sec. 70. Procuring or furnishing liquor to certain persons.**—Whoever knowingly procures or in any way aids or assists in procuring liquor or whoever

furnishes, gives or delivers liquor to a minor who may not legally purchase liquor for himself or for any intoxicated person, pauper, mentally ill person or persons of known intemperate habits, except that this provision shall not apply to liquor served to a minor in the home, shall be punished by a fine of not more than \$200 or by imprisonment for not more than 11 months, or by both. (1951, c. 78. 1959, c. 196. 1963, c. 246.)

**Effect of amendments.**—The 1959 amendment added “or whoever furnishes, gives or delivers liquor to” and deleted “such fine and imprisonment” at the end of the

section.

The 1963 amendment substituted “mentally ill” for “insane” and increased the maximum fine from \$100 to \$200.

### Enforcement.

**Sec. 71. Jurisdiction of courts.**—In prosecutions under this chapter, except when otherwise expressly provided, the district court shall have, by complaint, jurisdiction concurrent with the superior court. (R. S. c. 57, § 71. 1957, c. 208. 1963, c. 402, § 98.)

**Effect of amendments.** — The 1957 amendment repealed the former second, third and fourth sentences of this section relative to penal sums of recognizances.

The 1963 amendment deleted “the provisions of” preceding “this chapter,” substituted “the district court” for “trial justices within their county” and deleted “municipal courts and” preceding “the su-

perior court.”

**Application of 1963 amending act.**—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

**Sec. 76. Evidence of sale; duty of officials to prosecute; previous convictions alleged; amendment of process.** — Whenever an unlawful sale is alleged and a delivery proved, it is not necessary to prove a payment, but such delivery is sufficient evidence of sale. A partner in business is liable for the unlawful keeping or selling by his copartner, done in the copartnership business, or by any other person in any shop, store or other place of business of such copartnership with his knowledge or assent. A principal and his agent, clerk and servant may all be included in the same complaint and process. The mayor or municipal officers of cities, or selectmen of towns or assessors of plantations may cause a civil action to be commenced on any bond or recognizance given under this chapter in which the municipality is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. The mayor, aldermen, selectmen, assessors and constables in every city, town and plantation shall make complaint and prosecute all violations and shall promptly enforce the provisions of this chapter; and the willful or corrupt neglect or refusal of any of such officials to enforce the said provisions shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months. If a municipal officer, after being furnished with a written notice of a violation of this chapter, signed by 2 persons competent to be witnesses in civil actions, and containing the names and residences of the witnesses to prove such offense, willfully neglects or refuses to institute proceedings therefor, he shall be punished by a fine of not less than \$20 nor more than \$50, to be recovered by indictment. The oath required of any such officer to the complaint may be, in substance, that from a written notice signed by 2 persons competent to be witnesses in civil actions, he believes the complaint signed by him to be true. If an execution or other final process, issued in any civil or criminal action instituted under the provisions of this chapter, is placed in the hands of any proper officer to be by him executed and he unreasonably neglects or refuses to do so, an action may be commenced against him by any voter in the county and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it is a process that requires him to take and commit an offender to prison, the dam-

ages shall not be less than \$50 nor more than \$500. In actions, complaints, indictments or other proceedings for a violation of any provision of this chapter, other than for a first offense, it is not requisite to set forth particularly the record of a former conviction, but it is sufficient to allege briefly that such person has been convicted of a violation of a particular provision or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment, may be amended without terms and as a matter of right. Any process civil or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment. (R. S. c. 57, § 77. 1963, c. 414, § 86.)

**Effect of amendment.**—The 1963 amendment substituted “civil action” for “suit” and “actions” for “suits” in the fourth, sixth, seventh and ninth sentences of the section, substituted “municipality” for “city,

town or plantation” in the fourth sentence and deleted “the provisions of” preceding “this chapter” in the fourth and sixth sentences.

