

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
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1987

PUBLIC LAWS

OF THE

STATE OF MAINE

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1987

section is repealed on April 1, 1989.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 13, 1987.

CHAPTER 45

H.P. 129 — L.D. 155

AN ACT to Recodify the Liquor Laws.

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

PART A

Sec. 1. 5 MRSA §88-A is enacted to read:

§88-A. State identification cards; information; fee

1. Application. Any person 21 years of age or over may apply for an official state nondriver identification card. The application must be on a form provided by the Secretary of State and include any supporting documents and information required by the Secretary of State.

A. The application form must include, directly above the signature line, the following notice to the applicant: "I understand that knowingly supplying false information on this form is a Class D crime under Title 17-A, punishable by confinement of up to one year or by monetary fine of up to \$500, or both."

2. Issuance of card; contents. Upon receipt of a completed application and payment of a fee of \$2, the Secretary of State shall issue an identification card to the applicant. The card must contain:

- A. The applicant's photograph;
- B. The applicant's name and address;
- C. The applicant's date of birth; and
- D. Any other information and identification which the Secretary of State considers necessary.

3. Validity. The identification card issued under this section is not valid until signed by the applicant.

4. Confiscation of card. Any law enforcement officer who, in the performance of his duty, finds an identification card issued under this section in the possession of a person other than the person to whom the card has been issued shall confiscate that card and return it to the Secretary of State.

5. Fraudulent use of identification card. No person

may:

A. Misrepresent his age or practice any deceit in the procurement of an identification card;

B. Have in his possession a false identification card;

C. Use or exhibit for the purpose of procuring liquor an identification card belonging to another or which has been forged or altered; or

D. Loan or transfer his identification card to another for use in the procurement of liquor.

6. Penalty. Any person who violates subsection 5 commits a Class E crime.

7. Rules. The Secretary of State may adopt rules to carry out this section.

Sec. 2. 25 MRSA Pt. 10 is enacted to read:

PART 10

BUREAU OF LIQUOR ENFORCEMENT

CHAPTER 451

BUREAU OF LIQUOR ENFORCEMENT

§3901. Bureau of Liquor Enforcement

1. Bureau of Liquor Enforcement. The enforcement division of the State Liquor Commission shall be the Bureau of Liquor Enforcement within the Department of Public Safety, as created in this chapter. Notwithstanding any other provisions of law, the Department of Public Safety is responsible for the enforcement of the liquor laws and the rules of the commission.

2. Director. The Commissioner of Public Safety shall appoint as Director of the bureau a person experienced in law enforcement or enforcement of liquor laws, who may be removed for cause by the commissioner.

A. The director, subject to the Civil Service Law, may appoint as many liquor enforcement officers as may be found necessary. The liquor enforcement officers shall be under the direct supervision and control of the director.

3. Eligibility. The director and the employees of the bureau are subject to the same eligibility requirements of Title 28-A, section 52.

§3902. Enforcement powers

1. Enforcement duties. A liquor enforcement officer appointed under section 3901 shall enforce the provisions of Title 17, chapter 69, Title 28-A and of Title 29, section 2182.

2. Enforcement powers. For the purpose of enforcing the provisions referenced in subsection 1, a liquor enforcement officer has the same powers throughout the several counties of the State as sheriffs have in their respective counties to investigate and prosecute violations, to execute warrants, to serve process and to arrest offenders.

3. Other crimes. In addition to the powers granted in subsection 2, a liquor enforcement officer may arrest without a warrant any person who has committed or is committing any other crime in the officer's presence. An arrest made under this subsection must be made at the time of the criminal conduct or within a reasonable time. An arrest under this subsection may be made only by a liquor enforcement officer who has completed the basic training course for liquor enforcement officers at the Maine Criminal Justice Academy or for whom that basic training course or a portion of that course has been waived by the board of trustees of the academy because of successful completion of equivalent training.

Sec. 3. 28 MRSA, as amended, is repealed.

Sec. 4. 28-A MRSA is enacted to read:

TITLE 28-A

LIQUORS

PART 1

GENERAL PROVISIONS

CHAPTER 1

GENERAL PROVISIONS

§1. Compliance required; penalty

Any person who purchases, imports, transports, manufactures, possesses or sells alcohol in violation of law commits a Class E crime.

§2. Definitions

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings.

1. Agency liquor store. "Agency liquor store" means a person who is licensed by the commission to sell spirits to be consumed off the premises.

2. Alcohol. "Alcohol" means the 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, and includes all dilutions and mixtures of these substances.

3. Bottle club. "Bottle club" means a person operating on a regular, profit or nonprofit basis a facility for

social activities in which members or guests provide their own liquor, where no liquor is sold on the bottle club premises, which maintains suitable facilities for the use of members on a regular basis or charges an admission fee to members or the general public and where members, guests or others are regularly permitted to consume liquor. As used in this definition, "regularly" includes daily, weekly or monthly, but does not include once a year or less often. A bottle club is not a public place, as defined in Title 17, section 2003-A.

A. "Bottle club premises" includes all parts of contiguous real estate occupied by the bottle club over which the bottle club owner has direct or indirect control or interest and which the bottle club owner uses in the operation of the bottle club.

4. Bottler. "Bottler" means a person who packages spirits, wine or beer for sale in containers, and is not engaged in distilling, brewing, fermenting or rectifying liquor.

5. Brewer. "Brewer" means a person who produces malt liquor by fermentation of malt, wholly or partially, or from any substitute for malt.

6. Bureau. "Bureau" means the Bureau of Alcoholic Beverages within the Department of Finance.

7. Catering. "Catering" means service of liquor with or without food by a person to groups at a prearranged function.

A. "Off-premise catering" means service of liquor with or without food by a licensee to groups at prearranged functions located at a place other than the licensee's premises.

B. "On-premise catering" means service of liquor with or without food by a licensed club having the catering privilege to groups of nonmembers at prearranged functions.

8. Certificate of approval holder. "Certificate of approval holder" means an instate manufacturer, out-of-state manufacturer or out-of-state wholesaler licensed by the commission.

9. Commission. "Commission" means the State Liquor Commission.

10. Corporation. "Corporation" means a corporation organized and incorporated under the laws of the State or authorized to transact business within the State.

11. Distiller. "Distiller" means a person who produces spirits by the process of distillation.

12. Fortified wine. "Fortified wine" means wine to which spirits have been added and which contains more than 14.5% alcohol by volume.

13. Imitation liquor. "Imitation liquor" means any product containing less than 1/2 of 1% alcohol by volume which seeks to imitate by appearance, taste and smell liquor or which is designed to carry the impression to the purchaser that the beverage has an alcohol content. "Imitation liquor" includes, but is not limited to, products bearing the brand names "Near Beer," "Brew" or "Cham-paigne-0."

14. Licensee. "Licensee" means the person to whom a license of any kind is issued by the commission. "Licensee" includes, but is not limited to, agency liquor stores and certificate of approval holders.

15. Licensed establishment. "Licensed establishment" means premises to which a license for the sale of spirits, wine or malt liquor to be consumed on or off the licensed premises applies, and any person or organization which is licensed to sell spirits, wine or malt liquor in the times, places and manners as specified in the license. The following may be licensed establishments.

A. "Airline" means any person operating regularly scheduled intrastate or interstate passenger air transportation.

B. "Auditorium" means any commercially operated facility designed or used for the gathering of an audience for speeches and live performances of theater, music, dance or other performing arts, which charges a fee and which has adequate facilities for the sale and consumption of liquor.

C. "Civic auditorium" means a municipal, county or state or a quasi-municipal, quasi-county or quasi-state owned or operated auditorium or civic center.

D. "Club" means any reputable group of individuals incorporated and operating in a bona fide manner solely for purposes of recreational, social, patriotic or fraternal nature and not for pecuniary gain.

(1) "Club member" means a person who, whether as a charter member or admitted in accordance with the bylaws of the club, has become a bona fide member of that club 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. No person who does not have full club privileges may be considered a bona fide member.

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

F. "Florist" or "florist shop" means a store whose primary business is the retail sale of flowers, cut flowers and arrangements of flowers and cut flowers.

G. "Golf club" means any commercially operated facility, whether publicly or privately owned, offering golfing facilities to the general public for a fee, which includes a regulation size golf course of not less than 9 holes and an average total of not less than 1,200 yards per 9 holes, which has a value of not less than \$100,000, which offers food for sale to the public and which has adequate facilities for the sale and consumption of liquor.

H. "Hotel" means any reputable place operated by responsible persons of good reputation, where the public obtains sleeping accommodations for a consideration and where meals may be served, whether or not under one roof.

(1) A hotel is considered to be serving meals when it provides on the premises one or more public dining rooms, open and serving food during the morning, afternoon and evening, and a separate kitchen in which food is regularly prepared for the public.

(2) Nothing in this paragraph may be held to prevent the commission from issuing part-time licenses to bona fide part-time hotels.

(3) "Hotel guest" means 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 considered a hotel guest.

(4) No group of buildings which is reasonably classified as overnight camps qualifies as a hotel.

I. "Incorporated civic organization" means any charitable or nonprofit civic organization incorporated as a corporation without stock under Title 13, chapter 81.

J. "Indoor ice skating club" means any commercially operated indoor facility offering ice skating facilities to the general public, which charges a fee and which has adequate facilities for the sale and consumption of liquor.

K. "Indoor racquet club" means any commercially operated indoor facility with 4 or more courts or areas designed or used for the playing of any racquet sport, which is open to the general public, which charges a fee and which has adequate facilities for the sale and consumption of liquor. Racquet sports include tennis, squash, handball, paddleball and badminton.

L. "Class A lounge" means a reputable place operated by responsible persons of good reputation, where food and liquor are sold at tables, booths and counters.

M. "Outdoor stadium" means any commercially operated outdoor facility with 5,000 or more seats designed or used for the playing of any sport or event, which

is open to the general public, which charges a fee and which has adequate facilities for the sale and consumption of wine and malt liquor.

N. "Performing arts center" means any charitable or nonprofit corporation incorporated as a corporation without capital stock under Title 13, chapter 81, and which has as its primary purpose the encouragement, promotion and presentation of the arts for the benefit of the general public.

O. "Public service corporation" means an airline, railroad or vessel corporation operating in the State.

P. "Qualified catering service" means a catering establishment as defined in Title 22, chapter 562, and licensed by the Department of Human Services.

Q. "Restaurant" means a reputable place operated by responsible persons of good reputation, which is regularly used for the purpose of providing food for the public, and which has adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for the public.

R. "Class A restaurant" means a reputable place operated by responsible persons of good reputation which is regularly used for the purpose of providing full course meals for the public on the premises, which is equipped with a separate and complete kitchen, and which maintains adequate dining room equipment and capacity for preparing and serving full course meals upon the premises.

(1) A full course meal consists of a diversified selection of food which ordinarily cannot be consumed without the use of tableware and which cannot be conveniently consumed while standing or walking.

S. "Ship chandler" means a retail establishment supplying provisions, including malt liquor and wine, to ships of foreign registry.

T. "Tavern" means a reputable place operated by responsible persons where no food is sold, other than prepared packaged foods and bar snacks, and no business is carried on except:

- (1) The sale of cigarettes and tobacco products; and
- (2) The sale of malt liquor at a bar.

U. "Class A tavern" means a reputable place operated by responsible persons of good reputation where food may be sold and malt liquor is sold at tables, booths and counters.

V. "Vessel" means any ship, vessel or boat of any kind used for navigation of the water, licensed for carrying not less than 25 passengers under the requirements of the Public Utilities Commission or the United States Coast Guard, and used only on waters other than in-

land waters.

16. Liquor. "Liquor" means spirits, wine or malt liquor, or any substance containing liquor, intended for human consumption, which contains more than 1/2 of 1% of alcohol by volume.

17. Maine farm winery. "Maine farm winery" means a facility that is fermenting, aging and bottling its own wine within the State, not to exceed 50,000 gallons per year.

18. Malt liquor. "Malt liquor" means liquor produced by the fermentation of malt, wholly or partially, or from any malt substitute, which contains 1/2 of 1% of alcohol or more by volume. "Malt liquor" includes, but is not limited to, ale, beer, porter and stout. "Malt liquor" includes beverages made with malt liquor.

19. Manufacturer. "Manufacturer" means a person who distills, rectifies, brews, ferments, bottles or otherwise produces liquor.

20. Minor. "Minor" means a person who has not reached the age of 21 years.

21. Municipal officers. "Municipal officers" means the mayor and aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of plantations.

22. Municipality. "Municipality" means a city, town or plantation.

23. Person. "Person" means an individual, partnership, corporation, firm, association or other legal entity.

24. Premises. "Premises" means all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest, which the licensee uses in the operation of the licensed business and which have been approved by the commission as proper places for the exercise of the license privilege.

A. "Premises" includes the place where an incorporated civic organization sells or serves spirits, wine and malt liquor under a license obtained under section 1071.

25. Rectifier. "Rectifier" means a person who produces spirits by combining spirits with other products.

26. Retail sale. "Retail sale" means any single sale of liquor of less than 20 gallons, or its metric equivalent, for consumption on or off the premises where sold and whether in the original package or as a mixed drink for immediate consumption.

27. Retailer. "Retailer" means any person licensed by the commission to engage in the purchase and resale of liquor in the original container or by the drink, for consumption on or off the premises where sold. "Retailer"

does not include wholesalers as defined in subsection 35.

A. "Off-premise retail licensee" means a person licensed to sell liquor in the original containers to be consumed off the premises where sold.

B. "On-premise retail licensee" means a person licensed to sell liquor to be consumed on the premises where sold.

28. Sale or sell. "Sale" or "sell" means any transfer or delivery of liquor for a consideration.

29. Small Maine brewery. "Small Maine brewery" means a facility that is brewing, lagering and kegging, bottling or packaging its own malt liquor within the State, not to exceed 50,000 gallons per year.

30. Sparkling wine. "Sparkling wine" means carbonated wine.

31. Spirits. "Spirits" means any liquor produced by distillation or, if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind. "Spirits" includes fortified wine.

32. State liquor store. "State liquor store" means a store operated by the commission which sells spirits to be consumed off the premises.

33. Unincorporated place. "Unincorporated place" means a place which is not incorporated as a municipality.

34. Wholesale licensee. "Wholesale licensee" means a person licensed by the commission as a wholesaler.

35. Wholesaler. "Wholesaler" means a person who engages in the purchase and resale of malt or brewed beverages and wines, or both, in the original containers, as prepared for the market by the manufacturer at the place of manufacture, but not for consumption, except taste testing, on the premises of that wholesaler.

36. Wine. "Wine" means any liquor, produced by natural fermentation, containing no more than 14.5% alcohol by volume, including, but not limited to, table wine, sparkling wines and beverages containing wine to which no spirits have been added.

37. Winery. "Winery" means a facility which ferments, ages and bottles wine.

§3. Payments to commission by check

1. Commission may accept payment by personal check. The commission may accept personal checks of licensees and persons applying for licenses for fees, premiums, excise taxes and permits authorized to be collected by it under this Title and for liquor sold to licensees.

2. Checks not honored on presentation; consequences.

If any check is not honored on presentation by the State, the commission shall withhold the license if not issued, or immediately take back the license if already issued, voiding it until the check, together with all costs of check failure, have been paid by the person paying by the personal check. The commission may order that person to make all payments to the commission only by cash, certified check or money order for a period not to exceed one year.

§4. Business days and hours

No liquor may be sold except as provided in this section.

1. Hours for sale of liquor. Except as provided in paragraphs A, B and C, licensees may sell or deliver liquor from 6 a.m. on any day until 1 a.m. of the following day.

A. Licensees may not sell liquor on Sunday between the hours of 6 a.m. and 12 noon.

B. Licensees may sell liquor on January 1st of any year from 12 midnight to 2 a.m.

(1) In areas in which liquor may be sold except on Sundays, if January 1st falls on a Monday, licensees may sell or deliver liquor between 9 p.m. Sunday, December 31st and 2 a.m. January 1st, notwithstanding any local option decisions to the contrary.

C. Licensees may not sell or deliver liquor on Memorial Day before 12 noon.

2. Consumption of liquor. Except as provided in paragraphs A and B, licensees may not permit the consumption of liquor on their premises after 1:15 a.m.

A. Licensees may permit the consumption of liquor on their premises until 2:15 a.m. on January 1st.

B. This subsection does not apply to consumption by bona fide hotel guests in their rooms.

3. Regulation of bottle clubs. Except as provided in paragraph A, municipalities may regulate the hours of operation of bottle clubs between the hours of 1 a.m. and 6 a.m.

A. Municipalities may regulate the hours of operation of bottle clubs between the hours of 2 a.m. and 6 a.m. on January 1st.

4. Local option decisions govern. Except as provided in subsection 1, paragraph B, nothing in this section may be construed to allow the sale of liquor in municipalities in violation of chapter 5.

5. Illegal sales and purchases on Sunday. The following acts are prohibited.

A. No person, except a law enforcement officer in performance of his duties, may purchase liquor on Sunday during the hours in which subsection 1 prohibits sales.

B. No licensee or licensee's employee or agent may sell liquor on Sunday during the hours in which subsection 1 prohibits sales, nor in any manner aid or assist in violating the law relating to Sunday sale of liquor.

6. Penalty. Any person who violates subsection 5 commits a Class E crime.

7. License or right to sell on Sunday suspended or revoked. Any licensee or licensee's employee or agent who sells liquor on Sunday in municipalities and unincorporated places which have voted affirmatively to the questions pertaining to Sunday sales in chapter 5 during the hours of 1 a.m. and 12 noon and who violates any of the rules of the commission, upon conviction, after a hearing before the Administrative Court Judge, shall be subject to the suspension or revocation, or both, of his license or right to sell on Sunday.

