

# MAINE STATE LEGISLATURE

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# TITLE 28

## LIQUORS

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### CHAPTER 1

#### GENERAL PROVISIONS

Sec.

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#### § 1. Compliance required; penalty

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.1954, c. 61, § 9; 1963, c. 181.

## § 2. Definitions

The following words and phrases, unless the context clearly indicates otherwise, shall have the following meanings when used in any statute or law relating to intoxicating liquor:

**1. Alcohol.** "Alcohol" shall mean that substance known as ethyl alcohol, hydrated oxide of ethyl or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar, potatoes or other substances including all dilutions and mixtures of these substances.

**2. Apple cider.** "Apple cider" as used in chapter 13, subchapter 2, shall mean "liquor" made from apples.

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

1957, c. 117, § 1.

**4. Club.** "Club" shall mean any reputable group of individuals incorporated and operating in a bona fide manner solely for objects of recreational, social, patriotic or fraternal nature and not for pecuniary gain. To qualify for license or any renewal thereof under this Title a club shall, for at least 2 years immediately preceding application therefor, have been in continuous operation and existence, regularly occupied as owner or lessee a suitable clubhouse or quarters for use of members, held regular meetings, conducted its business through officers regularly elected and charged and collected dues from elected members, except that any veterans' organization in the State having a charter from a national veterans' organization shall be exempt from the 2-year requirement, provided it has been established for not less than 3 months.

**5. Club member.** "Club member" shall mean a person who, whether as a charter member or admitted in accordance with the bylaws 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 bylaws 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.

1957, c. 117, § 2.

**6. Commission.** "Commission" shall mean the State Liquor Commission.

**7. Corporation.** "Corporation" shall mean a corporation organized and incorporated under the laws of this State or authorized to transact business within this State.

**8. Dining cars.** "Dining cars" and "cars supplying food" shall mean and include cars in which food is prepared and served and also other cars, for accommodations in which an extra charge is made, in which food is served from a dining car or from a car supplying food in the same train.

**9. Hotel.** "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 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 such hotel can in no way be classed as overnight camps, and provided no liquor shall be served or delivered by the licensee, his servants or agents to guests in rooms outside of the main building.

1963, c. 400.

**10. Hotel guest.** "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.

1957, c. 117, § 3.

**11. Intoxicating liquor.** "Intoxicating liquor" shall have the same meaning as the word "liquor."

**12. Licensee.** "Licensee" shall mean the person to whom a license of any kind is issued by the commission.

1955, c. 355, § 1.

**13. Liquor.** "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.

1959, c. 363, § 37.

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

1955, c. 355, § 2.

**15. Person.** "Person" shall mean an individual, copartnership, corporation or voluntary association.

**16. Premise or premises.** "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.

1957, c. 117, § 4.

**17. Restaurant.** "Restaurant" shall mean a reputable place operated by responsible persons of good reputation and habitually and regularly used for the purpose of providing food for the public, and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for the public.

**18. Class A restaurant.** "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 subsection 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 subsection 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 subsection unless they are furnished with proof that the previous year's business conformed to the income provisions of this subsection. The commission is specifically authorized to make such rules and regulations as they deem necessary for carrying out this subsection.

1959, c. 340, § 1; 1961, c. 201.

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

1957, c. 117, § 5; 1959, c. 160.

**20. Sale or sell.** "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.

1957, c. 117, § 5.

**21. Spirits.** "Spirits" shall mean any liquor produced by distillation or if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind.

**22. Tavern.** "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 table, chairs or

other seating accommodations and all persons served shall remain standing at the bar.

1955, c. 217.

**23. Vinous liquor.** "Vinous liquor" shall mean wine.

1957, c. 117, § 6.

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

**25. Wine.** "Wine" shall mean any liquor produced by natural fermentation.

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 Title notwithstanding the fact an admission charge must be paid to gain entrance to such place.

R.S.1954, c. 61, § 1; 1955, c. 217; c. 355, §§ 1, 2; 1957, c. 117, §§ 1-6; 1959, cc. 137, 160; c. 340, § 1; c. 363, § 37; 1961, c. 201; c. 344, § 1; 1963, c. 400.

### § 3. Payments to 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 this Title 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 order that all payments made to it by such person for a period not to exceed one year shall be only by cash, certified check or money order.

1955, c. 355, § 9.

### § 4. Business 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 30th 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 employment 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 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.

R.S.1954, c. 61, § 27; 1955, c. 71, § 1; c. 355, § 4-A; c. 403, § 2; 1957, c. 218, § 7; 1959, c. 311.

### § 5. Form of advertising restricted

No advertising of liquor within the State shall be permitted, except in such form as may be specifically authorized by the commission. Radio, television, billboards, signs, newspapers, magazines and periodicals may carry advertising subject to the regulations of the commission. Said commission may make reasonable regulations restricting the advertising of any type of alcoholic beverages by brand names in any municipality which

has voted in any particular local option election against the sale of all types of alcoholic liquor during the period when such sales are prohibited. No picture or other form of representation of the State House shall be used or displayed for the advertising of liquor.

R.S.1954, c. 61, § 55.

**§ 6. Action not maintainable upon promise to pay for liquor**

No action shall be maintained upon any claim or demand, promissory note or other security contracted or given for liquor sold in violation of any of the provisions of this Title, or for any such liquor purchased out of the State with intent to sell the same or any part thereof in violation thereof, but this section shall not extend to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract.

R.S.1954, c. 61, § 75.