### Search and Seizure.

**Sec. 82. Seizure and forfeiture of vehicles containing intoxicating liquor.**—All automobiles, trucks, wagons, aircraft, boats or vessels, and vehicles of every kind, not common carriers, containing intoxicating liquors intended for illegal sale shall be seized by any officers seizing the intoxicating liquors transported therein, and the said intoxicating liquors shall be libeled as provided for in section 85. In all cases where an officer may seize intoxicating liquors which are transported for illegal sale he may seize within a period of 30 days of such transportation, with a warrant upon a sworn complaint issued by the proper officer of the district court upon complaint, said automobile, truck, wagon, aircraft, boat or vessel or vehicle of every kind, not common carrier, which have been so used to transport intoxicating liquors intended for illegal sale. Said automobile, truck, wagon, aircraft, boat or vessel and vehicle of every kind shall be libeled in the same manner as intoxicating liquors as provided in section 85 and disposed of in the same manner as intoxicating liquors as provided for in section 86. Provided however that the provisions of this section shall not interfere with the rights of a bona fide purchaser, or holder of a bona fide lien who has acquired such status between the time of such illegal transportation and such seizure under the terms of this section and provided further that the provision of this section is subject to the rights of persons not in possession or control of such automobile, truck, wagon, aircraft, boat or vessel or vehicle of every kind as provided by section 83. (R. S. c. 57, § 83. 1961, c. 289. 1963, c. 402, § 99.)

**Effect of amendments.**—The 1961 amendment rewrote this section.

The 1963 amendment substituted “the proper officer of the district court” for “a

judge of a municipal court or trial justice.”

**Application of 1963 amending act.**—See note to § 71.

**Sec. 84. Warrants for search and seizure; fluids poured out to prevent seizure; notice of liquors for sale, prima facie evidence of common sellers.** — If any person competent to be a witness in civil actions makes sworn complaint before the proper officer of the district court that he believes that liquors are unlawfully kept or deposited in any place in the state by any person and that the same are intended for sale in violation of law, such magistrate shall issue his warrant directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designate in such complaint and warrant, and if such liquors are there found, to seize them, with the vessels in which they are contained, and safely keep the same until final action thereon and to make immediate return of the warrant.

The name of the person so keeping such liquors, if known to the complainant, shall be stated in the complaint, and the officer shall be commanded by the warrant if he finds such liquors to arrest the person so named and hold him to answer as keeping such liquors intended for unlawful sale. In all cases where an officer may seize liquors or the vessels containing them, upon a warrant, he may seize them without a warrant and keep them in some safe place for a reasonable time until he can procure such warrant. Any person who may be suspected of selling from, or keeping for illegal sale in his pockets, liquors, may be searched in the same manner and by the same process as is provided for the search of places, and if liquors are found upon his person, he may be held to answer as though they were kept and deposited by him in any place. If fluids are poured out or otherwise destroyed by the tenant, assistant or other person when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such fluids may be held to have been intended for unlawful sale, and the penalties shall be the same as if they had been seized. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the first sentence of this section. If, upon trial, the court is of opinion that the liquors were so kept and intended for unlawful sale by the person named in the complaint or by any other person with his knowledge or consent, he shall be found guilty thereof and shall be punished by a fine of not less than \$100 nor more than \$500, and costs, and in addition thereto, by imprisonment for not less than 2 months nor more than 6 months, and in default of payment of said fine and costs, by imprisonment for 6 months additional. Notice of any kind in any place or resort, indicating that liquors are there unlawfully kept, sold or given away shall be held to be prima facie evidence that the person or persons displaying such notice are common sellers of liquors, and that the premises so kept by them are common nuisances. (R. S. c. 57, § 85. 1963, c. 402, § 100.)

**Effect of amendment.**—The 1963 amendment substituted “actions” for “suits” and substituted “the proper officer of the district court” for “any judge of a municipal

court or trial justice” near the beginning of the first sentence.