8. License suspended during appeal of conviction. If any licensee or any employee 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 the appeal is pending in the appellate court, unless the trial court otherwise orders, and no new or renewal license to sell liquor may be issued to the licensee during the time of the appeal.

§5. Prevailing time

The hours referred to in this Title are the legal time prevailing in the State on the day of the sale or other activity.

§6. Form of advertising restricted

1. Advertising form subject to commission authorization. No person may advertise liquor within the State, except in the form specifically authorized by the commission. Radio, television, billboards, signs, newspapers, magazines and periodicals may carry advertising subject to the rules of the commission.

2. Commission may adopt rules governing advertising brand names in local option areas. The commission may adopt rules restricting the advertising of any type of liquor by brand names during the period when such sales are prohibited in any municipality which has voted in any particular local option election against the sale of all types of liquor.

3. Use of picture or representation of State House prohibited. No person may use or display a picture or other form of representation of the State House for the advertising of liquor.

§7. Action not maintainable upon promise to pay for liquor

1. No action maintainable for promises to pay for liquor. Except as provided in paragraph A, no action may 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 liquor purchased out of the State with intent to sell all or any part in violation of this Title.

A. This section does not apply to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract.

§8. Entrances from premises

The commission may grant written permission to a licensee to maintain entrances, doorways or other apertures leading directly from the licensed premises.

§9. Separation of areas

The commission shall establish rules for the separation of areas where the license privilege may be exercised from areas where it may not be exercised, but complete nonaccess between the areas controlled by the licensee need not be required.

§10. Class A restaurant and off-premise retail licensee on same premises

1. Class A restaurant and off-premise retail licensee on same premises not prohibited. If a portion of a premise is licensed as an off-premise retail licensee, no provision within this Title may be construed to prohibit issuance of a Class A restaurant license to the same licensee for the remaining portion of the premises, provided that necessary qualifications are maintained for each separately licensed area.

2. Access between the 2 licensed areas. There may be access between the 2 licensed areas for the licensee or his employees if it is through areas open only to the licensee or his employees. There must be complete nonaccess between the 2 licensed areas by the public.

3. Licensee to maintain separate records, supplies and inventory. The licensee shall maintain records, supplies and inventory within each separate licensed establishment in accordance with the appropriate license privilege authorized for each separate area.

§11. Retailer on same premises as other businesses

1. Connection with other licensed premises. Notwithstanding any other law or rule of the commission, any retailer's licensed premise may be connected with any other retailer's licensed premise by a doorway or other apertures that are not securely and permanently sealed.

2. Violation of public drinking law. Any persons taking a drink of liquor to another, offering a drink of liquor to another or consuming liquor within the licensed premises of an off-premise retail licensee under the common roof shall be considered in violation of Title 17, section 2003-A and shall be punished accordingly.

3. Premises operated by licensee identified. An applicant for a license shall fully describe in the application the part of the premises which the applicant owns, leases or rents. The commission may require the licensee to identify on the premises by an appropriate marking, the area which he owns, rents or leases.

4. Inspection of business premises under common roof of licensee. All persons carrying on any business, except any bank or savings and loan institution, under the common roof and having common entranceways with a licensee shall agree in writing to allow reasonable inspection of their premises by authorized enforcement agents of the Department of Public Safety and authorized representatives of the commission.

§12. Inspection of premises

No licensee may refuse the commission, its representatives or representatives of the Bureau of Liquor Enforcement the right at any time to inspect the entire licensed premises or to audit the books and records of the licensee.

CHAPTER 3

ADMINISTRATION AND ORGANIZATION

SUBCHAPTER I

GENERAL PROVISIONS

§51. Administration; enforcement

1. Administration by commission. The State Liquor Commission, as established by Title 5, section 12004, subsection 6, shall administer the state liquor laws.

2. Enforcement by Bureau of Liquor Enforcement. The Bureau of Liquor Enforcement within the Department of Public Safety, as established by Title 25, section 3901, shall enforce the state liquor laws.

§52. Eligibility of members and employees

No person is eligible for appointment as a member of the State Liquor Commission, as an employee of the commission, the Bureau of Alcoholic Beverages or the Bureau of Liquor Enforcement, in any capacity, including the director, who:

1. Interest in corporation. 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

2. Violation of state or federal law. Has been convicted or adjudicated guilty of violating any state or federal law regulating the manufacture, sale or transportation of liquor.

§53. Conflict of interest

In addition to the limitations of Title 5, section 18, any member of the commission or any employee of the commission, the bureau or the Bureau of Liquor Enforcement, may not accept directly or indirectly any samples, gratuities, favors or anything of value from a manufacturer, wholesaler, wholesale licensee or retail licensee or any representative of a manufacturer, wholesaler, wholesale licensee or retail licensee under circumstances which might reasonably be construed as influencing or improperly relating to past, present or future performance of his official duties.

SUBCHAPTER II

THE STATE LIQUOR COMMISSION

§61. State Liquor Commission

1. Membership. The State Liquor Commission shall consist of 3 members to be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and to confirmation by the Legislature. Not more than 2 members of the commission may belong to the same political party. The Governor shall designate one of the members to be the commission chairman.

2. Term. Each member of the commission is appointed to serve for 3 years. Any vacancy shall be filled by appointment for a like term.

3. Removal. A member of the commission may be removed by the Governor on the address of both branches of the Legislature or by impeachment.

4. Meetings. The commission shall meet at the call of the commission chairman and at least once a month.

5. Public meetings. The commission may hold public meetings each year at various locations within the State for the purpose of outlining operations under the liquor laws, receiving suggestions and disseminating information to the public.

6. Expenses. The expenses for the administration of the commission in carrying out the duties as set forth in this Title shall be paid from such amounts as the Legislature may allocate from the revenues derived from the operations of the commission. These amounts shall become available in accordance with Title 5, chapters 141 to 155.

7. Salaries and expenses of members. Each member of the commission shall be compensated according to the provisions of Title 5, chapter 379, for 50 meetings

per year.

§62. Powers of the State Liquor Commission

The State Liquor Commission shall establish the policy and rules concerning the administration and enforcement of the liquor laws. The commission has the following powers:

1. Supervision of the Bureau of Alcoholic Beverages. To supervise and direct the Director of the Bureau of Alcoholic Beverages relating to all phases of the merchandising of liquor through state liquor stores and agency liquor stores;

2. General supervision. To have general supervision of manufacturing, importing, storing, transporting and sale of all liquor;

3. Rules and requirements. To adopt rules and requirements, not inconsistent with this Title or other laws of the State, for the administration, clarification, execution and enforcement of all laws concerning liquor, and to help prevent violation of those laws. These rules and requirements shall have the force and effect of law, unless and until set aside by a court of competent jurisdiction or revoked by the commission. The observance of these rules and requirements are conditions precedent to the issuing of any license to sell liquor;

4. Purchase, transportation and sale of liquor. To control and supervise the purchase, importation, transportation and sale of liquor;

5. Spirits for sale. To buy and have in its possession spirits for sale to the public. The commission shall buy spirits directly and not through the State Purchasing Agent. All spirits must be free from adulteration and misbranding. In purchases of liquor the commission shall give priority, wherever feasible, to those products manufactured or bottled in the State;

6. Sell at retail. To sell at retail in state liquor stores in original packages, either over the counter or by shipment to points within the State, spirits of all kinds for consumption off the premises at state liquor stores to be operated under the direction of the commission;

7. Licensing. To issue and renew all licenses when provided for by this Title and to hold licensing hearings;

8. Prevent sale to minors and others. To prevent the sale of liquor by licensees to minors, to intoxicated persons and to interdicted persons;

9. Act as review board. To act as a review board and on all appeals from the decisions of municipal officers. Except as provided by section 805, 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;

10. Hearings. An individual member of the commission may conduct hearings in any matter pending before the commission. He shall, after holding the hearing, file with the commission all papers connected with the case, a transcript of all the testimony and a report of his findings. The commission shall review the evidence and examine all papers and the findings of the individual member of the commission before rendering its decision;

11. Oaths; subpoenas; witnesses. 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 the commission or to any matter involved in a hearing. Witness fees in all proceedings shall be the same as for witnesses before the Superior Court; and

12. Food servicing organizations. To adopt rules and requirements permitting food servicing organizations catering to passengers on international flights to purchase wine and malt liquor from wholesale outlets or distributors, provided that the wine and malt liquor are resold for consumption during international travel.

A. Food servicing organizations include ship chandlers, provided that the wine and malt liquor are resold to vessels of foreign registry for consumption after those vessels have left port.

B. Food servicing organizations are not subject to section 2, subsection 15.

§63. Duties of the State Liquor Commission

1. Bureau of Alcoholic Beverages; rules. The commission shall establish rules and procedures for the administration and operation of the Bureau of Alcoholic Beverages.

2. Notice to delist or stop purchases. Before any item listed by the commission is discontinued or delisted or before the commission issues any order to stop purchases of any item listed, the commission shall give the vendor of the items reasonable written notice of its intention to delist or stop purchase of the items;

3. Pamphlet of rules. The commission shall publish at least annually on or before August 31st, or 90 days after becoming law, in a convenient pamphlet form all rules then in force and shall furnish copies of the pamphlet to every licensee.

4. Annual report. The commission shall make an annual report to the Governor of its activities and of the amount of liquor license fees collected, together with other information it considers advisable or that the Governor requires.

§64. Inventory and working capital

1. Net profits shall be general revenue. The net profits of the commission shall be general revenue of the State.

2. Inventory. The commission may keep and have on hand a stock of spirits for sale, the value of which, when priced for resale, shall be computed on less carload price quotations F.O.B. liquor warehouse filed by liquor vendors. The inventory value shall be based upon actual cost for which payment may be due and shall not at any time exceed the amount of working capital authorized. Spirits shall not be considered in the inventory until payment has been made for them.

3. Authorized working capital. 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 upon recommendation of the commission with the approval of the Commissioner of Finance. 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 the Governor.

SUBCHAPTER III

BUREAU OF ALCOHOLIC BEVERAGES

§71. Director of the Bureau of Alcoholic Beverages; appointment

1. Appointment. The Commissioner of Finance, with the advice and consent of a majority of the State Liquor Commission, shall appoint a Director of the Bureau of Alcoholic Beverages.

2. Term. The director's term of office is continuous, subject only to removal by a majority of the commission and the Commissioner of Finance.

3. Salary. With the advice and consent of a majority of the commission, the Commissioner of Finance shall set the salary of the director.

4. Qualifications and eligibility. In appointing a director, the Commissioner of Finance and the commission shall give consideration to the following qualifications: Sound judgment; practical experience and ability in merchandising; executive administration; salesmanship; and sound business principles. The director must not be a member of the commission.

§72. Director of the Bureau of Alcoholic Beverages; powers and duties

1. Administration of the bureau. The Director of the Bureau of Alcoholic Beverages is the chief administrative officer of the bureau and shall administer the policies and rules of the State Liquor Commission. The director shall have general charge of the office and records.

2. Direction from commission. The Director of the Bureau of Alcoholic Beverages is subject to the direction of the commission and shall operate the bureau and implement the liquor laws according to the procedures established by the commission.

3. Power to hire personnel and make expenditures. The Director of the Bureau of Alcoholic Beverages may employ personnel, with the approval of the Commissioner of Finance and the commission and subject to the Civil Service Law, and may make expenditures necessary to carry out the purposes of this Title.

CHAPTER 5

LOCAL OPTION

§121. Local option election in a municipality

A local option election in a municipality shall be held in the following manner.

1. Petition. A petition for a local option election must be signed by a number of voters equal to at least 15% of the number of votes cast in that municipality in the last gubernatorial election. All petition signatures must have been signed since the last general election. The petition must be addressed to and received by the municipal officers at least 21 days before holding any primary, special statewide, general or municipal election or town meeting.

2. Meeting. Upon receipt of a petition, the municipal officers shall notify the inhabitants of their respective municipalities to meet in the manner prescribed by law. The meeting shall be held to vote upon any or all of the questions contained in section 123.

3. Conduct of election. Except as provided in this section, the petition process and the voting at elections held in towns and plantations shall be held and conducted in accordance with Title 30, sections 2061, 2062 and 2065, even if the town or plantation has not accepted the provisions of section 2061. The voting at elections held in cities must be held and conducted in accordance with Title 21-A. No referendum questions except those set out in section 123 may be printed on the ballot. The municipal clerk shall make a return of the results, certify the results and send it to the office of the Secretary of State. The Secretary of State shall forward the results to the commission.

§122. Unincorporated places

A local option election in an unincorporated place shall be held in the following manner.

1. Petition. Residents of an unincorporated place may request that an election be held on any of the local option questions listed in section 123. A petition requesting a local option election must be signed by at least 15% of the voting age residents in the unincorporated place.

The petition must be addressed to and received by the Secretary of State at least 21 days before holding any primary, special, statewide or general election in the unincorporated place.

2. Election. Upon receipt of the petition, the Secretary of State shall:

A. Immediately appoint a time and place for the election;

B. Give public notice of the election in the same manner as provided for notice in section 653; and

C. Have an election held in the unincorporated place on any local option questions. The election shall be held under his supervision and is subject to the rules he adopts.

3. Where local option election is not authorized. The Secretary of State may not hold a local option election in any unincorporated place in which the total number of persons in the unincorporated place, as shown by returns of the State Tax Assessor, is less than 20, or the number of persons signing any petition requesting a local option election is less than 20. For these unincorporated places, the county commissioners or the commission may:

A. Refuse approval of a liquor license application on the basis that the license is not warranted for any substantial public convenience, necessity or demand;

B. Authorize the sale of liquor on Sunday in licensed hotels, Class A restaurants and clubs where liquor is permitted to be sold during the rest of the week;

C. Authorize the sale on Sunday of malt liquor and wine to be consumed off the premises by licensees who are permitted to make such sales during the rest of the week; and

D. Authorize the sale on Sunday of malt liquor and wine to be consumed on the premises by licensees who are permitted to make such sales during the rest of the week.

4. Exception. The commission may not issue a license to any person when it appears that that person or any other person for his benefit has moved a store or restaurant into an unincorporated place from a municipality or unincorporated place where a local option vote has resulted in his being unable to procure a liquor license.

§123. Local option questions

Any or all of the following questions may be voted on in a local option election held under section 121 or 122. Each question applies to both full-time and part-time licensed establishments. A vote may be held on question 9 only if a majority of the votes cast in any previous

vote in that municipality on questions 2 and 3 were in the negative.

1. State liquor stores. May state liquor stores be operated by permission of the State Liquor Commission in this municipality or unincorporated place?

2. Sale of spirits to be consumed on the premises. May licenses be issued in this municipality or unincorporated place for the sale of spirits to be consumed on the premises of establishments qualified to sell spirits to be consumed on the premises?

3. Sale of malt liquor and wine to be consumed on the premises. May licenses be issued in this municipality or unincorporated place for the sale of malt liquor (beer, ale and other malt liquor) and wine to be consumed on the premises of establishments qualified to sell malt liquor and wine to be consumed on the premises?

4. Sale of malt liquor and wine to be consumed off the premises. May licenses be issued in this municipality or unincorporated place for the sale of malt liquor (beer, ale and other malt liquor) and wine to be consumed off the premises of establishments qualified to sell malt liquor and wine to be consumed off the premises?

5. Operation of state liquor stores and agency liquor stores on Sunday. May state liquor stores and agency liquor stores be operated by permission of the State Liquor Commission in this municipality or unincorporated place on Sunday?

6. Sale of spirits to be consumed on the premises on Sunday. Shall this municipality or unincorporated place authorize the sale of spirits on Sunday for consumption on the premises of establishments licensed to sell spirits to be consumed on the premises?

7. Sale of malt liquor and wine to be consumed on the premises on Sunday. Shall this municipality or unincorporated place authorize the sale on Sunday of malt liquor (beer, ale and other malt liquor) and wine to be consumed on the premises of establishments licensed to sell malt liquor and wine to be consumed on the premises?

8. Sale of malt liquor and wine for consumption on the premises on Sunday. Shall this municipality or unincorporated place authorize the sale on Sunday of malt liquor (beer, ale and other malt liquor) and wine to be consumed off the premises of establishments licensed to sell malt liquor and wine to be consumed off the premises?

9. Operation of bottle clubs. Shall this municipality or unincorporated place prohibit the operation of bottle clubs, which are defined as any person operating on a regular basis a facility for social activities in which members or guests provide their own liquor, where no liquor is sold on the bottle club premises, which maintains suitable quarters for the use of members on a regular basis or charges an admission fee to members or to

the general public and where members, guests and others are regularly permitted to consume liquor?

§124. Results of vote

1. Determination vote. If the results of an election held under section 121 or 122 show that:

A. A majority of the votes cast in any municipality or unincorporated place on any local option question is in the affirmative, the commission may issue licenses of the type authorized by the affirmative vote in that municipality or unincorporated place, except that in the case of a local option question under section 123, question 9, on bottle clubs, no license is required under this Title;

B. A majority of the votes cast in any municipality or unincorporated place on any local option question is in the negative, the commission may not issue licenses of the type denied by the negative vote in that municipality or unincorporated place; or

C. The vote is tied on any local option question, the law shall remain as it was before the voting.

2. Effective date. The vote is effective on the first day of the month following the certification of the vote to the Secretary of State.

3. Existing licenses. The holder of any license issued and outstanding on the effective date of the local option vote which denies issuance of that type of license and specifically indicates that the existing privilege is to be voided shall immediately surrender it to the Bureau of Alcoholic Beverages. The bureau shall refund that portion of the unused fee paid.

4. Repeal or reconsideration. Where a municipality or unincorporated place has voted to accept or reject any local option question, the vote is effective until repealed by a new petition and vote as required by section 121 or 122. No local option vote may be taken on the same question more than once in any 2-year period.