**Application of amending act.** — See note to § 71.

**Sec. 92. Liquors and vessels seized not repleviable pending proceedings.**—Liquors seized and the vessels containing them shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings provided are pending. Final judgment in such proceedings shall be in all cases a bar to any civil action for the recovery of any liquors seized or of their value, or for damages alleged to have been sustained by reason of the seizure and detention thereof. (R. S. c. 57, § 93. 1963, c. 414, § 87.)

**Effect of amendment.**—The 1963 amendment divided this section into two sentences, deleted “as hereinbefore provided” near the beginning of the first sentence,

deleted “hereinbefore” near the end of the first sentence, and substituted “civil action” for “suit” in the second sentence.

## Intoxication.

**Sec. 94. Intoxication and disturbance.**—Whoever is found intoxicated in any street, highway or other public place, or is found intoxicated in a motor vehicle while said motor vehicle is in any street, highway or other public place, shall be punished for the first offense by a fine of not more than \$20 or by imprisonment for not more than 30 days, or by both, and upon any subsequent conviction by a fine of not more than \$60 or by imprisonment for not more than 90 days, or by both, except that in any county where a county farm for the reformation of inebriates has been established, any male person who has been previously convicted of intoxication may be sentenced to such farm for a period of not less than



90 days nor more than 11 months. Whoever is found intoxicated in his own house or in any other building or place, disturbing the peace of his own or any other family or the public peace, shall be punished for the first and any subsequent conviction as provided in the preceding clause of this section. Any such intoxicated person shall be taken into custody by any sheriff, deputy sheriff, liquor inspector, constable, marshal, police officer or watchman and committed to the watchhouse or police station or restrained in some other suitable place, until a complaint can be made and a warrant issued against him, upon which he may be arrested and tried. (R. S. c. 57, § 95. 1945, c. 11. 1947, c. 145. 1955, § 95. 1957, c. 334, § 8.)

Effect of amendments. — The 1955 amendment inserted in the first sentence the words "or is found intoxicated in a motor vehicle while said motor vehicle is in any street, highway or other public place."

The 1957 amendment increased the fine for the first offense from \$10 to \$20, increased the fine for subsequent offenses from \$50 to \$60, and deleted "such fine and imprisonment" following the word "both" in two places.

Forms.

Sec. 97. Forms; costs.—The forms herein set forth, with such change as adapt them for use in municipalities, are sufficient in law for all cases arising under the foregoing provisions to which they purport to be adapted; and the costs to be taxed and allowed for a libel shall be 50¢; for entering the same, 30¢; for trying the same, \$1; for a monition, 50¢; for posting notices and return, \$1; for order to restore or deliver, 25¢; for executing the order, 50¢.

Effect of amendment.—The 1963 amendment substituted "municipalities" for "cities, towns and plantations."

Application of amending act.—See note to § 71.

Form of Complaint for Single Sale

STATE OF MAINE

judge of district court  
". . . . , ss.—To clerk  
complaint justice

A. B., of . . . . ., in said county, on the . . . . . day of . . . . ., in the year of our Lord one thousand nine hundred . . . . ., in behalf of said state, on oath . . . . . complains, that . . . . . of . . . . ., in said county, on the . . . . . day of . . . . ., 19. . . . , at said . . . . ., in said county of . . . . ., did then and there sell a quantity of intoxicating liquors, to wit: one . . . . . of intoxicating liquor to one . . . . . ." (or if the individual is unknown, "to some person to said complainant unknown,") "against the peace of said state, and contrary to the form of the statute in such case made and provided.

A. B.

On the . . . . . day of . . . . ., 19. . . . , said . . . . . makes oath, that the above complaint, by . . . . . subscribed, it true.

Before me,

. . . . . Complaint Justice  
District Court Judge  
Clerk."

Effect of amendment.—Prior to the 1963 amendment, the complaint was addressed to ". . . . ., esquire, a trial justice within and for the county of" and con-

cluded with the words "Trial Justice."

Application of amending act.—See note to § 71.

Form of Warrant upon Complaint for Single Sale

STATE OF MAINE

“....., ss.—To the sheriff of our said county of ....., or either of his deputies, or either of the constables of the town of ....., or of either of the towns in said county.

Greeting.

[L. S.] Whereas, A. B., of ....., on the ..... day of ....., in the year of our Lord one thousand nine hundred ....., in behalf of said state, on oath ..... complained to me, the subscriber, one of the judges of the district court

clerks , that ....., complaint justices of ....., in said county, on the ..... day of ....., 19...., at said ....., in said county of ....., did sell a quantity of intoxicating liquors, to wit: one ..... of intoxicating liquor to one ....., against the peace of said state and contrary to the form of the statute in such case made and provided.

Therefore, in the name of the state of Maine, you are commanded forthwith to apprehend said ....., if he may be found in your precinct, and bring him before said court, the subscriber, to answer to said state upon the complaint aforesaid.

Witness, my hand and seal at ..... aforesaid, this ..... day of ....., in the year of our Lord nineteen hundred .....

..... Judge Clerk Complaint Justice.”

Effect of amendment.—Prior to the 1963 amendment, “trial justices within and for said county of” followed “one of the” in the second paragraph. In addition, the 1963 amendment substituted “said court” for “me” and deleted “or some other trial

justice within and for said county” following “subscriber” in the third paragraph. The form formerly concluded with the words “Trial Justice.”

Application of amending act.—See note to § 71.

Form of Recognizance in Case of a Single Sale

“Be it remembered, that at a hearing held at the district court in ..... district in said county, on the ..... day of ....., in the year of our Lord division one thousand nine hundred ....., personally appeared ..... and ..... and severally acknowledged themselves to be indebted to the state of Maine, in the respective sums following, to wit:

The said ....., as principal, in the sum of ..... dollars, and the said ..... and ....., as sureties, in the sum of ..... dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof of their bodies, to the use of the state, if default is made in the condition following:

The condition of this recognizance is such, that whereas said ..... has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath ..... of ....., charging him, said ....., with having sold at said ....., one ..... of intoxicating liquor to one ....., against the peace of said state, and contrary to the form of the statute in such case made and provided. And said ....., having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to .....; and said ..... having appealed from said sentence to the

superior court, next to be held at ....., within and for the said county of ....., on the ..... Tuesday of ....., in the year of our Lord nineteen hundred .....

Now therefore, if said ..... shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license, then this recognizance shall be void; otherwise shall remain in full force and virtue.

Witness,

.....  
District Court Judge.”

**Effect of amendment.**—Prior to the 1963 amendment, the form began with the words “Be it remembered, that at a justice court held by me the subscriber, one of the trial justices within and for the

county of ....., at my office” and concluded with the words “Trial Justice.”  
**Application of amending act.**—See note to § 71.

**Form of Mittimus**

STATE OF MAINE

“County of ....., ss.—To the sheriff of the county of ....., or either of his deputies, or either of the constables of the town of ....., and to the keeper of the jail in ....., in our said county,

Greeting.

[L. S.] Whereas, E. F., of ....., in our county of ....., now stands convicted before me, A. B., esquire, judge of the district court, on complaint of ..... who, on his oath ..... complains that” ..... (here insert the substance of the complaint) “against the peace of the state, and contrary to the form of the statute in such case made and provided, for which offense, he, the said E. F., is sentenced to pay a fine to the state, of ..... dollars, and the costs of prosecution, taxed at ..... dollars and ..... cents, (and to stand committed until the sentence is performed, all which sentence said E. F., now before me, the said judge, fails and refuses to comply with and perform).