CHAPTER 7

BOTTLE CLUBS

§161. Bottle clubs

1. Registration. Each bottle club, as defined in section 2, subsection 3, shall register annually with the commission on forms provided by the commission. Registration consists of submission of the information required in paragraph A and payment of the registration fee established in paragraph B.

A. The information each bottle club is required to submit consists of only the following:

(1) The name and address of each owner of the bot-

tle club;

(2) The name and address of each operator of the bottle club; and

(3) The regular hours of operation.

B. The annual fee for registration of a bottle club is \$50.

C. Any bottle club which does not register with the commission commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged.

2. Charges and fees. Charges paid by the bottle club's members or the general public for membership, admission, food, mixers or other supplies used with liquor or storage or handling of liquor belonging to members or the general public are not sales, as defined in this Title, or gifts.

3. Minors on the premises. The bottle club may not allow any minor not employed by the bottle club nor accompanied by his parent, legal guardian or custodian, as defined in Title 22, section 4002, to remain on the bottle club premises, except on occasions when liquor is prohibited on the bottle club premises.

A. A bottle club may employ minors only if an employee of legal drinking age or older is present in a supervisory capacity.

4. Consumption on premises. No bottle club may permit consumption of liquor on the bottle club premises by minors or visibly intoxicated persons.

5. Violation of state law. No bottle club may knowingly allow any violation of any state law on the bottle club premises to occur or continue.

6. Civil violations and jurisdiction. A bottle club which violates subsection 3, 4 or 5 commits a civil violation for which a forfeiture may be adjudged of not less than \$100 nor more than \$300 for the first offense; not less than \$200 nor more than \$500 for the 2nd offense; and \$500 for the 3rd and subsequent offenses. The District Court has jurisdiction over the civil violations, defined in this section, under Title 17-A, section 9.

7. Right of access. Every bottle club shall allow liquor enforcement officers and other law enforcement officers to enter the premises at reasonable times for the purpose of investigating compliance with this Title.

A. Entry into the premises under this subsection must be conducted in a reasonable manner so as not to disrupt the operation of the bottle club.

B. The investigation must be limited to those areas involved in the actual operation of the bottle club, including storage areas.

CHAPTER 9

PUBLIC INFORMATION

§201. Erection of guidepost

In order to increase state revenues and to attract more of the tourist trade to the state discount liquor store in Kittery, the Maine Turnpike Authority shall erect and maintain a guidepost no more than one mile north of the York toll station on the southbound side of the Maine Turnpike. The guidepost shall be worded as follows:

DISCOUNT LIQUOR STORE — KITTERYYORK EXIT — U.S. ROUTE 1 SOUTH

The Bureau of Alcoholic Beverages shall compensate the Maine Turnpike Authority for the full cost of erecting the guidepost.

PART 2

STATE AND AGENCY LIQUOR STORES

CHAPTER 15

STATE AND AGENCY LIQUOR STORES§351. Proximity to churches and schools

1. State or agency liquor store may not be located within 300 feet of school or church. The commission may not establish a state liquor store or an agency liquor store within 300 feet of any public or private school, church, chapel or parish house.

2. Method of measurement. The distance must be measured from the main entrance of the liquor store to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel.

§352. Purchase of liquor in state liquor stores and agency liquor stores by cash; exception

1. All sales must be for cash; exception. Except as provided in paragraph A, all sales of liquor at state liquor stores and agency liquor stores must be for cash.

A. The holder of a major credit card which authorizes the holder to charge goods or services may pay for liquor by charging it on that card.

§353. Business hours

State liquor stores and agency liquor stores may be open for the sale and delivery of liquor between the hours of 6 a.m. and midnight in municipalities and unincorporated places which have voted in favor of the operation of state liquor stores under local option provisions. The commission shall establish the hours of operation of each state liquor store.

§354. Sales to minors or intoxicated persons

No state liquor store or agency liquor store may sell liquor to a minor or to a visibly intoxicated person.

§355. Closed in cases of riots; hurricanes; flood

The Governor or the commission may, in cases of riots, hurricanes and floods, order any or all state liquor stores or agency liquor stores to close.

CHAPTER 17

STATE LIQUOR STORES§401. Location of facilities

1. Commission may lease and equip facilities; location. The commission may lease and equip in the name of the state stores, warehouses and other merchandising facilities for the sale of liquor which are necessary to carry out the purposes of this Title. The commission shall designate where the facilities will be located.

2. Attorney General must approve contract or lease before effective. The Attorney General must approve any contract or lease made under this section before it is effective.

3. Seasonal occupancy. Leases may be for seasonal occupancy.

§402. Notice on locating state liquor stores

1. Notice. At least 30 days before designating the location or relocation of a state liquor store, the commission shall give written notice of the designation to the municipal officers of:

A. The municipality in which the store is presently located; and

B. The municipality in which it is proposed to locate or relocate the store.

2. Hearing. If requested by the municipal officers, the commission shall hold a public hearing in the affected municipality at least 10 days before designating that location or relocation.

3. Findings. The commission shall designate the location of a state liquor store in writing and shall include findings of fact supporting the designation.

4. Notice to lessor to terminate or not renew. If the commission intends to terminate or not renew a lease or contract for occupancy of a building for a state liquor store, it shall give written notice of that intention to the lessor of the building. Notice must be given:

A. Within the time limits required by the lease or contract for the lessor to notify the commission of his

intention to terminate or not renew; or

B. At least 30 days before the termination or non-renewal if there is no lease or contract provision establishing the time period for the lessor to notify the commission.

5. Exception for certain leases. If the commission's occupancy of a state liquor store location is terminated under a lease or contract in a manner that prevents compliance with subsection 1 or 3, the commission shall immediately notify the municipal officers of that termination. If requested by the municipal officers, the commission shall hold a hearing within a reasonable time before designating a new location.

6. Notice to Legislature of closure. The commission shall not close any state liquor store unless it notifies the joint standing committee of the Legislature have jurisdiction over legal affairs at least 60 days before the effective date of the closing. The legislative committee may hold a public hearing on the proposed closing and advise the commission of its findings.

§403. Discount state liquor stores

1. Discount store. Notwithstanding the provisions of section 1651, the commission, with the approval of the Commissioner of Finance, may reduce the price of liquor in 2 state liquor stores.

2. Location. One store must be located to be convenient to the southbound lanes of the Maine Turnpike near Exit 1 of the Maine Turnpike.

3. Licensees may purchase liquor; price. Licensees may purchase liquor for resale from the state discount liquor stores at the same price they are permitted to purchase liquor for resale from any state store which does not offer a retail discount.

CHAPTER 19

AGENCY LIQUOR STORES

§451. Agency liquor stores

The commission may license and regulate persons as agency liquor stores on an annual, seasonal or temporary basis for the purposes of selling liquor in sealed bottles, containers or original packages to be consumed off the premises.

§452. Rules governing agency liquor stores

The commission shall adopt rules for the selection and operation of agency liquor stores. These rules include, but are not limited to, the following:

1. Location. Location of agency stores, subject to section 453;

2. Storage facilities. Storage facilities for liquor;

3. Handling and sale. The handling and sale of liquor;

4. Hours. The hours of operation;

5. Separation from other merchandise. The separation of liquor from other merchandise in the agency liquor stores;

6. Size and nature of facilities. The size and nature of the facilities of agency liquor stores for different quantities of liquor to be sold; and

7. Other. Any other rules necessary to carry out the purposes of this chapter.

§453. Location of agency stores

1. Location requirements. The commission may license an agency liquor store only when the following requirements are met.

A. The proposed agency liquor store is located in a municipality or unincorporated place which has voted in favor of the operation of state liquor stores under local option provisions.

B. The proposed agency liquor store is located:

(1) In a municipality or unincorporated place where there are no state liquor stores; or

(2) On an island which is within a municipality or unincorporated place where there are state liquor stores, but which is not connected to that municipality or unincorporated place by bridge and which has no state liquor stores on it.

C. The proposed agency liquor store is not within 10 miles of an existing state liquor store or agency liquor store.

2. Replacement of state or agency liquor stores. Except as provided in paragraph A, the commission may not replace a state or agency liquor store which closes with an agency liquor store if there is another state or agency liquor store within 10 miles.

A. The commission may replace an agency liquor store once after December 1, 1979, if that agency liquor store:

(1) Was licensed before December 1, 1979; and

(2) Is within 10 miles of a state or agency liquor store.

3. Measurement of distances. All distances described in this section shall be determined by the most reasonable direct route of travel.

4. Procedure for selection of agency liquor store location. The commission shall issue a license for an agency liquor store within a municipality or unincorporated place by the following procedure.

A. The commission shall, in accordance with Title 5, chapter 375, give public notice that an agency liquor store may be established in a particular municipality or unincorporated place. The commission shall request all parties in the municipality or unincorporated place, interested in establishing an agency liquor store there, to apply to the commission.

B. The commission shall provide all applicants with the necessary information for the establishment of an agency liquor store.

C. Upon receipt of all applications for an agency liquor store license in a municipality, the commission shall notify the municipal officers of that municipality of the proposed location of each applicant at least 15 days before the final selection of an applicant or applicants by the commission.

E. The commission shall conduct an investigation to determine the most feasible location and type of facility for the agency liquor store.

F. The commission shall notify any applicant denied a license the reasons for the denial by certified mail to the mailing address given by the applicant in his application for an agency liquor store license.

5. Aggrieved applicants. Any applicant aggrieved by a decision made by the commission may appeal the decision by filing a complaint with the Administrative Court and serving a copy of the complaint upon the commission. The complaint must be filed and served within 15 days of the mailing of the commission's decision.

§454. Agency liquor store in former state liquor store location.

Within 72 hours of opening for business, an agency liquor store, occupying premises previously occupied by a state liquor store, shall remove all signs on the premises of that store which identify those premises as a state liquor store.

§455. Liquor for agency liquor stores

Agency liquor stores shall buy their liquor from state liquor stores under section 606.

§456. Special seasonal agency liquor stores

1. Licensing of seasonal agency liquor stores. The commission may issue 6-month seasonal licenses to no more than 6 special agency stores.

2. Locations and months of licenses. The commission shall determine the appropriate locations for the

stores and the appropriate 6 consecutive months based on the seasonal tourist population and the sales volume at existing state and agency liquor stores in the same areas. The 10-mile spacing requirement for location of agency liquor stores required by section 453 does not apply to special agency liquor stores licensed under this section.

3. Sunset. This section is repealed on September 30, 1989, before which time the commission shall evaluate the effectiveness of this section and make a written report to the 114th Legislature.

PART 3

LICENSES FOR SALE OF LIQUOR

SUBPART 1

GENERAL PROVISIONS

CHAPTER 25

GENERAL PROVISIONS

§601. Eligibility

1. Eligibility qualifications. The commission may not issue a license to an applicant unless that applicant meets the following qualifications.

A. If the applicant is an individual, he must be:

- (1) At least 21 years of age;
- (2) A citizen of the United States; and
- (3) A resident of the State if applying for a full-time license.

B. If the applicant is a partnership or association, all persons having an interest in the partnership or association must be:

- (1) At least 21 years of age;
- (2) A citizen of the United States; and
- (3) A resident of the State if applying for a full-time license.

C. If the applicant is a corporation, it must be incorporated under the laws of the State or authorized to transact business in the State.

2. Disqualifications. The commission may not issue a license to an applicant if:

A. Any of the principal officers of the corporation is not personally eligible because he has had a license for sale of liquor revoked under chapter 33, if the applicant is a corporation;

B. The applicant held a license which was revoked for a specific period under chapter 33 and the applicant is applying for a license within that period since revocation;

C. The applicant, who was not at the time of the offense the holder of a liquor license, was convicted of violating any laws of the State or the United States with respect to manufacture, transportation, importation, possession or sale of liquor within 5 years of applying for the license. For the purposes of this paragraph, any person who sells liquor of a greater alcohol content than authorized by his license is not considered the holder of a license;

D. The applicant was convicted of selling liquor illegally on Sunday while an employee or agent of a licensee within 5 years of applying for the license;

E. The applicant's license expired pending an appeal from conviction of illegally selling liquor on Sunday within 5 years of applying for the license;

F. A law enforcement officer benefits financially either directly or indirectly;

G. The applicant was denied a license within the 6 months before the application was filed, unless the commission's denial of the license is overruled by the court under an appeal provided by section 805; or

H. The applicant is the husband, wife, father, mother, child or other close relation of a person whose license or application for a license for the same premises was revoked by the Administrative Court Judge or denied by the commission within the 6 months before the application was filed.

§602. Notification of license expiration

1. Seven-day grace period upon license expiration. Except as provided in subsection 3, a license holder who unintentionally fails to renew any license upon its expiration date and continues to make sales of liquor is not chargeable with illegal sales under section 2078 for a period of 7 days following the expiration date.

2. Commission must notify licensee of expiration. The commission shall notify the licensee by the most expedient means available that the license has expired and all sales of liquor must be suspended immediately and remain suspended until the license is properly renewed.

3. Illegal sales after expiration of grace period or after notice. A licensee that continues to make sales of liquor after having been properly notified of the expired license shall be charged with illegal sales under section 2078.

§603. Part-time 7-month license

In addition to other part-time licenses under this Ti-

tle, the commission may issue a part-time 7-month license which is valid for a period of 7 calendar months during the 12-month period following its issuance. There may be only one break in the consecutiveness of these months. An applicant for a part-time 7-month license shall designate on the application which months the license will be in use and the license must indicate these months.

§604. Display of licenses

All licensees shall publicly display their licenses on the premises to which they apply.

§605. Transfer of licenses; death; bankruptcy; receivership; guardianship; corporations

Except as otherwise provided in this section, no license or any interest in a license may be sold, transferred, assigned or otherwise subject to control by any person other than the licensee. If the business or any interest in the business in connection with which a licensed activity is conducted, is sold, transferred or assigned, the license holder shall immediately send to the commission his license and a sworn statement showing the name and address of the purchaser or any other person directly or indirectly interested in the enterprise.

1. Transfer within same municipality. Upon receipt of a written application, the commission may transfer any retail liquor license from one place to another within the same municipality. If the approval of the municipal officers was required for the original license, the transfer can be made only with the approval of the municipal officers. No transfer may be made to premises for which the license could not have been originally legally issued.

2. Death, bankruptcy or receivership. In the case of death, bankruptcy or receivership of any licensee, the executor or administrator of the deceased licensee or the trustee or receiver of the bankrupt licensee or licensee in receivership may retain the license for the remaining term of the license or transfer the license without additional fee.

A. Personal representatives, receivers or trustees may operate the premise themselves or through a manager for a year from the date of their appointment for the benefit of the estate.

(1) The license must be renewed upon the expiration date at the regular license fee.

(2) If the license or renewed license is not transferred within one year from the date of appointment, it becomes void and must be returned to the commission for cancellation.

(3) Any suspension or revocation of the license by the Administrative Court Judge for any violation applies against both the manager and the personal representative, receiver or trustee.

(4) No personal representative, receiver, trustee or duly appointed manager may operate under the license unless approved by the commission.

B. If a licensee dies, the following persons, with the written approval of the commission, may continue the operation of the license for not more than 60 days pending appointment of a personal representative of the estate:

- (1) The surviving spouse;
- (2) A person who has filed a petition for appointment as executor or administrator for the estate of the deceased licensee;
- (3) Any sole heir of the deceased licensee; or
- (4) Any person designated by all of the heirs of the deceased licensee.

C. When no administration of the estate of a deceased licensee is contemplated, the surviving spouse 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.

3. Guardians and conservators. 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 if they or their managers are approved by the commission.

A. Guardians and conservators, except in the case of off-premise retail licensees approved by the municipal officers in their municipality, may not transfer their wards' licenses and must renew licenses each year.

B. Penalties for violations apply to both guardians or conservators and their managers in the same manner as executors or administrators and their managers in subsection 2.

4. Sale of stock of a corporate licensee. 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.

§606. Liquor bought from commission; sale to government agencies

1. All licensees must buy liquor from commission; exception. Except as provided in paragraph A, all persons licensed to sell spirits shall purchase all such liquor from state liquor stores.

A. This subsection does not apply to public service corporations operating interstate.

2. On-premise retailers must report purchases. All

persons licensed to sell liquor to be consumed on the premises shall report all liquor purchases to the commission on forms provided by the commission.

3. Prospective licensees may order liquor in advance. Upon approval of the commission, persons who have been issued a license, effective at a future date, may order liquor in advance of the effective date of the license and may advertise the effective date.

4. Discount for agency liquor stores. The commission shall sell spirits to agency liquor stores for a price of 10% less than the retail price established for the state liquor stores, provided that the discount does not apply to federal taxes levied on or after November 1, 1941.

5. Sale to government instrumentalities. The commission may sell spirits to approved government instrumentalities within the State. The commission shall set the price which must be approved by the Governor.

6. Sale to airlines and ferry services for consumption outside the State. The commission may sell spirits not for consumption within the State to airlines and ferry services or their agents as authorized by the commission. The commission shall set the price which must be approved by the Governor.

7. Premium must be collected. Nothing in this section may be construed to permit the commission to sell spirits without collecting the entire premium assessed under chapter 65

§607. Licensees closed in case of riots, hurricanes or floods.

The Governor or the commission may, in cases of riots, hurricanes and floods, order any or all licensees not to sell any liquor.

CHAPTER 27

APPLICATION PROCEDURE

§651. Applications

1. File application with commission. An applicant for a liquor license shall file an application in the form required by the commission.

2. Contents of application. The application must contain the following.

A. Each applicant shall disclose the entire ownership or any interest in the establishment for which a license is sought. If the applicant is a purchaser by contract, he shall also disclose the terms of the contract.