These are therefore, in the name of the state of Maine, to command you, the said sheriff, deputies and constables and each of you, forthwith to convey said E. F. to the common jail in ....., in the county aforesaid, and to deliver him to the keeper thereof, together with this precept. And you the keeper of the said jail in ..... aforesaid, are hereby in like manner commanded, in the name of the state of Maine, to receive said E. F. into your custody, in said jail, and him there safely to keep until he shall comply with said sentence, or be otherwise discharged by due course of law.

Given under my hand and seal, this ..... day of ....., A. D.....

A. B.,  
District Court Judge.”

**Effect of amendment.**—The 1963 amendment substituted “judge of the district court” for “one of the trial justices in and for the said county of .....” near the beginning of the second paragraph, substituted “judge” for “justice”

near the end of that paragraph and substituted “District Court Judge” for “Trial Justice” at the end of the form.

**Application of amending act.**—See note to § 71.

**Form of Complaint in Case of Seizure**

STATE OF MAINE

“....., ss. .... To A. B., esquire, judge of the district court clerk  
complaint judge

District ....., Division .....

A. B., of . . . . ., in said county, competent to be a witness in civil actions, on the . . . . . day of . . . . ., in the year nineteen hundred . . . . ., in behalf of said state, on oath complains, that he believes, that on the . . . . . day of . . . . ., 19. . . . at said . . . . ., intoxicating liquors were, and still are kept and deposited by . . . . . of . . . . ., in said county, in . . . . .” (here describe with precision the place to be searched,) “and that said liquors then and there were, and now are intended by said . . . . . for sale in violation of law, against the peace of the state and contrary to the form of the statute in such case made and provided.

I therefore pray, that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said . . . . . be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him.

. . . . ., ss.—On the . . . . . day of . . . . ., 19. . . ., said A. B. made oath that the above complaint by him signed is true.

Before me,

. . . . .  
 District Court Judge  
 Clerk  
 Complaint Justice.”

**Effect of amendment.**—Prior to the 1963 amendment, the words following “esquire” in the opening paragraph were “one of the trial justices in and for the county of” and

the form concluded with the words “Trial Justice.”

**Application of amending act.**—See note to § 71.

**Form of Warrant in Case of Seizure**

STATE OF MAINE

District . . . . .  
 Division of . . . . .

“ . . . . ., ss. . . . . To the sheriff of our several counties or any of their deputies, or any of the constables or police officers of any municipality in said state or any state police officer.

[L. S.] Whereas A. B., of . . . . ., in said county, competent to be a witness in civil actions, on the . . . . . day of . . . . ., in the year nineteen hundred . . . . ., in behalf of said state, on oath complained to the subscriber, an officer of the district court, that he believes, that on the . . . . . day of . . . . ., 19. . . ., at said . . . . ., intoxicating liquors were and still are deposited and kept by . . . . ., of . . . . ., in said county, in . . . . .” (here follows a precise description of the place to be searched.) “and that said . . . . . then and there intended and now intends that the same shall be sold, in violation of law as fully appears by the complaint hereunto annexed, and prayed that due process be issued to search the premises hereinbefore mentioned, where said liquors are believed to be deposited, and, if there found, that said liquors and vessels be seized and safely kept until final action and decision be had thereon, and that said . . . . . be apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against him:—

You are therefore required in the name of the state, to enter the . . . . . before named, and therein to search for said liquors, and, if there found, to seize and safely keep the same, with the vessels in which they are contained, until final action and decision is had on the same; and to apprehend said . . . . . forthwith, if he may be found in your precinct, and bring him before said court, and to do and receive such sentence as may be awarded against him.

Witness, ....., at ..... aforesaid, this ..... day of ....., in the year of our Lord nineteen hundred .....

Judge Clerk Complaint Justice."

Effect of amendment.—The 1963 amendment added "District ....." and "Division of ....." at the beginning of the form, rewrote the first paragraph, substituted "actions" for "suits" near the beginning of the second paragraph, substituted "an officer of the district court" for "one of the trial justices within and for said county" in that paragraph, substituted

"said court" for "me, the subscriber, or some other trial justice within and for said county, to answer to said complaint" near the end of the third paragraph and deleted "esquire" preceding "at" in the last paragraph. The form formerly concluded with the words "Trial Justice."

Application of amending act.—See note to § 71.

Form of Recognizance in Case of Seizure

"Be it remembered, that at the district court held in ....., on the ..... day of ....., in the year of our Lord nineteen hundred ....., personally appeared A. B., C. D. and E. F. and severally acknowledged themselves to be indebted to the state of Maine, in the respective sums following, to wit :

The said ....., as principal, in the sum of ..... dollars, and the said ..... and ....., as sureties, in the sum of ..... dollars each, to be levied of their respective goods, chattels, lands or tenements, and in want thereof, of their bodies, to the use of the state, if default is made in the condition following :

The condition of this recognizance is such, that whereas said ..... has been brought before said court, by virtue of a warrant duly issued upon the complaint on oath, of G. H., of ....., a competent witness in civil actions, charging him, said ....., with having at ....., in the said county of ....., on the ..... day of ..... 19...., kept and deposited certain intoxicating liquors in ....." (here describe the place where the same are deposited) "with intent that the same should be sold in violation of law; and a search warrant having been issued upon said complaint, and said liquors above described, having been seized thereon, and said ..... arrested thereon; and said ..... having pleaded not guilty to said complaint, but having been by said court found guilty of the same, and been sentenced to ..... And said ....., having appealed from said sentence to the superior court, next to be held at ....., within and for said county of ....., on the ..... Tuesday of ....., in the year of our Lord nineteen hundred .....

Now therefore, if said ..... shall appear at the court aforesaid, and prosecute his said appeal with effect, and abide the order and judgment of said court, and not depart without license; then this recognizance shall be void; otherwise shall remain in full force and virtue.

..... District Court Judge."

Effect of amendment.—The 1963 amendment substituted "the district court held in ....." for "a justice court held by me, the subscriber, one of the trial justices within and for the county of ..... at my office in said ....." near the

beginning of the form and substituted "District Court Judge" for "Trial Justice" at the end of the form.

Application of amending act.—See note to § 71.

**Form of Libel**

STATE OF MAINE

District .....  
Division of .....

clerk

“County of ....., ss.—To A. B., judge of the district court  
complaint justice

The libel of C. D., of ....., shows that he had, by virtue of a warrant duly issued on the ..... day of ....., A. D. 19....., by ..... officer of said district court, seized certain intoxicating liquors and the vessels in which the same were contained, described as follows: .....” (here follows a description of the liquors.) “because the same were kept and deposited at .....” (describing the place) “in the said county of ....., and were intended for sale, in violation of law. Wherefore he prays for a decree of forfeiture of said liquors and vessels, according to the provisions of law in such case made and provided.

Dated at ....., in said county, this ..... day of ....., in the year of our Lord nineteen hundred .....

(Signed.)

**Effect of amendment.**—Prior to the 1963 amendment, the form was addressed to “A. B., a trial justice, in and for said county.” The amendment also added “District .....” and “Division of .....” at the beginning of the form and substi-

.....”  
tuted “officer of said district court” for “esquire, a trial justice in and for said county” preceding “seized.”

**Application of amending act.** — See note to § 71.

**Form of Monition and Notice**

STATE OF MAINE

District .....  
Division of .....

“County of ....., ss.

[L. S.] To all persons interested in .....” (here insert the description of the liquors, as in the libel).

“The libel of C. D., hereunto annexed, this day filed in said district court shows that he has seized said liquors and vessels because” (insert as in the libel), “and prays for a decree of forfeiture of the same according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before, this court on the ..... day of ....., 19....., and then and there show cause why said liquors and the vessels in which they are contained should not be declared forfeited.

Given under my hand and seal at ....., on the ..... day of ....., in the year of our Lord nineteen hundred .....