B. Every applicant for a license for sale of liquor to be consumed on the premises where sold shall include in the application a description of the premises to be licensed and shall provide any other material informa-

tion, description or plan of that part of the premises where the applicant proposes to keep or sell liquor as the commission requires.

C. The owner or the bona fide prospective purchaser must sign the application. If the owner or bona fide prospective purchaser is:

- (1) A natural person, then that person must sign;
- (2) A partnership, then the partners of the partnership must sign; or
- (3) A corporation, then a principal officer of the corporation or any person specifically authorized by the corporation must sign.

3. False answer given intentionally. Any person who intentionally gives an untruthful answer in an application for a liquor license commits the crime of perjury.

§652. Application procedure

1. License fee. The applicant must enclose the fee prescribed by chapter 41 with the application for the license.

2. Effective date and term of license. All full-year licenses are effective for one year from the date of issuance. All part-time licenses are effective for the term of the license from the date of issuance.

3. Renewal. Licenses may be renewed upon application for renewal and payment of the annual fee, subject to commission rules.

4. Multiple licenses. Any licensee applying for a license to operate more than one premise shall pay the fee prescribed for the type of license to be exercised at each premise.

5. Filing fee for malt liquor license. Except as provided in paragraph A, every applicant for an original or renewal malt liquor license shall pay a filing fee of \$10 when filing the application.

A. In unincorporated places, the applicant shall pay the filing fee of \$10 to the county treasurer of the county in which the unincorporated place is located. All applications for a license in unincorporated places must be accompanied by evidence of payment of the filing fee to the county treasurer.

6. Public service license. One public service license is sufficient to cover all steamboats, cars and aircraft operated by any one public service corporation.

§653. Hearings; commission review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located,

shall hold a public hearing for the consideration of applications for new licenses requiring their approval and applications for transfer of location. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses.

A. The commission shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall prepare public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to be printed:

(1) If the municipality where the premises are situated has a daily newspaper, then in that newspaper for at least 6 consecutive days before the date of hearing;

(2) If the municipality where the premises are situated has a newspaper, although not a daily, then in that newspaper for 2 consecutive weeks before the date of hearing; or

(3) If no newspaper is printed, then for at least 6 consecutive days in a daily newspaper having general circulation in the municipality in which the premises are situated or for 2 consecutive weeks before the date of hearing in any newspaper published in that county.

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises which unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; and

E. A violation of any provision of this Title.

3. Appeal to commission. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the commission. The commission shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the commission may consider all of the requirements for licensure referred to in subsection 2.

A. If the decision appealed from was to issue the license, the commission may reverse the decision if it was arbitrary or based on an erroneous finding.

B. If the decision appealed from was to deny the application, the commission may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

4. No license to person who moved to obtain a license. The commission may not issue a license to any person who has moved an off-premise retail licensee or restaurant into or opened a new off-premise retail licensee 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 previous location of business for a period of one year after the local option vote.

5. Appeal to Superior Court. Any person or governmental entity aggrieved by a commission decision under this section may appeal the decision to the Superior Court.

§654. Additional considerations for licensure

1. Character; location; operation of business. In issuing or renewing licenses, the commission, the municipal officers or the county commissioners, as the case may be, shall give consideration to:

A. The character of any applicant;

B. The location of the place of business;

C. The manner in which it has been operated; and

D. Whether the operation has endangered the safety of persons in or on areas surrounding the place of business.

2. Qualifications of corporations. The commission, the municipal officers or the county commissioners, as the case may be, may refuse to issue licenses to corporations when any of its officers, directors or stockholders do not possess the qualifications required of unincorporated persons under this section.

3. Areas primarily for minors. Without limitation of its other powers, the commission may not approve as a proper place for the exercise of the license privilege

amusement areas primarily for minors, beaches or any other area designed primarily for use by minors.

CHAPTER 29

LICENSE RESTRICTIONS

§701. Proximity to churches and schools; exception

1. Location within 300 feet of churches and schools. Except as provided in paragraphs A and B, the commission may not issue a new license for the the sale of liquor to be consumed on the premises to new premises within 300 feet of a public or private school, school dormitory, church, chapel or parish house in existence as such at the time the application for the new license is made.

A. The 300 feet restriction does not apply to premises used as hotels or clubs on July 24, 1937.

B. The commission may issue licenses to premises which are either in or within 300 feet of a church, chapel, parish house or post-secondary school when the application has the unanimous approval of the members of the commission.

2. Method of measurement. The distance must be measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel.

§702. Certain clubs ineligible

1. Clubs operated illegally or for illegitimate purposes. The commission may not issue a license for the sale of spirits to a club organized or operated illegally or for gambling or other illegitimate purposes.

2. Clubs operated for another's profit. The commission may not issue a license for the sale of spirits to a club the profits from which accrue to an individual or corporation other than the license applicant.

§703. Employment of violators prohibited

No licensee may employ as a manager or leave in charge of the licensed premises any person who, by reason of conviction of violation of any liquor laws within the last 5 years or because of having had his license for sale of liquor revoked within the last 5 years, is not eligible for a liquor license.

§704. Employment of minors

1. Licensee may not hire employee under 17; employees who are 17. No licensee for the sale of liquor to be consumed on licensed premises, except in Class A restaurants, Class A taverns, clubs and hotel dining rooms, may employ any person under the age of 17 years in the direct handling or selling of liquor on the premises where the liquor is sold. The licensee may employ a per-

son who is 17 years of age in the direct handling or selling of liquor on the premises where the liquor is sold only if an employee who is at least 18 years of age is present in a supervisory capacity.

2. Penalty. Whoever violates this section commits a Class E crime.

§705. Sales for cash; sales to certain persons restricted

1. Sales for cash. Except as provided in paragraph A, no licensee or licensee's employee or agent may sell or offer to sell any liquor except for cash.

A. Credit may be extended:

(1) By a hotel or club to bona fide registered guests or members; and

(2) By a hotel or Class A restaurant to the holder of a credit card which authorizes the holder to charge goods or credits.

B. A right of action does not exist to collect claims for credits extended contrary to this section.

C. This section does not prohibit a licensee from giving credit to a purchaser for the actual price charged for the beverage container deposit on the packages or original containers, as defined in Title 32, chapter 28, as a credit on any sale, or from paying the amount actually charged for such deposit on the packages or original containers.

D. Except as provided in subparagraph (1), no licensee or licensee's employee or agent may 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.

(1) This paragraph does not apply to beverage container deposits on packages or original containers that were originally purchased from that licensee by the person returning the packages or original containers.

2. Prohibited sales of liquor to be consumed off the premises. No licensee or licensee's employee or agent may sell, furnish, give or deliver malt liquor or wine to be consumed off the premises to:

A. A person who is visibly intoxicated;

B. A mentally ill person;

C. A known habitual drunkard;

D. A person of known intemperate habits; or

E. A minor. Any licensee who accepts an order or receives payment for liquor from a minor violates this

paragraph.

3. Prohibited sales of liquor to be consumed on the premises. No licensee or licensee's employee or agent may sell, furnish, give, serve or permit to be served any liquor to be consumed on the premises where sold to:

A. A person who is visibly intoxicated;

B. A mentally ill person;

C. A known habitual drunkard;

D. A person of known intemperate habits; or

E. A minor. Any licensee who accepts an order or receives payment for liquor from a minor violates this paragraph.

§706. Identification cards

1. Acceptable identification. A licensee may refuse to serve liquor to any person who fails to display upon request an identification card issued under Title 5, section 88-A, or a motor vehicle operator's license bearing the photograph of the operator and issued under Title 29, chapter 7.

§707. Licensee not to be indebted, obligated or involved

1. Licensee must not be indebted. Except as provided by section 1363, the commission may not issue any license to or renew the license of a person who is indebted in any manner, directly or indirectly:

A. To any other person for liquor;

B. To the State for any tax, other than property tax, assessed and considered final under Title 36 which the State Tax Assessor certifies, in accordance with Title 36, section 172, as remaining unpaid in an amount exceeding \$1,000 for a period greater than 60 days after the applicant or licensee has received notice of the finality of that tax; or

C. For any contributions assessed and considered final under Title 26, section 1225, when the Director of Unemployment Compensation certifies that the amount remains unpaid for a period greater than 60 days, after the applicant or licensee has received notice of the finality of that tax.

2. Licensee must not receive anything of value. No licensee or applicant for a license may receive, directly or indirectly, any money, credit, thing of value, indorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person within or without the State, if the person is:

A. Engaged, directly or indirectly, in the manufacture, distribution, sale, storage or transportation of liquor; or

B. 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.

3. Interest in wholesaler or certificate of approval. No retail licensee may have any interest, direct or indirect, in any:

A. Maine manufacturer's or wholesaler's license; or

B. Certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor or wine.

4. Interest in license. No out-of-state manufacturer, foreign wholesaler having a state certificate of approval, or any state wholesale licensee or manufacturing licensee, may have any interest, direct or indirect, in any retail liquor license.

A. 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 this subsection.

5. Application. This section does not prohibit a wholesale licensee from receiving normal credits for the purchase of malt liquor or wine from the manufacturer located within or without the State.

§708. Premiums and rebates

1. Gifts made by licensees. Except as provided by sections 1355 and 1363, no licensee may, directly or indirectly, offer or give any liquor, any price premium, gift or inducement of any sort to other trade or consumer buyers, except advertising novelties of nominal value approved by the commission.

2. Gifts made to licensees. No licensee may offer to pay, make or allow, and no licensee may solicit or receive any allowance, rebate, refund or concession, whether in the form of money or otherwise, in connection with the purchase of liquor bought and sold by the licensee.

3. Activities by licensed clubs. Licensed clubs may offer prizes, gratuities or other inducements, otherwise legal, as a means of promoting attendance on licensed premises.

4. Special package plans or price premiums. This section does not prohibit licensees licensed to sell liquor to be consumed on the premises from offering special package plans or price premiums. Licensees may advertise their special package plans or price premiums.

§709. Prohibition of certain practices

1. Certain practices prohibited. The following practices are prohibited.

A. No licensee or employee or agent of a licensee may:

(1) Offer or deliver any free drinks to any person or group of persons;

(2) Deliver more than 2 drinks to one person at one time;

(3) Sell, offer to sell or deliver to any person or group of persons an unlimited number of drinks for a fixed price, except at private functions not open to the public;

(4) Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes; or

(5) Any other practice the specific purpose of which is to encourage customers of the licensee to drink to excess; and

B. No licensee may advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under paragraph A.

2. Exceptions. Subsection 1 does not prohibit the following practices:

A. Licensees offering free food or entertainment either with or without the purchase of one drink;

B. Licensees increasing the prices for drinks when entertainment is provided;

C. Licensees including a drink as part of a meal package;

D. The sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person;

E. Those licensed under section 1402 offering free wine tastings;

F. Those licensed as bona fide hotels offering room services to registered guests;

G. Licensees offering reduced prices for prearranged private parties on the premises of the licensee; or

H. Licensees whose licensed premises include more than one room charging different prices for the same drink served in the different rooms.

§710. Advertising signs

1. Advertising outside of licensed premises. No person, except wholesale licensees and certificate of approval holders, may advertise or permit to be advertised, by more than one sign, on the outside of any licensed premises, or on any building, ground or premises under his control and contiguous or adjacent to the licensed

premises:

- A. The fact that the licensee has liquor or any brand of liquor for sale;
- B. The price at which liquor is sold by the licensee; or
- C. Any other advertisement which indicates any reference to liquor.

2. Advertising inside of licensed premises. A licensee may display no more than one electrically lighted sign inside the licensed premises, where it may be seen from the outside, advertising the fact that the licensee has liquor for sale. The sign may not be more than 750 square inches in total area.

§711. Advertising strength of malt liquor

1. Illegal to advertise or label. No licensee may:

A. Issue, publish, post or cause to be issued, published or posted any advertisement of a malt liquor, including a label which refers in any manner to the alcohol content of the malt liquor manufactured, sold or distributed by the licensee;

B. Use in any advertisement or label the words "full strength," "extra strength," "high test," "high proof," "prewar strength" or similar words or phrases which would indicate or suggest level of alcohol content; or

C. Use in any advertisement or label any numerals unless adequately explained in type of the same size, prominence and color.

2. Illegal to purchase, transport, sell or distribute. No licensee may purchase, transport, sell or distribute any malt liquor advertised or labeled contrary to this section.

§712. Advertising or sale of malt liquor or wine by trade name

1. Advertise or announce for sale by trade name. No licensee may advertise or offer for sale any malt liquor or wine by trade name or other designation which would indicate the manufacturer or place of manufacture of malt liquor or wine, unless the licensee actually has on hand and for sale a sufficient quantity of the particular malt liquor or wine advertised to meet requirements to be normally expected as the result of the advertisement or announcement.

2. Serve from faucet, spigot, dispensing apparatus by trade name. No licensee may furnish or serve any malt liquor from any faucet, spigot or other dispensing apparatus, unless the trade name or brand of the malt liquor served appears in full sight of the customer in legible lettering upon the faucet, spigot or dispensing apparatus.

§713. Selling malt liquor or wine from truck

1. Selling malt liquor or wine from truck prohibited. Except as provided in subsections 2 and 3, no wholesale or retail licensee may, either directly or indirectly, by any agent or employee, travel from town to town, or from place to place in the same town, selling, bartering or carrying for sale or exposing for sale any malt liquor or wine from any vehicle.

2. Delivery of orders received. The wholesale licensee may make sales of malt liquor or wine where transportation and delivery are required only upon orders actually received at the principal place of business or warehouse or distributing center, if licensed, of the wholesale licensee before shipment of the malt liquor or wine. The driver or any other employee of the wholesale licensee shall carry an invoice stating the names of the purchaser and the wholesale licensee and the kind and quantity of malt liquor or wine ordered by the sale, together with the date of the sale.

3. Sale from truck by wholesale licensee. A wholesale licensee, his agent or employee, may travel from town to town or from place to place in the same town selling, or carrying for sale or exposing for sale, malt liquor or wine from its vehicle only if the wholesale licensee, his agent or employee has in his possession on the vehicle a manifest bearing a detailed description of the total amount of malt liquor or wine on the vehicle and invoices, as required, as well as invoices drawn up at the time of delivery.

4. Sales or deliveries only to licensees. Sales or deliveries must be made only to licensees of the commission.

5. Violation. Whoever violates this section commits a Class E crime.

§714. Malt liquor sales in kegs

The commission may not deny the wholesale or retail sale of malt liquor in kegs or any fractions of a keg to any purchaser entitled to purchase malt liquor.

CHAPTER 31

RECORDS

§751. Retail licensee to keep records

1. Records to be kept. Every retail licensee shall keep for 2 years complete records:

A. The date of all purchases;

B. The actual prices paid;

C. The fact that the licensee paid cash for all liquor bought by him at the time of or before delivery of the liquor; and

D. The name and address of every person from whom

the liquor was purchased.

2. Retail licensee must keep separate records. Except as provided in paragraph A, a retail licensee shall keep the records required by subsection 1 separate and apart from records relating to any other transactions in which he engages.

A. Malt liquor, wine and soft drinks may be listed on the same wholesale licensee's invoice if each product is separately listed.

§752. Wholesale licensee to keep records

1. Records to be kept. Every wholesale licensee shall keep records for 2 years:

A. Showing that all sales and purchases are in accordance with the law relating to cash sales; and

B. Including detailed accounts of all its transactions with brewers, wineries, other wholesalers and retailers.

2. Manner in which records to be kept. The wholesale licensee shall keep the records in its principal licensed establishment.

§753. Certificate of approval holder to keep records

1. Records to be kept. Every certificate of approval holder operating special warehouse storage facilities within the State shall keep complete records concerning all transactions conducted at the special warehouse storage facility. The records must show:

A. The date and amounts of all liquor received and from whom they were received; and

B. The dates and amounts of all liquor shipped or withdrawn and the name of the person for whom the liquor was shipped or withdrawn.

2. Manner in which records to be kept. The certificate of approval holder shall maintain the records upon the premises.

§754. Records open for inspection

1. Records open for inspection. All records required to be kept under this chapter are open for inspection to the commission, its representatives or representatives of the Bureau of Liquor Enforcement at any time. The commission, its representatives or representatives of the Bureau of Liquor Enforcement may make copies of records which may be used as evidence of violation of this chapter.

2. Refusal of access. No licensee may refuse to allow the commission, its representatives or representatives of the Bureau of Liquor Enforcement to audit the books and records of the licensee.

§755. Records confidential

All business and financial records of licensees are confidential.

CHAPTER 33

REVOCATION AND SUSPENSION

§801. Jurisdiction of Administrative Court Judge

1. Jurisdiction. The Administrative Court Judge, as designated in Title 5, chapter 375, shall conduct hearings on all matters concerning violations by licensees of any federal or state law or regulation relating to liquor or violations of any rule issued by the commission. The Administrative Court Judge has exclusive jurisdiction over all violations of this Title by licensees and their agents when no criminal penalty is provided.

2. Powers. The Administrative Court Judge may suspend or revoke licenses.

§802. Causes for revocation and suspension of licenses

The Administrative Court Judge may revoke or suspend licenses for the following causes:

1. Violation of law or infraction of rule. Violation of any federal or state law, rule or regulation relating to liquor or substantial infraction of any rule issued by the commission.

A. This subsection does not require the Administrative Court Judge to hold licensees who sold liquor to minors who furnished fraudulent proof of age liable administratively;

2. False material statement. Knowingly making a false material statement of fact in the application for the license; and

3. Failure to maintain requirements. Failure to have and maintain throughout the entire license period all of the requirements of definitions, laws and rules necessary to qualify for a license.

A. For this offense the Administrative Court Judge may suspend licenses for an indefinite period of time until he is satisfied that the licensee has conformed to all qualifications required for licensing.