.....  
District Court Judge  
Clerk  
Complaint Justice.”

**Effect of amendment.**—The 1963 amendment added “District .....” and “Division of .....” at the beginning of the form, substituted “in said district court” for “with me, A. B., esquire, a trial justice, in and for said county” in the second paragraph and substituted “this court” for

“me, the said justice at ..... in said county” in the third paragraph. Prior to the amendment, the form concluded with the words “Trial Justice.”

**Application of amending act.**—See note to § 71.

Form of Complaint in Case of Seizure of Automobile

STATE OF MAINE

District .....
Division of .....

....., ss.—To the clerk judge of the district court:
complaint justice

A. B., of ....., in the said county, competent to be a witness in civil actions, on the ..... day of ....., A. D., 19...., in behalf of said state, on oath complains, that he believes that on the ..... day of ..... in said year, at said ....., in said county, a certain automobile, herein-after described, was knowingly used for the illegal transportation of intoxicating liquors and intoxicating liquors were kept and deposited by persons unknown ..... of ..... in said automobile, situated on ..... street, in said ....., in said county, near number ..... on said street in said ....., and occupied by said persons unknown ..... said persons unknown ..... not being then and there authorized by law to transport liquors within said state, and that the said liquors were then and there knowingly being transported within said state, in violation of law, against the peace of said state, and contrary to the form of the statute in such case made and provided; and that the said liquors were then and there intended by said persons unknown ..... for sale in violation of law, against the peace of said state and contrary to the form of the statute in such case made and provided.

And the said ..... on oath further complains that he, the said ..... at said ..... on the ..... day of ....., A. D., 19...., being then and there an officer, to wit, a deputy sheriff, within and for said county, duly qualified and authorized by law to seize automobiles used for the illegal transportation of intoxicating liquors and intoxicating liquors kept and deposited for unlawful sale and the vessels containing them, by virtue of a warrant therefor issued in conformity with the provisions of the law, did find upon the above described premises, one ....., bearing engine number ....., and the 19.... license number plates numbered ....., which said automobile then and there contained ....., which said automobile was not then and there a common carrier, and which said automobile was not then and there engaged in the business of a common carrier; and which said automobile was then and there in the possession, care and control of the said ..... and which said automobile was then and there knowingly used by the said ..... for the illegal transportation of intoxicating liquors from place to place in said ..... with intent that the said intoxicating liquors should be sold in violation of law; and which intoxicating liquors as aforesaid, and the vessels containing the same, were then and there kept, deposited and intended for unlawful sale as aforesaid, and said automobile was then and there being used for the illegal transportation of said liquors as aforesaid, within said state by the said persons unknown, and did then and there by virtue of this authority as a deputy sheriff as aforesaid, seize the above described automobile, intoxicating liquors and the vessels containing the same, to be kept in some safe place for a reasonable time, and hath since kept and does still keep said automobile, liquors and vessels to procure a warrant to seize the same.

He therefore prays, that due process be issued to seize said automobile, liquors and vessels, and them safely keep until final action and decision be had thereon, and that said persons unknown ..... be forthwith apprehended and held to answer to said complaint, and to do and receive such sentence as may be awarded against them.

On the ..... day of ....., the said ..... makes oath that the above complaint by him signed is true.

....., Said Clerk Judge Complaint Justice."

Effect of amendment.—Prior to the 1963 amendment, the complaint was addressed to the "Judge—Recorder—of our Municipal Court for the City of ..... in the County of ....." and concluded with the words "Said Judge—Recorder." The 1963 amendment also added "District

....." and "Division of ....." at the beginning of the form and substituted "actions" for "suits" following "civil" near the beginning of the first paragraph.

Application of amending act.—See note to § 71.

Form of Warrant in Case of Seizure of Automobile

STATE OF MAINE

"....., ss.—To the sheriff of our county of ....., or either of his deputies, or either of the constables or police officers of any city or town within said county:

[L. S.]