§803. Revocation or suspension procedure

1. Violation of law or rule. Upon discovering a violation of federal or state law, rule or regulation relating to liquor, or an infraction of a rule issued by the commission, an enforcement officer of the Department of Public Safety shall:

A. Report the violation to the Administrative Court Judge in a signed complaint; or

B. Issue warnings to the licensees involved.

2. Notice and hearing. Except as provided under subsection 6, upon receipt of a signed complaint prepared under subsection 1, paragraph A, the Administrative Court Judge shall notify the licensee and hold a hearing according to the following procedures.

A. The Administrative Court Judge shall notify the licensee by serving on him a copy of the complaint and a notice stating the time and place of the hearing and that he may appear in person or by counsel at the hearing. Service of the complaint and hearing notice is sufficient if sent by registered or certified mail at least 7 days before the date of the hearing to the address given by the licensee at the time of his application for a license.

B. The Administrative Court Judge shall conduct a hearing limited to the facts, the law and rules of the commission, as specified in the complaint.

C. The Administrative Court Judge shall conduct the hearing in the following manner.

(1) The Administrative Court Judge may subpoena and examine witnesses, administer oaths and subpoena and compel the attendance of parents and legal guardians of unemancipated minors.

(2) Hearsay testimony is not admissible during the hearing. The licensees named in the complaint have the right to have all witnesses testify in person at the hearing.

(3) The Administrative Court Judge shall conduct hearings in one or more designated places which are the most convenient and economical for all parties concerned in the hearing.

D. The Administrative Court Judge shall state in writing his findings and decision in each case, based upon the facts, the law and the rules of the commission. The findings shall specify the facts found and the law or rules found to be violated.

3. Suspension of penalty; place case on file. After hearing, the Administrative Court Judge may:

A. Suspend a penalty; or

B. Place a case on file instead of imposing any penalty.

4. Application of suspension or revocation. A suspension or revocation applies to premises and persons in the following manner.

A. If a licensee is directly or indirectly interested in more than one license, suspensions apply only to the premise where the violation occurs.

B. If a licensee is interested directly or indirectly in more than one license, the Administrative Court Judge may order that a revocation apply to any of those premises.

C. If the licensee is a corporation, the Administrative Court Judge shall treat the officers, directors and substantial stockholders as individuals.

5. Term of suspension or revocation. Except as provided by section 802, subsection 3, suspensions must be for a definite period of time. If the Administrative Court Judge revokes a license, he shall specify that the commission may not issue a license to the person whose license is revoked for a period of not less than one nor more than 5 years from the date of such revocation.

6. Warnings. Upon the written recommendation of the enforcement officer of the Department of Public Safety, the Administrative Court Judge, instead of notifying a licensee against whom a complaint is pending to appear for hearing, may send the licensee a warning. Warnings must 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 notifying the Administrative Court Judge by registered or certified mail within 10 days from the date the warning was mailed.

7. License subsequent to violation. If 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 Administrative Court Judge, any license issued for a new license year subsequent to the violation may be suspended or revoked by the Administrative Court Judge.

8. Fines. Notwithstanding any other provisions of this Title, an Administrative Court Judge may impose a fine of a specific sum, of not less than \$50 nor more than \$1,500, for any one offense. Such a fine may be imposed instead of or in addition to any suspension or revocation of a license by the court.

A. The Administrative Court Judge shall maintain a record of all fines received by the court and shall pay the fines into the General Fund by the 15th day of each month.

9. Offer in compromise. Notwithstanding any other provisions of this Title, the Administrative Court Judge may accept from any wholesale licensee or certificate of approval holder under this Title an offer in compromise in lieu of suspension of any wholesale license or certificate of approval suspended by the Administrative Court Judge.

A. A wholesale licensee or certificate of approval holder may petition the Administrative Court Judge to accept an offer in compromise within 10 days following receipt of notice of the suspension.

B. The fine in lieu of suspension, when an offer in compromise is accepted by the Administrative Court Judge, shall be calculated in accordance with the following formula:

(1) Fifty percent of the daily gross profit multiplied by the number of license suspension days. Daily gross profit shall be determined to be 1/30 of the total gross receipts from the sale of liquor during the 30 business days immediately before the date of receipt of the notice of the license suspension, less the invoice cost of the liquor which was sold by the wholesale licensee or certificate of approval holder during those 30 business days;

(2) No such fine, in any event, shall be less than \$75 for each day of license suspension; and

(3) The fine must not exceed \$1,500 for any one offense.

C. The wholesale licensee or certificate of approval holder shall pay the fine to the Administrative Court within 5 days from the date of the acceptance of the offer in compromise. The Administrative Court Judge shall then pay the fine into the General Fund.

D. If a wholesale licensee or certificate of approval holder fails to pay the fine in full within the time period allowed in this subsection, the suspension of license or certificate of approval begins on the following day.

E. Any wholesale licensee who has been found to have violated the rules of the commission more than once in a one-year period is not eligible for a fine in lieu of a license suspension.

§804. Record of proceedings and transcript

The Administrative Court Judge shall keep a full and complete record of all proceedings before him on the revocation and suspension of any license issued by the commission. The Administrative Court Judge is not required to have a transcript of the testimony prepared unless required for rehearing or appeal.

§805. Appeal from decision of Administrative Court Judge or commission

1. Aggrieved person may appeal within 30 days. Any person aggrieved by the decision of the Administrative Court Judge in revoking or suspending any license issued by the commission or by refusal of the commission to issue any license applied for may, within 30 days of the decision or refusal, appeal to the Superior Court by filing a complaint.

A. The 30-day period for appeal begins on:

(1) In the case of license revocation or suspension, the effective date of the suspension or revocation; or

(2) In the case of refusal by the commission to issue a 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 a license.

B. Filing the complaint in the Superior Court stops the running of the limitation period.

2. Suspension or revocation suspended pending appeal. The operation of a suspension or revocation of a license imposed by the Administrative Court shall be suspended, pending judgment of the Superior Court, if the licensee files an appeal in the Superior Court and notifies the Administrative Court that the appeal has been filed, within 7 days of the mailing of the decision of the Administrative Court by certified mail to the address given by the licensee at the time of the application for a license.

3. Superior Court hearing. The Superior Court shall fix a time and place for an immediate hearing and notify the Administrative Court Judge of the hearing.

4. Superior Court decision. After the hearing, the Superior Court may affirm, modify or reverse the decision of the Administrative Court Judge.

5. Further appeal. An aggrieved person may appeal the Superior Court decision to the Supreme Judicial Court. Upon appeal, the Supreme Judicial Court may, after consideration, reverse or modify any decree made by the Superior Court based upon an erroneous ruling or finding of law.

§806. Records

1. Limitation on maintenance of records. Except as provided in subsection 2, the commission shall maintain a record of each violation, revocation or suspension for not more than 5 years.

2. Records of Class A, B and C convictions. The commission shall maintain records of convictions for Class A, B and C crimes for at least 5 years, and may maintain them longer according to the policy of the commission.

SUBPART 2

RETAIL LICENSES

CHAPTER 41

FEES AND ELIGIBLE PREMISES

§1001. Class I licenses

1. Types of liquor which may be sold. A Class I licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

2. Fees. The license fees for a Class I license are:

- A. Full-time (one year) \$ 750;
- B. Part-time (6 months) \$ 375;
- C. Part-time (7 months) \$ 437.50; and
- D. Extension (2 months) for part-time licenses only \$ 140.

3. Eligible premises. The following premises are eligible to obtain a Class I license:

- A. Airlines;
- B. Auditoriums;
- C. Civic auditoriums;
- D. Class A restaurants;
- E. Clubs with catering privileges;
- F. Dining cars;
- G. Golf clubs;
- H. Hotels;
- I. Indoor ice skating clubs;
- J. Indoor racquet clubs;
- K. Performing arts centers;
- L. Qualified catering services; and
- M. Vessels.

§1002. Class I-A licenses

1. Types of liquor which may be sold. A Class I-A licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

2. Fees. The fees for a Class I-A license are as follows:

- A. Full-time (one year) \$1,000;
- B. Part-time (6 months) \$ 500;
- C. Part-time (7 months) \$ 583.31; and
- D. Extension (2 months) for part-time licenses only \$ 180.

3. Eligible premises. The following premises are eligible to obtain a Class I-A license:

- A. Hotels which do not serve food.

§1003. Class II licenses

1. Types of liquor which may be sold. A Class II licensee may sell spirits to be consumed on the premises where sold.

2. Fees. The fees for a Class II license are as follows:

- A. Full-time (one year) \$ 500;
- B. Part-time (6 months) \$ 250;
- C. Part-time (7 months) \$ 291.69; and
- D. Extension (2 months) for part-time licenses only \$ 90.

3. Eligible premises. The following premises are eligible to obtain a Class II license:

- A. Airlines;
- B. Auditoriums;
- C. Civic auditoriums;
- D. Class A restaurants;
- E. Clubs with catering privileges;
- F. Dining cars;
- G. Golf clubs;
- H. Hotels;
- I. Indoor ice skating clubs;
- J. Indoor racquet clubs;
- K. Performing arts centers;
- L. Qualified catering services; and
- M. Vessels.

§1004. Class III licenses

1. Types of liquor which may be sold. A Class III licensee may sell wine to be consumed on the premises where sold.

2. Fees. The fees for a Class III license are as follows:

- A. Full-time (one year) \$ 200;
- B. Part-time (6 months) \$ 100;
- C. Part-time (7 months) \$ 116.69; and
- D. Extension (2 months) for part-time licenses only \$ 40.

3. Eligible premises. The following premises are eligible to obtain a Class III license:

- A. Airlines;
- B. Auditoriums;
- C. Civic auditoriums;
- D. Class A restaurants;
- E. Clubs with catering privileges;
- F. Dining cars;
- G. Golf clubs;
- H. Hotels;
- I. Indoor ice skating clubs;
- J. Indoor racquet clubs;
- K. Outdoor stadiums;
- L. Performing arts centers;
- M. Qualified catering services;
- N. Restaurants; and
- O. Vessels.

§1005. Class IV licenses

1. Types of liquor which may be sold. A Class IV licensee may sell malt liquor to be consumed on the premises where sold.

2. Fees. The fees for a Class IV license are as follows:

- A. Full-time (one year) \$ 200;
- B. Part-time (6 months) \$ 100;
- C. Part-time (7 months) \$ 116.69; and
- D. Extension (2 months) for part-time licenses only \$ 40.

3. Eligible premises. The following premises are eligible to obtain a Class IV license:

- A. Airlines;
- B. Auditoriums;
- C. Civic auditoriums;
- D. Class A restaurants;

- E. Clubs with catering privileges;
- F. Dining cars;
- G. Golf clubs;
- H. Hotels;
- I. Indoor ice skating clubs;
- J. Indoor racquet clubs;
- K. Outdoor stadiums;
- L. Performing arts centers;
- M. Qualified catering services;
- N. Restaurants;
- O. Taverns;
- P. Class A taverns; and
- Q. Vessels.

§1006. Class V licenses

1. Types of liquor which may be sold. A Class V licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

2. Fees. The fees for a Class V license are as follows:

- A. Full-time (one year) \$ 450;
- B. Part-time (6 months) \$ 225;
- C. Part-time (7 months) \$ 262.50; and
- D. Extension (2 months) for part-time licenses only \$ 90.

3. Eligible premises. The following premises are eligible to obtain a Class V license:

- A. Clubs without catering privileges.

§1007. Class VI licenses

1. Types of liquor which may be sold. A Class VI licensee may sell malt liquor to be consumed off the premises where sold.

2. Fees. The fees for a Class VI license are as follows:

- A. Full-time (one year) \$ 125;
- B. Part-time (6 months) \$ 62.50;
- C. Part-time (7 months) \$ 72.91; and

D. Extension (2 months) for part-time licenses only
..... \$ 30.

3. Eligible premises. The following premises are eligible to obtain a Class VI license:

A. Off-premise retailers and ship chandlers with a stock of groceries.

§1008. Class VI-A licenses

1. Types of liquor which may be sold. A Class VI-A licensee may sell malt liquor to be consumed off the premises where sold.

2. Fees. The fees for a Class VI-A license are as follows:

- A. Full-time (one year) \$ 225;
- B. Part-time (6 months) \$ 112.50;
- C. Part-time (7 months) \$ 131.25; and
- D. Extension (2 months) for part-time licenses only
..... \$ 45.

3. Eligible premises. The following premises are eligible to obtain a Class VI-A license:

A. Off-premise retailers and ship chandlers without a stock of groceries.

§1009. Class VII licenses

1. Types of liquor which may be sold. A Class VII licensee may sell wine to be consumed off the premises where sold.

2. Fees. The fees for a Class VII license are as follows:

- A. Full-time (one year) \$ 125;
- B. Part-time (6 months) \$ 62.50;
- C. Part-time (7 months) \$ 72.91; and
- D. Extension (2 months) for part-time licenses only
..... \$ 30.

3. Eligible premises. The following premises are eligible to obtain a Class VII license:

A. Off-premise retailers and ship chandlers with a stock of groceries; and

B. Florist shops.

§1010. Class VII-A licenses

1. Types of liquor which may be sold. A Class VII-A

licensee may sell wine to be consumed off the premises where sold.

2. Fees. The fees for a Class VII-A license are as follows:

- A. Full-time (one year) \$ 225;
- B. Part-time (6 months) \$ 112.50;
- C. Part-time (7 months) \$ 131.25; and
- D. Extension (2 months) for part-time licenses only
..... \$ 45.

3. Eligible premises. The following premises are eligible to obtain a Class VII-A license:

A. Off-premise retailers and ship chandlers without a stock of groceries.

§1011. Class X licenses

1. Types of liquor which may be sold. A Class X licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

2. Fees. The fees for a Class X license are as follows:

A. Full-time (one year) and part-time (6 months or 7 months) \$2,000.

3. Eligible premises. The following premises are eligible for a Class X license:

A. Class A lounges.

§1012. Other retail licenses

1. Incorporated civic organizations. An incorporated civic organization may obtain a license to sell spirits, wine and malt liquor to be consumed on the premises.

- A. The license fee is \$ 50.
- B. The license is valid for only one event per year.

2. Auxiliary license. A Class A restaurant or a hotel located at a ski area may obtain for additional premises at that ski area an auxiliary license to sell spirits, wine and malt liquor to be consumed on the premises.

A. The license fee is \$ 100.

3. Off-premise catering license. A Class A restaurant, hotel or club licensed to sell spirits, wine and malt liquor may obtain a license to conduct off-premise catering of spirits, wine and malt liquor as provided in section 1052.

A. The license fee per event or gathering is . \$10.

CHAPTER 43LICENSES FOR THE SALE OF LIQUOR TO BE CONSUMED ON THE LICENSED PREMISESSUBCHAPTER IGENERAL CONDITIONS§1051. Licenses generally

1. Licenses for sale of liquor to be consumed on the premises where sold. Subject to subsection 2, the commission may issue licenses for the sale of spirits, wine and malt liquor to be consumed on the premises where sold to qualified applicants upon payment of fees provided.

2. Local approval of application for license. The initial application for the license must first be approved under section 653 by the municipal officers of the municipality in which the applicant's premises are located or, if the premises are located in an unincorporated place, the application must be approved by the county commissioners of the county within which the unincorporated place is located.

3. Liquor not to be consumed elsewhere. Except as provided in paragraphs A and B, no licensee for the sale of liquor to be consumed on the premises where sold may personally or by his agent or employee, sell, give, furnish or deliver any liquor to be consumed elsewhere than upon the licensed premises.

A. Subject to law and the rules of the commission, hotel licensees may sell liquor in the original packages to bona fide registered room guests.

B. A licensee may serve liquor at locations other than the licensed premises under the off-premise catering license issued under section 1052.

§1052. Off-premise catering at planned events or gatherings

1. Off-premise catering license for sale of liquor off-premise. Class A restaurants, hotels and clubs licensed to sell spirits, wine and malt liquor may apply for an additional license to conduct off-premises catering of spirits, wine and malt liquor at planned events or gatherings to be held at locations other than the licensee's premises under this section.

2. Fee. The license fee for the off-premise catering license is \$10 per event or gathering.

3. Sponsor. The off-premise sales license authorizes the licensee to sell liquor only at:

A. Public events or public gatherings sponsored by a charitable, nonprofit organization or civic group; and

B. Private events or private gatherings sponsored by an individual person, organization or association of persons.

4. Application. The licensee must apply for an off-premise catering license by notifying the commission before the event or gathering. The application must include the following:

A. Title and purpose of the event;

B. Date, time and duration;

C. Location;

D. Approximate number of persons to be accommodated;

E. Name and address of sponsoring person, organization or association;

F. If food is to be served, the name and address of food caterer, if other than the licensee; and

G. Approval by the municipal officers, or a municipal official designated by the municipal officers, of the municipality in which the proposed additional licensed premises are located.

5. Ruling on application. Upon receipt of the application, the commission may immediately approve the application. The commission shall advise the applicant that the license and the off-premise sales license may be revoked and suspended under chapter 33.

6. Local option questions. The commission may not grant approval for the sale of liquor at events to be held in areas where the voters have voted in the negative concerning the pertinent local option questions.

§1053. Lighting of premises

1. Required light intensity. Except as provided in subsection 2, every licensee for the sale of liquor to be consumed on the premises shall keep the premises adequately lighted, as determined by the use of a light meter, but no less than 2-foot candle measurement.

2. Exception for entertainment. The commission shall issue rules to permit lower lighting levels during entertainment.

§1054. Special permit for music, dancing or entertainment

1. Activities and entertainment prohibited. Without the permit described in subsection 2, no licensee for sale of liquor to be consumed on the premises may allow on the premises the following:

A. Any music, except radio or other mechanical device;

B. Any dancing; or

C. Entertainment of any sort.

2. Special amusement permit required. If a licensee for sale of liquor to be consumed on the premises provides activities or entertainment listed in subsection 1, the licensee must first obtain a special amusement permit from the municipality in which the licensed premises are located.

3. Term of permit. A permit is valid only for the license year of the existing license.

4. Public hearing on permit application. Before granting a permit and after reasonable notice to the municipality and the applicant, the municipal officers shall hold a public hearing at which the municipal officers shall take testimony of the applicant and any interested members of the public.

5. Permit requirements. The municipal officers shall grant a permit unless they find that issuance of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances or rules and regulations.

6. Issuance or denial of permit. Within 15 days of receiving the permit application, the municipal officers shall give the applicant written notice of their decision.

A. If the municipal officers deny a licensee a permit, they shall provide the licensee with the reasons for the denial in writing.

B. The licensee may not reapply for a permit within 30 days after denial of an application for a permit.

7. Municipal suspension or revocation of a permit. After a public hearing preceded by notice to interested parties, the municipal officers may suspend or revoke any permits which they have issued under this section on the grounds that the music, dancing or entertainment permitted constitutes a detriment to the public health, safety or welfare, or violates municipal ordinances or regulations.

8. Appeal procedure. Any licensee who has applied for a permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the municipal board of appeals, as defined in Title 30, section 2411, within 30 days of the denial, suspension or revocation. The municipal board of appeals, if the municipality has such a board, may grant or reinstate the permit if it finds that:

A. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate municipal ordinances or regulations; or

B. The denial, revocation or suspension was arbitrary and capricious.

9. Admission. A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued an amusement permit may charge admission in designated areas approved by the special amusement permit.

10. Definition of entertainment. For the purposes of this section, "entertainment" includes any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value.

11. Municipal ordinances or regulations. A municipality shall adopt ordinances or authorize the municipal officers to establish written regulations governing the following aspects of the permits.

A. These ordinances or regulations shall govern:

(1) The issuance, suspension and revocation of these permits;

(2) The classes of permits and fees for the issuance of these permits;

(3) The music, dancing or entertainment permitted under each class; and

(4) Other limitations on these activities required to protect the public health, safety and welfare.

B. These ordinances or regulations may specifically determine:

(1) The location and size of premises to which the permits may apply;

(2) The facilities that may be required for the permitted activities on those premises; and

(3) The hours during which the permitted activities may take place.

12. Unincorporated place. If a licensed premise is located in an unincorporated place, the county commissioners of the county in which the unincorporated place is located shall grant, suspend or revoke permits in the same manner and with the same authority as municipal officers. The county commissioners shall adopt regulations in the same manner as municipal officers.

SUBCHAPTER II

SPECIFIC LICENSE REQUIREMENTS

§1061. Hotels

1. Issuance of licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to hotels,

as defined in section 2, subsection 15, paragraph H.

2. Minors not permitted on premises. Except as provided in paragraphs A and B, no hotel licensee may permit any minor in any part of the hotel where the license privilege is exercised.

A. Minors may be permitted in public dining rooms and sleeping rooms.

B. This subsection does not apply to:

(1) Minors in the company of their parent, legal guardian or custodian, as defined in Title 22, section 4002; or

(2) Minors employed according to section 704.

3. Income from sale of food requirement. At least 10% of annual income must be from the sale of food for each hotel.

4. Required number of sleeping rooms. Except as provided in paragraph C, each hotel must be equipped with at least the required number of adequate sleeping rooms. These rooms must be in addition to the rooms used by the owner or the employees.

A. The number of rooms required is based on the population of the municipality in which the hotel is located.

(1) If the hotel is located in a municipality of 3,000 or less population, the hotel must have at least 14 adequate sleeping rooms.

(2) If the hotel is located in a municipality of more than 3,000, but not more than 7,500 population, the hotel must have at least 20 adequate sleeping rooms.

(3) If the hotel is located in a municipality of 7,500 or more population, the hotel must have at least 30 adequate sleeping rooms.

B. Any increase in population as shown by a subsequent Federal Census does not affect the eligibility for license of premises licensed before that census.

C. The room requirements of this subsection do not apply to:

(1) With respect to number of rooms, premises licensed on August 13, 1947; or

(2) With respect to the 14-room requirement, premises licensed during 1969.

§1062. Restaurant requirements

1. Issuance of licenses. The commission may issue licenses under this section for the sale of wine and malt liquor to be consumed on the premises to restaurants,

as defined in section 2, subsection 15, paragraph Q.

2. Restaurant qualifications. The commission may not issue a license to a new restaurant premise unless:

A. It has been in operation as a restaurant for a period of at least 3 months immediately before the application is made;

(1) In the case of part-time premises, operation immediately before the application is made means operation during the season when the part-time premise is ordinarily open for business; or

B. The applicant proves to the satisfaction of the commission that all proper standards and requirements of laws and rules of the commission have been met and the applicant has been a resident of the State for at least 6 months before filing his application.

3. Income from sale of food requirement. Except as provided in paragraph B, at least 10% of the total income must be from the sale of food for both year-round and part-time restaurants.

A. The commission may not renew any license for the sale of wine or malt liquor unless the licensee furnishes proof to the commission that the previous year's business conformed to the income requirement of this subsection.

B. Income from the bowling business in bowling alleys must not be included in the income requirement of this section.

§1063. Class A restaurants

1. Issuance of license. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to restaurants, as defined in section 2, subsection 15, paragraph R.

2. Income from sale of food requirement. Except as provided in section 1079, at least a minimum amount of annual income must be from the sale of food for each Class A restaurant. The income from sale of food requirement is based on the population of the municipality in which the Class A restaurant is located.

A. In municipalities having a population of more than 50,000 persons:

(1) Year-round Class A restaurants must have a minimum income of \$50,000 per year from the sale of food to the public on their premises; and

(2) Part-time Class A restaurants must have a minimum income of:

(a) Thirty thousand dollars from the sale of food to the public on their premises as a requirement

for a part-time license not in excess of 6 consecutive months; and

(b) Twenty thousand dollars from the sale of food to the public on their premises as a requirement for a part-time license not in excess of 3 consecutive months;

B. In municipalities having a population of more than 30,000 but not more than 50,000 persons:

(1) Year-round Class A restaurants must have a minimum income of \$40,000 per year from the sale of food to the public on their premises; and

(2) Part-time Class A restaurants must have a minimum income of:

(a) Twenty-five thousand dollars from the sale of food to the public on their premises as a requirement for a part-time license not in excess of 6 consecutive months; and

(b) Twenty thousand dollars from the sale of food to the public on their premises as a requirement for a part-time license not in excess of 3 consecutive months;

C. In municipalities having a population of more than 20,000, but not more than 30,000 persons:

(1) Year-round Class A restaurants must have a minimum income of \$30,000 per year from the sale of food to the public on their premises; and

(2) Part-time Class A restaurants must have a minimum income of \$20,000 from the sale of food to the public on their premises as a requirement for a part-time license, not in excess of 6 consecutive months; and

D. In municipalities having a population of not more than 20,000 persons:

(1) Year-round Class A restaurants must have a minimum income of \$20,000 per year in sale of food to the public on their premises; and

(2) Part-time Class A restaurants must have a minimum income of \$15,000 from the sale of food to the public on their premises as a requirement for a part-time license, not in excess of 6 consecutive months.

3. Commission determines applicant would probably qualify. The commission may issue the license if it determines that the applicant would probably qualify.

4. Licensee for renewal must show proof of meeting income requirement. The commission may not renew any license for the sale of liquor under this subsection unless the licensee furnishes the commission with proof that the previous year's business conformed to the in-

come requirement of this subsection.

§1064. Establishment located at fairgrounds

Establishments located on fairgrounds operated by agricultural societies or where parimutuel racing is conducted, which otherwise meet the definition of a hotel or a restaurant, shall be considered to be a hotel or restaurant for purposes of this Title, even if an admission charge must be paid to gain entrance to the fairgrounds or racing grounds.

§1065. Licenses for Class A lounges

1. Issuance of licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to Class A lounges as defined in section 2, subsection 15, paragraph L.

2. Food availability. The licensee shall offer food for sale to the public at all times that liquor is for sale.

3. Income from the sale of food requirement. At least 10% of the total income must be from the sale of food.

4. Minors not allowed on premises. Minors are not permitted to remain on the premises unless accompanied by a parent, legal guardian or custodian as defined in Title 22, section 4002.

5. Licensed by Department of Human Services. All Class A lounges must be licensed by the Department of Human Services.

6. Written evaluation. Before September 30, 1987, the State Liquor Commission shall evaluate the effectiveness of the Class A lounge license and shall make a written report to the 113th Legislature.

7. Sunset. The following provisions are repealed on September 30, 1987:

A. Section 2, subsection 15, paragraph L;

B. Section 1011; and

C. This section.

§1066. Taverns

1. Taverns; requirements. A tavern must not contain tables, chairs or other seating accommodations and all persons served shall remain standing at the bar until their drink is consumed.

§1067. Class A taverns

1. Minors. No class A tavern licensee may permit minors to remain on the licensed premises, unless employed under section 704.

2. Licensed by Department of Human Services. All Class A taverns must be licensed by the Department of Human Services and shall comply with the rules of the Department.

§1068. Performing arts centers

1. Issuance of licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to performing arts centers as defined in section 2, subsection 15, paragraph N.

2. Requirements. The performing arts center must have:

A. Been in existence one year before first applying for a license under section 653; and

B. Presented at least 24 public performances of theater, music, dance or other performing arts in the 12 months before first applying for a license.

§1069. Auditoriums

1. Issuance of licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to auditoriums, as defined in section 2, subsection 8, paragraph B.

2. No sales at events for children. No liquor may be sold at an auditorium at any event primarily involving primary or secondary school children.

3. Conditions on sales. No liquor may be sold or consumed in any audience seating area at an auditorium licensed under this section.

4. Sunset. The following sections are repealed on September 30, 1988:

A. This section;

B. Section 2, subsection 15, paragraph B;

C. Section 1001, subsection 3, paragraph B;

D. Section 1003, subsection 3, paragraph B;

E. Section 1004, subsection 3, paragraph B; and

F. Section 1005, subsection 3, paragraph B.

§1070. Civic auditoriums

1. Issuance of licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to civic auditoriums as defined in section 2, subsection 15, paragraph C.

2. Events on licensed premises only. Licenses is-

sued to civic auditoriums may be used only in conjunction with a function or event held on the licensed premises.

3. No sales during events for minors. Licensees may not sell spirits, wine or malt liquor during any school activities or events primarily attended by minors in the rooms where these activities are taking place.

4. Licensee must notify Bureau of Liquor Enforcement. The civic auditorium licensee shall notify the Bureau of Liquor Enforcement at least 24 hours before a function or event.

§1071. Incorporated civic organizations

1. Issuance of licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to incorporated civic organizations, as defined in section 2, subsection 15, paragraph I.

2. License for only one event per year. Notwithstanding any other provision of law, the license provided for by this section authorizes the licensee to sell or serve liquor only at one public event or public gathering per year which is sponsored by the licensee.

3. Length of license. The license for the public event or public gathering is valid for no longer than 7 consecutive days and is not renewable.

4. Application. An incorporated civic organization shall file an application for a license. The application includes the following:

A. Title and purpose of the event;

B. Date, time and duration;

C. Location;

D. Approximate number of persons to be accommodated;

E. Name and address of the sponsoring civic organization and the name and title of the officer making the application;

F. If food is to be served, the name and address of food caterer, if other than the licensee; and

G. Approval by the municipal officers of the municipality in which the proposed licensed premises are located, which, notwithstanding section 653, may be granted without notice or a public hearing.

5. Ruling on application. The commission shall approve or deny the application and shall immediately notify the applicant of its decision. The commission shall advise the applicant that the license may be revoked and suspended under chapter 33.

§1072. Clubs

1. Issuance of licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to clubs, as defined in section 2, subsection 15, paragraph D.

2. Requirements. Except as provided in subsection 3, for at least one year immediately before filing the application for a license, a club must have:

- A. Been in continuous operation and existence;
- B. Regularly occupied as owner or lessee a suitable clubhouse or quarters for use of members;
- C. Held regular meetings;
- D. Conducted its business through officers regularly elected; and
- E. Charged and collected dues from elected members.

3. Exception to one year existence requirement. Any veterans' organization in the State having a charter from a national veterans' organization is exempt from the one-year requirement of subsection 2, if it has been established for not less than 3 months.

4. Register of club members. Every club shall keep and maintain a register of the name, identity and address of each member of the club. The club shall allow any liquor enforcement officer or other authorized agent of the commission to inspect the register at any reasonable time.

5. Sale of liquor only to members and guests; exception. Except as provided in paragraph A, licensed clubs may not sell liquor to anyone except members and their guests accompanying them.

A. Licensed veterans' and fraternal organizations and social clubs may sell liquor to members of the same national or affiliated international organization and to members of auxiliaries of the same national or affiliated international organization and their guests accompanying them.

6. Sales in containers forbidden. No club may sell spirits in the original container.

§1073. Indoor racquet clubs, ice skating clubs and golf club facilities

1. Issuance of licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to golf clubs, indoor ice skating clubs and indoor racquet clubs and indoor ice skating clubs as defined in section 2, subsection 15, paragraphs G, J and K respectively.

2. Food availability. The licensee shall offer food for

sale to the public at all times that liquor is for sale.

3. Separate area for sale of food and liquor. The licensee shall set aside a separate area for the sale of food and liquor in accordance with the rules of the commission.

§1074. Outdoor stadiums

1. Issuance of licenses. The commission may issue licenses under this section for the sale of wine and malt liquor to be consumed on the premises to outdoor stadiums, as defined in section 2, subsection 15, paragraph M.

2. No sales at events for children. The licensee may not sell any liquor at an outdoor stadium at any event primarily involving primary or secondary school children.

3. Conditions on sales. The licensee may not sell liquor in the spectator stands at an outdoor stadium. Liquor may be sold only by the glass in plastic or paper cups.

§1075. Auxiliary licenses at ski areas

1. Licenses. The commission may issue one auxiliary license under this section for additional premises to any Class A restaurant licensee located at a ski area or any hotel licensee located at a ski area if the following requirements are met:

- A. The additional premises are located at the same ski area where the Class A restaurant or hotel is licensed;
- B. Food is for sale at the additional premises, although not necessarily prepared there;
- C. The additional premises are properly equipped, including tables and chairs; and
- D. The Department of Human Services licenses the additional premises.

§1076. Qualified catering services

1. Issuance of licenses. Notwithstanding any other provision of law, the commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to qualified catering services as defined in section 2, subsection 15, paragraph P.

2. Compliance with local option decisions. The commission may license only those qualified catering services located in municipalities and unincorporated places which have previously voted affirmatively on questions pertaining to Class A restaurants provided in chapter 5.

3. Income from sale of food requirement. At least a minimum amount of annual income must be from the sale of food for each qualified catering service.

A. Qualified catering services applying for year-round licenses must, in the calendar year before the year in which application is made, have an income of at least \$50,000 from the sale and service of food to the public.

B. Qualified catering services applying for a part-time license must, in the calendar year before the year in which application is made, operate for a minimum of 4 months and must have an income of at least \$25,000 from the sale and service of food to the public. The part-time license must not be in excess of 6 consecutive months.

4. Commission determines applicant qualifies. The commission shall issue the license if it determines that the applicant qualifies.

5. Licensee for renewal must show proof of meeting income requirement. The commission may not renew any license for the sale of liquor under this section unless the licensee furnishes the commission with proof that the previous year's business conformed to the income requirements of this section.

6. Income from vending machines not included. The income from the sale of food placed in vending machines must not be included in the minimum dollar requirements of this section.

7. Provision of liquor at places other than principal place of business. Licensed qualified catering services which would like to provide the service of liquor at locations other than their principal places of business shall file an application with the commission at least 24 hours in advance of any function or event at which liquor is to be sold or served. Application must be made on a form provided by the commission and must contain the following:

A. Date, time and approximate duration;

B. Location;

C. Name and address of the person or persons, firm or corporation making arrangements;

D. Approval by the municipal officers or a municipal official designated by the municipal officers of the municipality in which the catered function or event is to be held, which, notwithstanding the provisions of section 653, may be granted without public notice; and

E. Any other information the commission considers necessary.

8. Ruling on application. The commission shall approve or deny the application to provide service of liquor at a location other than the principal place of business, and shall immediately notify the applicant of its decision.

9. No additional fee. The commission may not

charge a fee for provision of the service of liquor at locations other than the principal place of business in addition to the license fee paid by the qualified catering service.

§1077. Public service corporations: Vessel, railroad and airline corporations

1. Licenses. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor by vessel, railroad and airline corporations in their boats, cars and aircraft.

2. Vessels. The requirements and conditions for licenses for vessels are as follows.

A. The commission may not require that the vessels be equipped to supply food or provide food service.

B. Except as provided in sub-paragraph (1), licenses issued under this section to vessel companies operating boats within the State authorize the licensees to sell liquor in the boats after leaving and before reaching ports within the State.

(1) A licensee may sell liquor for consumption on board a vessel which is in port, only if prior approval for the sale is obtained from the commission under the license application procedure in section 653. A separate approval must be obtained for each port location from which on-board sales of liquor are to be made.

C. A vessel licensed to sell liquor under this section may sell liquor on Sundays only between the hours of 12 noon and midnight when operated within the 3-mile limit.

3. Railroad corporations. The requirements and conditions for licenses for railroad corporations are as follows.

A. The license issued to a railroad corporation operating dining cars within the State authorizes the licensee to sell liquor in the cars to be consumed in the cars only after leaving and before reaching the terminal stops.