In the name of said state you are commanded to seize the automobile, liquors and vessels containing the same, named in the foregoing complaint of the said ..... and now in his custody as set forth in said complaint, which is expressly referred to as a part of this warrant, and safely keep the same, until final action and decision be had thereon, and to apprehend the said persons unknown ..... forthwith, if they ..... may be found in your precinct, and them ..... bring before said court, holden at the district court in said ....., to answer to said complaint, and to do and receive such sentence as may be awarded against him.

Witness, ....., ..... esquire, our said Judge at ....., aforesaid, this ..... day of ....., A. D., 19.....

..... Judge"

Effect of amendment.—The 1963 amendment substituted "any city or town within said county" for "the City of ..... or of either of the towns within said county" in the first paragraph, substituted "district court" for "municipal court room"

in the second paragraph, deleted "Recorder" following "Judge" in the last paragraph and added "..... Judge" at the end of the form.

Application of amending act.—See note to § 71.

Form of Libel for Automobile

STATE OF MAINE

District ..... Division of .....

"....., ss.—To the judge of the district court:

The libel of ..... shows that he has by virtue of a warrant duly issued by the judge of the district court, seized on the ..... day of ....., A. D., 19....., a certain automobile, intoxicating liquors and the vessels in which the same were contained, described as follows:

One ..... bearing engine number ..... and the 19... license number plates numbered ....., which said automobile then and there contained ....., which said automobile was not then and there a common carrier, and which said automobile was not then and there engaged in the business of a common carrier; and which said automobile was then and there in the possession, care and control of the said ....., and which said automobile was then and there knowingly used by the said ..... for the illegal transpor-



tation of intoxicating liquors from place to place in said ..... , and because the same were then and there kept and deposited on the ..... day of ..... , A. D., 19....., on ..... street, in said ..... , in said county, near number ..... on said street, in said ..... , and because said automobile was being knowingly used for the illegal transportation of said liquors, within the state in violation of law. Wherefore he prays for a decree of forfeiture of said automobile, liquors and vessels, according to the provisions of law in such case made and provided.

Dated at ..... , in said county, the ..... day of ..... , A. D. 19...

(Signed.)

....., Deputy Sheriff.”

**Effect of amendment.**—The 1963 amendment added “District .....” and “Division of .....” at the beginning of the form, substituted “of the district court” for “—Recorder of our municipal court for the City of ..... , in the county of .....” in the first paragraph and

substituted “of the district court” for “—Recorder of the municipal court for the city of .....” in the second paragraph.

**Application of amending act.**—See note to § 71.

**Form of Monition and Notice in Case of Automobile**

STATE OF MAINE

“ ..... , ss.

[L. S.] To all persons interested in the automobile, liquors and vessels described in the foregoing libel:

The libel of ..... hereunto annexed, this day filed with the district court, shows that he has seized said automobile, liquors and vessels because the same were used, kept and deposited as set forth in said libel, and said automobile was then and there knowingly used for the illegal transportation of intoxicating liquors, and prays for a decree of forfeiture of the same, according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before said court in said ..... , on the ..... day of ..... , A. D., 19....., at ..... o'clock, A. M. and then and there show cause why said automobile, liquors and vessels in which they are contained should not be declared forfeited.

Witness, ..... , Esquire, our said Judge ..... aforesaid, this ..... day of ..... , A. D., 19.....

..... Judge”

(R. S. c. 57, § 97. 1963, c. 402, § 101.)

**Effect of amendment.**—The 1963 amendment substituted “the district court” for “the Judge—Recorder of our municipal court for the City of ..... in the County of .....” in the second paragraph, deleted “at the municipal court room” following “court” in the third para-

graph, deleted “Recorder” following “Judge” in the last paragraph and added “..... Judge” at the end of the form.

**Application of amending act.**—See note to § 71.