4. Airlines. The requirements and conditions for licenses for airlines are as follows.

A. The license issued to an airline operating aircraft within the State authorizes the licensee to sell liquor in the aircraft to be consumed in the aircraft only after leaving and before reaching airports within the State.

5. License sufficient throughout the State. One license issued under this section is sufficient to cover all aircraft, passenger cars or vessels operated by the licensed public service corporation.

§1078. Vessel corporations owned by certificate of approval holders

1. License for cruise vessel owned by certificate of approval holder. Notwithstanding any other provision of this Title, the commission may issue licenses to sell spirits, wine and malt liquor at retail under section 1077 to vessel corporations owned by certificate of approval holders and operating in international and interstate commerce. Local approval granted under section 1077 for the sale of liquor at retail to persons other than passengers is limited to no more than 72 consecutive hours that the cruise vessel is in port in that municipality.

2. Sunset. This section is repealed on September 30, 1988.

§1079. International passengers in transit

1. Issuance of license to operators of air terminals. The commission may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to operators of international air terminals or their agent or concessionaire on payment of the fee as provided for a Class A restaurant in chapter 41.

2. International passengers in transit. The license issued under this section authorizes the licensee to sell liquor to passengers of any airline if the passenger is in transit and the passengers' point either of origin or destination is a foreign country.

3. Application of other laws. Any license issued under this section is not subject to the hours of sale in section 4, nor is it subject to the food requirements for a Class A restaurant contained in section 1063.

CHAPTER 45

LICENSES FOR THE SALE OF LIQUOR TO BE CONSUMED OFF THE LICENSED PREMISES§1201. Issuance of licenses; stock of merchandise

1. Licenses for sale of malt liquor and table wine. The commission may issue licenses under this section for the sale and distribution of malt liquor or wine to off-premise retail licensees, as defined in section 2, subsection 27, paragraph A.

2. Ineligible as licensee. The commission may not issue a license for the sale of malt liquor or wine to any person who is not engaged in a bona fide retail business other than the sale of malt liquor or wine at retail.

3. Cannot sell liquor to be consumed on the premises. No person licensed under this section may sell malt liquor or wine to be consumed on the premises.

4. Licenses in unincorporated places where no local option vote is taken. Licenses in an unincorporated place, where no local option vote is taken under chapter 5, must

be approved by the county commissioners of the county.

5. Qualifications. The commission may not issue any licenses for new premises unless:

A. The premise has been in operation for a period of at least 3 months immediately before the date of the application; or

B. The applicant proves to the satisfaction of the commission that all proper standards and requirements of laws and rules of the commission have been met and the applicant has been a resident of the State for at least 6 months before filing his application.

6. Stock of groceries required. All off-premise retail licensees must have and maintain:

A. An adequate stock of groceries, at least \$1,000 wholesale value;

B. A stock of merchandise reasonably compatible with a stock of malt liquor or wine, at least \$1,000 wholesale value; or

C. A combination of both groceries and compatible merchandise, at least \$1,000 wholesale value.

7. Compatible merchandise. Each licensee shall display compatible merchandise in the general sales area of the licensed premises, except that foodstuffs and other consumable products used in the preparation of food are not required to be displayed if they are stored elsewhere on the premises. Compatible merchandise:

A. Consists exclusively of:

(1) Tobacco products;

(2) Newspapers;

(3) Greeting cards;

(4) Paper products; and

(5) A stock of foodstuffs and other consumable products used on the premises in the preparation of food for consumption on or off the premises; and

B. Does not include:

(1) Gasoline and oil;

(2) Used or new cars, parts or accessories; or

(3) Other items of stock that may be equally incompatible in nature.

§1202. Payment for sales in off-premise retailers

1. Employees under 17. No employee under 17 years of age may accept payment for the sale of malt liq-

uor or wine at the check-out counter of an off-premise retail licensee.

2. Employees who are 17. An employee who is 17 years of age may accept payment only if an employee who is at least 18 years old is present in the off-premise retail licensee in a supervisory capacity.

§1203. License for florists and florist shops

1. Licenses. The commission may issue licenses under this section for the sale and distribution of wine by florist shops as defined in section 2, subsection 15, paragraph F.

2. Bona fide florist business. The commission may not issue a license to any person who is not engaged in a bona fide florist shop business.

3. Not for consumption on the premises. No person licensed under this section may sell wine to be consumed on the premises.

4. Licenses in unincorporated places. If the premises to be licensed are located in an unincorporated place where no local option vote has been taken under chapter 5, the county commissioners of that county must approve the license.

5. New premise qualifications. The commission may not issue a license under this section to any new premise unless:

A. It has been in operation as a new premise for a period of at least 3 months immediately before the date of the application; or

B. The applicant proves to the satisfaction of the commission that all proper standards and requirements of laws and rules of the commission have been met and the applicant has been a resident of the State for at least 6 months before filing the application.

6. Stock requirement. All persons licensed under this section shall have and maintain an adequate stock of flowers, cut flowers and supplies used in the florist business, not including liquor, at least \$1,000 wholesale value.

7. Sale only when incorporated into floral arrangement. No licensee under this section may sell wine, except when incorporated into a floral arrangement the retail price of which is at least \$10 without the wine, not including delivery charges.

SUBPART 3

NON-RETAIL SALES

CHAPTER 51

CERTIFICATE OF APPROVAL HOLDERS

SUBCHAPTER 1

GENERAL PROVISIONS

§1351. Certificate of approval

1. Certificate of approval required. All in-state manufacturers, out-of-state manufacturers and out-of-state wholesalers must obtain a certificate of approval from the Bureau of Alcoholic Beverages.

SUBCHAPTER II

MANUFACTURERS

§1355. Manufacturer licenses; sales; transportation; fees

The commission may issue manufacturer certificates of approval to distill, rectify, brew or bottle alcohol, or spirits, wine or fermented liquor to distillers, rectifiers, brewers, bottlers and wineries operating under federal law and federal supervision. The commission shall charge the following license fees:

1. Distillers and brewers. Distillers and brewers using exclusively the agricultural products of the State as raw material for the production of alcohol . . . \$ 100.

Distillers and brewers using exclusively the agricultural products of other states as raw material . . . \$3,000.

Distillers and brewers using in part agricultural products of the State and in part those of other states as raw material shall pay the fee determined by the commission, to be directly proportioned as to the source and quantity of the raw material and based upon the in-state to out-of-state differential. If Maine agricultural products are not available for use as raw material by distillers and brewers in any particular year, the commission may adjust the fees as it considers just and equitable, resulting in a final computation of not less than \$1,500.

All licensees to whom manufacturers' licenses are assigned for distilling and brewing shall pay with their application a base fee of \$100 and make monthly reports to the commission of the kind, quantity and source of raw material used by them. The commission shall make a final computation of the license fee for each license year on the basis of the monthly reports. The licensees shall pay the the final fees, as computed by the commission, on December 31st of each license year.

2. Small Maine breweries. Small Maine breweries . . . \$50.

A. If an inadequate amount of agricultural products used for raw materials exists within the State, a holder of a small Maine brewery license may file an affidavit and application with the Bureau of Alcoholic Beverages setting forth the unavailability of raw materials within the State and requesting permission to import those agricultural products from out-of-state. If the

bureau finds that there is in fact an inadequate supply of raw materials within the State, it may authorize that importation.

B. A holder of a small Maine brewery license may produce malt liquor containing 25% or less alcohol by volume in an amount not to exceed 50,000 gallons per year.

C. A holder of a small Maine brewery license may sell, on the premises during regular business hours, malt liquor produced at the brewery by the bottle, by the case or in bulk.

D. A holder of a small Maine brewery license may sell or deliver his product to licensed retailers and wholesalers. In addition, he may sell, on the premises to be consumed off the premises, malt liquor produced at the brewery by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premise retail licensees, restaurants and clubs.

E. A holder of a small Maine brewery license may apply for one license for the sale of liquor to be consumed on the premises for a location other than the brewery.

F. A holder of a small Maine brewery license may list on product labels and in its advertising the list of the ingredients and the product's average percentage of the recommended daily allowances of nutritional requirements.

3. Rectifiers. Rectifiers' fee	\$500.
4. Bottlers. Bottlers' fee	\$500.
5. Maine farm wineries. Maine farm wineries	\$50.

A. If an inadequate amount of agricultural products used for raw materials exists within the State, a holder of a Maine farm winery license may file an affidavit and application with the Bureau of Alcoholic Beverages setting forth the unavailability of raw materials within the State and requesting permission to import those agricultural products from out-of-state. If the bureau finds that there is an inadequate supply of raw materials within the State, it may authorize the importation. If out-of-state raw materials contribute to more than 50% of the yearly wine production of a winery, then an excise tax shall be levied on that out-of-state raw material at a rate of 4¢ per gallon, or its metric equivalent, on liquid raw materials and 2¢ per pound on solid or semisolid raw materials. The commission shall promulgate rules for the collection of the excise tax.

B. A holder of a Maine farm winery license may produce wines and sparkling wines in an amount not to exceed 50,000 gallons per year.

C. A holder of a Maine farm winery license may serve complimentary samples of wine and sell, during regular business hours, wine produced at the winery by the bottle, by the case or in bulk on the premises of the winery to persons who are not minors. A holder of a Maine farm winery license may serve complimentary samples of wine on Sunday after the hour of 12 noon and may sell wine on Sunday after the hour of 12 noon if the municipality in which the winery is located has authorized the sale of wine on Sunday for consumption off the premises under chapter 5.

D. A holder of a Maine farm winery license may, upon application to and approval of the commission and payment of the license fee set out in this subsection, obtain a license for one additional location other than the winery licensed under this subsection. The holder of the license is not required to conduct any bottling or production of wine at the 2nd licensed location, but may conduct all activities which are permitted at the winery by this section.

E. A holder of a Maine farm winery license may sell or deliver his product to licensed retailers and wholesalers. In addition, he may sell, on the premises, wine produced at the winery by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premise retail licensees, restaurants and clubs.

F. This subsection is repealed on July 1, 1989.

6. Other wineries. Wineries using exclusively the agricultural products of other states or foreign countries \$50.

A. In addition to the license fee of \$50, an excise tax shall be imposed in the amount of 4¢ per gallon on liquid raw materials and 2¢ per pound on solid or semisolid raw materials, under the supervision of the commission, which shall make the necessary rules for their collection.

B. This subsection is repealed on July 1, 1989.

7. Wineries. Beginning on July 1, 1989, wineries using exclusively the agricultural products of the State as raw material \$50.

Wineries using in part the agricultural products of other states or foreign countries shall pay, in addition to the license fee of \$50, an excise tax of 4¢ per gallon on liquid raw materials and 2¢ per pound on solid or semisolid raw materials; the same being under the supervision of the commission, which shall make the necessary rules and regulations for their collection.

\$1356. Illegal manufacture

1. Illegal manufacture; penalty. Any person not licensed by the commission who manufactures for sale any liquor, and any person who sells any liquor manufactured by him without a license in the State, commits a

Class E crime.

2. Seizure and libeling of equipment and materials. The officers seizing the liquor shall also seize all equipment and materials of every kind used in the illegal manufacturing. The officers shall libel the equipment and materials as is provided for the libeling of liquor and the receptacles in which they are contained.

SUBCHAPTER IIIMALT LIQUOR AND WINE§1361. Certificate of approval

1. Certificate of approval required. No manufacturer or foreign wholesaler of malt liquor or wine may hold for sale, sell or offer for sale in intrastate commerce, or transport or cause to be transported into the State for resale, any malt liquor or wine unless the manufacturer or foreign wholesaler has obtained from the commission a certificate of approval.

2. Fee for certificate of approval. The fee for a certificate of approval is \$600 per year for malt liquor only and \$600 for wine only. Payment of the fee must accompany the application for the certificate.

3. Conditions on certificate of approval. The certificate of approval is subject to the laws of the State and the rules of the commission.

A. Any violation of the rules of the commission is ground for suspension or revocation of the certificate at the discretion of the Administrative Court Judge.

4. No sales of malt liquor to person without wholesale license. No certificate of approval holder may sell or cause to be transported into the State any malt liquor or wine to any person to whom a Maine wholesale license has not been issued by the commission.

5. No exclusivity agreement. No certificate of approval holder may make it a condition in selling malt liquor or wine to any wholesale licensee that the wholesale licensee may not sell malt liquor or wine manufactured or sold by other manufacturers or foreign wholesalers.

§1362. Disposal of fees

The commission shall deposit the fees collected under section 1361 to the credit of the General Fund.

§1363. Manufacture of malt liquor or table wine; credit; furnishing materials and equipment

1. Certificate of approval holder not interested in wholesale license. No officer, director or stockholder of a corporation which is the holder of a manufacturer's certificate of approval may be interested, either directly or indirectly, as a director, officer or stockholder in any other corporation which holds a wholesale license.

2. Loans by certificate of approval holder. Except as provided in paragraphs A and B, no manufacturer or certificate of approval holder may, either directly or indirectly, loan any money, credit or their equivalent to any wholesale licensee for equipping, fitting out, maintaining or conducting, either in whole or in part, a business establishment where malt liquor or wine is sold.

A. A certificate of approval holder may extend the usual and customary commercial credit for malt liquor or table wine sold and delivered.

B. 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:

(1) Painting the wholesale licensee's vehicles;

(2) Supplying legal advertising signs used by the wholesale licensee in the course of his business; and

(3) Supplying uniforms for the employees of the wholesale licensee.

§1364. Invoices and reports

1. Furnish invoices. All certificate of approval holders shall promptly file with the commission a copy of every invoice sent to wholesale licensees and the original copy of the Maine purchase order. The invoice must include the licensee's name and the purchase number.

2. File monthly reports. All certificate of approval holders shall furnish a monthly report on or before the 10th day of each calendar month in the form prescribed by the commission.

3. Certification that excise tax paid. No certificate of approval holder may ship or cause to be transported into the State any malt liquor or wine until the commission has certified that:

A. The excise tax has been paid; or

B. 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 1405.

SUBCHAPTER IVSPECIAL WAREHOUSES§1371. Special warehouse storage facilities controlled by certificate of approval holder

1. Certificate of approval for special storage facilities. Notwithstanding the importation restrictions of sections 2073 and 2077, the commission may issue certificates of approval authorizing the direct importation of malt liquor, wine or spirits from suppliers located in foreign countries or other states into special warehouse storage

facilities located within the State that are under the direct supervision and control of the certificate of approval holder.

2. Fee. The fee for a certificate of approval under this subsection is \$600 a year for malt liquor only, \$600 a year for wine only and \$600 a year for spirits only.

3. Stored liquor not subject to state liquor tax until withdrawn. Liquor stored in special warehouse storage facilities is not subject to state liquor taxes until it is withdrawn from the special warehouse storage facilities.

A. Malt liquor and wine withdrawn from the special warehouse storage facilities by Maine wholesale licensees immediately become subject to the same tax and premiums as malt liquor and wine imported into the State from out-of-state certificate of approval holders. The wholesale licensee shall withdraw the malt liquor and wine to be distributed in the State by the procedure established in section 1404 and 1405.

B. The State Liquor Commission may withdraw spirits from special warehouse storage facilities.

C. Out-of-state purchasers authorized by the commission may withdraw spirits, wine and malt liquor from special warehouse storage facilities. The authorization allows the out-of-state purchasers to directly transport the spirits, wine and malt liquor to the state border for delivery out-of-state. Products withdrawn by authorized out-of-state purchasers for delivery outside of the State are not subject to the state excise tax or premium.

CHAPTER 55

MALT LIQUOR AND WINE WHOLESALÉ LICENSEES

§1401. Wholesale licenses

1. Issuance of licenses. The commission may issue licenses under this section for the sale and distribution of malt liquor or wine at wholesale.

2. Fees. Except as provided in subsection 4, the fee for a wholesale license is:

A. Six hundred dollars for the principal place of business; and

B. Six hundred dollars for each additional warehouse maintained by the wholesale licensee.

3. Term of wholesale license. Except as provided in subsection 4, a wholesale license is effective for one year from the date of issuance.

4. Temporary permits. The commission may issue special permits, upon application in writing, for the temporary storage of malt liquor or wine under terms and

upon conditions prescribed by the commission.

5. Qualifications. The commission may not issue a wholesale license to an applicant unless:

A. If the applicant is a person, the applicant has been a resident of the State for at least 6 months; or

B. If the applicant is a corporation, the applicant has conducted business in this State for at least 6 months.

6. License transferrable to other premises. A wholesale license may be transferred from the premises in the town originally specified to premises in another town.

7. Warehouses and sales representatives. A wholesale licensee shall maintain a warehouse or warehouses within the State and employ one or more sales representatives, licensed under chapter 59, for the purpose of soliciting orders.

8. Franchise or agreement with certificate of approval holder. A wholesale licensee shall operate under a franchise or agreement for the resale of malt liquor or wine within an allocated territory by a certificate of approval holder.

§1402. Taste testing of new wine and malt liquor products

1. Taste testing on wholesale licensee's premises. With the commission's written permission, a wholesale licensee may designate a special area or room on the wholesale licensee's premises for the specific purpose of taste testing new wine or malt liquor products.

2. Taste testing on retail licensee's premises. With the commission's written permission, a wholesale licensee may rent or lease an area or room from an on-premise retail licensee for the purpose of inviting retail licensees to taste test new wine or malt liquor products.

3. Conditions on taste-testing activity. The following conditions apply to all taste testings.

A. The wholesale licensee or a certificate of approval holder may provide the products for taste testing only if all taxes and premiums required by this Title have been paid.

B. Taste-testing activity must be conducted only within the special designated area or room.

C. Taste-testing activity must be open only to invited retail licensees or their authorized agents and not to their family members, guests or the general public.

D. After the taste-testing activity is concluded, the wholesale licensee shall remove all products supplied for the taste-testing activity from the retail licensee's premises.

§1403. Interstate purchase or transportation

1. No purchases other than from certificate of approval holder. No wholesale licensee may purchase or cause to be transported into the State any malt liquor or wine from any person to whom the commission has not issued a certificate of approval.

2. Sale of malt liquor or wine not purchased from a certificate of approval holder prohibited. No wholesale licensee may sell to another wholesale licensee any malt liquor or wine which has not been purchased from a brewery, winery or foreign wholesaler holding a certificate of approval.

3. License revoked if it requires wholesale license to not sell other brands. The Administrative Court Judge shall revoke the license of any wholesale licensee, who requires as a condition of selling malt liquor or wine to another wholesale licensee, that the purchasing wholesale licensee may not sell other brand names of malt liquor or wine.

4. Monthly report. By the 10th day of each calendar month, each wholesale licensee shall furnish to the commission, in the form prescribed by the commission, a monthly report of all malt liquor or wine purchased and sold during the preceding month.

§1404. Unbonded wholesale licensees

1. Procedure for unbonded wholesale licensees. Unbonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The commission shall furnish all purchase order forms.

B. The unbonded wholesale licensee shall complete the forms in quintuplet.

C. The unbonded wholesale licensee ordering malt liquor or wine shall mail 3 copies of the form to the commission with a check for the amount of excise taxes required to cover the amount of the order.

D. The unbonded wholesale licensee may mail the original copy of the order to the brewery or winery or wholesaler with whom he wishes to place the order.

E. On receipt of the 3 copies and a check for excise taxes, the commission shall promptly process the copies and return one copy to the wholesale licensee and send one to the brewery, winery or foreign wholesaler designated to receive the order. The commission shall keep the 3rd copy on file.

F. No brewery, winery or foreign wholesaler may ship or release malt liquor or wine for delivery in Maine until notified by the commission that the excise tax has been paid in accordance with this section.

§1405. Bonded wholesale licensees

1. Procedures for bonded wholesale licensees. Bonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The commission shall furnish all purchase order forms.

B. The bonded wholesale licensee shall complete the forms in triplicate.

C. The bonded wholesale licensee shall submit the original copy to the brewery, winery or foreign wholesaler with whom he wishes to place the order.

D. The bonded wholesale licensee shall then mail to the commission one copy of the form and retain one copy for his files.

2. Corporate security bond. To secure payment of the excise tax and premium, each wholesale licensee shall file with the commission a corporate surety bond guaranteeing payment of the proper excise tax and premium due the State from him.

A. The commission shall fix the amount and terms of the bond, subject to the following restrictions.

(1) The bond must be equal to the highest monthly excise tax and premium paid by the wholesale licensee during the period of his prior year license, plus 10% of the highest month.

(2) New licensees desiring to furnish bond under this section shall furnish a corporate surety bond in an amount to be determined by the commission.

(3) All bonds shall be provided and effective only for each licensed year.

B. Failure to pay the excise tax and premium when due is grounds for suspension of the license of the wholesale licensee.

3. Payment of excise tax and premium. By filing the bond required in subsection 2, a wholesale licensee may pay monthly the excise tax imposed by section 1652 and the premium imposed by section 1703 on all malt liquor or wine shipped into the State as shown by invoice of the shipment by the out-of-state wholesaler or certificate of approval holder.

A. The wholesale licensee shall pay the excise tax and premium by the 10th day of the calendar month following the month in which shipment occurs.

B. At the time of payment of the excise tax and premium, each Maine wholesale licensee shall file with the commission in the form prescribed by the commission:

(1) A verified monthly report of all malt liquor or wine purchased or imported based on the date of shipment invoice during the preceding calendar month; and

(2) Any additional information the commission requires to compute and ensure the accuracy of the excise tax and premium payment accompanying the report.

§1406. Report of changes in wholesale licensees and certificate of approval holders to commission

1. Certificate of approval holders must list wholesale licensees with commission; changes. Each certificate of approval holder shall:

A. File with the commission a list of the wholesale licensees who distribute their products in the State.

B. Certificate of approval holders shall give written notice to the commission and the wholesale licensee affected at least 90 days before any change in:

(1) Its wholesale licensees; or

(2) The territory of its wholesale licensee in the State.

2. Wholesale licensees must list certificate of approval holders with commission; changes. Each wholesale licensee shall:

A. File with the commission:

(1) A list of the certificate of approval holders for whom it distributes malt liquor or wine in the State; and

(2) A statement of the boundaries of its territories.

B. Wholesale licensees shall give written notice to the commission and the certificate of approval holder affected at least 90 days before any change in:

(1) Its territory; or

(2) The distribution of its products.

3. Shortened waiting period before change. The commission may shorten the waiting period before a change is made in the following situations.

A. A certificate of approval holder or a wholesale licensee may request a hearing before the commission to shorten the waiting period before a change is made. The commission may, for cause, shorten the waiting period before approving a change in either the wholesale licensee or the wholesale licensee's territory.

B. If both the certificate of approval holder and the wholesale licensee affected waive the 90-day waiting

period by giving the commission written notice, then the commission may immediately approve a change in either the wholesale licensee or the wholesale licensee's territory.

§1407. Exclusive distributors of certificate of approval holders' products

1. Exclusive distributors. Except as provided in chapter 57, the wholesale licensee appointed by the certificate of approval holder to be the exclusive distributor for specific brands of wine or malt liquor cannot be terminated as exclusive distributor of those specific brands upon the voluntary termination or transfer of the same brands of wine or malt liquor by the certificate of approval holder who registered the specific labels and established prices with the bureau. The certificate of approval holder acquiring these brands shall take the place of the certificate of approval holder who appointed the distributors and shall comply with section 1406.

2. Unfair trade practice. A violation of this section shall be considered a violation of the Unfair Trade Practices Act and all remedies provided by that Act are available for a violation of this section.

§1408. Posting of prices

1. Posting by certificate of approval holders and bottlers. Certificate of approval holders and all licensed bottlers must post with the bureau the F.O.B. shipping point prices for which they are selling malt liquor or wine to wholesale licensees.

2. Posting by wholesale licensees. Wholesale licensees must post with the bureau the delivered prices for which they are selling malt liquor or wine to licensees and all other entities or instrumentalities.

3. Posted prices must include deposits. All prices posted must include deposits required on returnable items, including kegs.

4. Price changes. Certificate of approval holders and bottlers shall give written notice of price changes to the bureau and their respective wholesale licensees at least 30 days before the effective date. Wholesale licensees shall give written notice of their price changes to the bureau at least 15 days before the effective date. All price changes are effective on the first day of the month.

CHAPTER 57

CERTIFICATE OF APPROVAL HOLDER AND
MAINE WHOLESALE LICENSEE
AGREEMENT ACT

§1451. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following

meanings.

1. Agreement. "Agreement" means a commercial relationship, not required to be evidenced in writing, of definite or indefinite duration, between a certificate of approval holder and a wholesale licensee, under which the wholesale licensee is authorized to distribute one or more of the certificate of approval holder's brands of malt liquor, wine or beverages. The performance or accomplishment of any of the following acts shall constitute prima facie evidence of an "agreement" within the meaning of this definition:

A. The shipment, preparation for shipment or acceptance of any order by any certificate of approval holder or its agents for any malt liquor, wine or beverages to a wholesale licensee within the State; and

B. The payment by a wholesale licensee and the acceptance of payment by any certificate of approval holder or its agent or the shipment of an order for malt liquor or beverages intended for sale in Maine.

2. Person. Notwithstanding section 2, subsection 23, "person" means a natural person, corporation, partnership, trust, agency or other entity as well as the individual officer, directors or persons in active control of the activities of that entity. "Person" also includes heirs, assigns, personal representatives and guardians.

3. Primary source of supply. "Primary source of supply" means the distiller, the bottler, the brewer, the winery, the brand owner or the designated agent of any distiller, brewer, winery or brand owner.

4. Territory or sale territory. "Territory" or "sale territory" means the area of primary sales responsibility expressly or implicitly designated by any agreement between a wholesale licensee and a certificate of approval holder for the brand or label of a certificate of approval holder.

5. Wholesale licensee. Notwithstanding section 2, subsection 34, "wholesale licensee" means any person holding a wholesale malt liquor or wine license within the State, offering malt liquor or wine for sale or resale to retailers, without regard to whether the business of the person is conducted under the terms of an agreement with a certificate of approval holder.

§1452. No inducement or coercion

1. Certificate of approval holder. No certificate of approval holder may:

A. Induce or coerce, or attempt to induce or coerce, any wholesale licensee to accept delivery of any liquor or any other commodity which has not been ordered by the wholesale licensee;

B. Induce or coerce, or attempt to induce or coerce, any wholesale licensee to do any illegal act or thing

by threatening to amend, cancel, terminate or refuse to renew any agreement existing between a certificate of approval holder and a wholesale licensee; or

C. Require a wholesale licensee to assent to any condition, stipulation or provision limiting the wholesale licensee in his right to sell the product of any other certificate of approval holder anywhere in the State if the acquisition of the product of another certificate of approval holder does not materially impair the quality of service or quantity of sales of the existing brand or brands of the certificate of approval holder seeking to impose the condition, stipulation or provision.

§1453. No dual distributorship

1. Dual distributorship prohibited. No certificate of approval holder who designates a sales territory for which a wholesale licensee is primarily responsible may enter into any agreement with any other wholesale licensee for the purpose of establishing an additional agreement for its brand or label in the same territory.

2. Certificate of approval holder to file list. Each certificate of approval holder shall file with his application for certificate of approval a list giving the name and address of each bottler and wholesale licensee authorized to distribute products of that certificate of approval holder and designating the exclusive territory assigned to each wholesale licensee within the State. Unless authorized by the bureau, wholesale licensees may not sell those products to licensees outside of the exclusive territory allocated and designated.

A. Sales of wine to retail licensees at the wholesale licensee's warehouse shall be considered a sale within the wholesale licensee's exclusive territory.

3. Primary source of supply. No wholesale licensee may purchase liquor from anyone other than the primary source of supply within the United States.

§1454. Cancellation

1. Good cause. Notwithstanding the terms, provisions or conditions of any agreement, no certificate of approval holder may amend, cancel, terminate or refuse to continue or renew any agreement, or cause a wholesale licensee to resign from an agreement, unless good cause can be established or proven for amendment, termination, cancellation, nonrenewal, noncontinuation or causing a resignation. "Good cause" does not include the sale or purchase of a certificate of approval holder. "Good cause" includes, but is not limited to, the following:

A. Revocation of the wholesale licensee's license to do business in the State;

B. Bankruptcy or insolvency of the wholesale licensee;

C. Assignment for the benefit of creditors or similar

disposition of the assets of the wholesale licensee; and

D. Failure by the wholesale licensee to substantially comply, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him by the certificate of approval holder.

§1455. Notice of intent to terminate

1. Written notice. Before any termination procedure initiated by the certificate of approval holder, the certificate of approval holder shall give the wholesale licensee written notice of any claimed deficiency existing in his territory and shall give the wholesale licensee reasonable time to correct the claimed deficiency or deficiencies. After this reasonable time has elapsed, the certificate of approval holder shall provide the wholesale licensee at least 90 days prior written notice of any intent to amend, terminate, cancel or not renew any agreement. The notice must state all the reasons for the intended amendment, termination, cancellation or nonrenewal. The notice provisions of this section do not apply if the reason for the amendment, termination, cancellation or nonrenewal is:

A. The bankruptcy or insolvency of the wholesale licensee;

B. An assignment for the benefit of creditors or similar disposition of the assets of the wholesale licensee's business;

C. Revocation of the wholesale licensee's license; or

D. Conviction or a plea of guilty or no contest to a charge of violating a law relating to the business that materially affects the wholesale licensee's ability to remain in business.

§1456. Assignment, transfer or sale of business

No certificate of approval holder may unreasonably withhold consent to any assignment, transfer or sale of the wholesale licensee's business whenever the wholesale licensee to be substituted meets the material and reasonable qualifications and standards required of its wholesale licensees.

§1457. Compensation

1. Reasonable compensation. Any certificate of approval holder which amends, cancels, terminates or refuses to continue or renew any agreement, or causes a wholesale licensee to resign, unless for good cause shown, as defined in section 1454, from an agreement or unreasonably withholds consent to any assignment, transfer or sale of a wholesale licensee's business, shall pay the wholesale licensee reasonable compensation for the value of the wholesale licensee's business related to the terminated brand or brands. The value of the wholesale licensee's business includes inventory and other tangible assets and its good will.

2. Neutral arbitrator. If the certificate of approval holder and the wholesale licensee are unable to agree on the reasonable compensation to be paid for the value of the wholesale licensee's business, as defined in subsection 1, they shall submit the matter to a neutral arbitrator selected by the parties, or, if they cannot agree, by the Chief Justice of the Supreme Judicial Court. The costs of the arbitration shall be paid 1/2 by the wholesale licensee and 1/2 by the certificate of approval holder or otherwise the arbitration proceeding shall be governed by the Maine Uniform Arbitration Act.

§1458. Judicial remedies

1. Suit against certificate of approval holder. If a certificate of approval holder engages in conduct prohibited under this chapter, a wholesale licensee may maintain a suit against the certificate of approval holder.

2. Equitable relief. The court may grant equitable relief necessary to remedy the effects of conduct which it finds to exist and which is prohibited under this chapter, including, but not limited to, declaratory judgment and injunctive relief.

3. Punitive damages, costs and fees. If the court finds that the certificate of approval holder has acted in bad faith in invoking the amendment, termination, cancellation or nonrenewal provisions of this chapter or has unreasonably withheld its consent to any assignment, transfer or sale of the wholesale licensee's agreement, the court may award punitive damages, as well as actual damages, costs and attorneys fees.

§1459. Price of product

No certificate of approval holder, whether by means of a term or condition of an agreement or otherwise, may fix or maintain the price at which the wholesale licensee sells any product.

§1460. Retaliatory action prohibited

1. Retaliatory action prohibited. A certificate of approval holder may not take retaliatory action against a wholesale licensee who files or indicates an intention to file a complaint of alleged violation of state or federal law or regulation by the certificate of approval holder with the appropriate state or federal regulatory authority.

2. Retaliatory action described. Retaliatory action includes, but is not limited to:

A. Refusal without good cause to continue the agreement; or

B. A material reduction in the quality of service or quantity of products available to the wholesale licensee under the agreement.

§1461. Management and personnel of wholesale licensee

No certificate of approval holder may require or prohibit any change in management or personnel of any wholesale licensee unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the certificate of approval holder.

§1462. No waiver; good faith settlements

No certificate of approval holder may require any wholesale licensee to waive compliance with any provisions of this chapter. Nothing in this chapter limits or prohibits good faith settlements of disputes voluntarily entered into between the parties.

§1463. Sale of certificate of approval holder

1. Purchaser obligated. The purchaser of a certificate of approval holder is obligated to all of the terms and conditions of the agreement in effect on the date of purchase.

2. Purchase defined. "Purchase," as defined for the purposes of this chapter, includes, but is not limited to:

- A. Sale of stock;
- B. Sale of assets;
- C. Merger;
- D. Lease;
- E. Transfer; or
- F. Consolidation.

§1464. Coverage

The provisions of this chapter apply to agreements between certificate of approval holders and wholesale licensees in existence on September 16, 1979, and those entered into after that date.

§1465. Right of free association

No certificate of approval holder or wholesale licensee may restrict or inhibit, directly or indirectly, the right of free association of certificate of approval holders or wholesale licensees for any lawful purpose.

CHAPTER 59

SALES REPRESENTATIVES

§1501. Lists of officers, partners and sales representatives

All persons 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 the name of the sales representatives of the person with

in the State.

§1502. License; fee; renewals

The sales representatives shall apply to the commission for a license disclosing the person, firm or corporation represented.

1. Fee. The annual license fee is \$10.

2. Term of license. The license expires on the last day of December of the year in which it is obtained. It may be renewed annually on payment of the fee.

§1503. Revocation of license

Licenses issued by the commission under this chapter shall be revoked for the violation of the liquor laws or any rule adopted by the commission.

PART 4

TAXES AND ALCOHOL PREMIUM

CHAPTER 65

TAXES

§1651. Consumers' tax

1. State liquor tax. Except as provided in subsection 2, the commission shall determine and set the price at which to sell all spirits which will produce a state liquor tax of not less than 75% based on the less carload cost F.O.B. commission warehouse.

A. In all cases the commission may round off costs to the next highest 5¢.

B. Any increased federal taxes levied on or after November 1, 1941, shall be added to the established price without markup.

2. Special pricing situations. The commission may set prices at different levels in the following special situations.

A. In addition to the tax imposed under subsection 1, there shall be levied and imposed an excise tax of 75¢ per gallon on fortified wines.

B. The commission shall base the prices for spirits bought by the commission from Maine licensees to manufacture liquor under section 1355 on minimum truck load delivery prices F.O.B. warehouse.

C. Notwithstanding the other provisions of this section, with approval of the Commissioner of Finance, the commission may reduce the price of discontinued items of liquor. The reduced price must not be less than the actual cost of the discontinued liquor items and the commission may not discontinue an item for

a period of at least 6 months after that item has been listed and on sale in state liquor stores.

D. The commission shall price special orders by the commission for unstocked merchandise at not less than 75% over actual cost delivered F.O.B. warehouse.

E. Notwithstanding the other provisions of this section, the commission may establish special prices on certain listed liquor items to be made available to the consumer at all state stores. These special prices must not be lower than the price established for the same listed item at the 2 discount state liquor stores authorized under section 403.

F. Spirits sold under section 606 may be sold at prices established under section 606.

3. Applicability of tax. Taxes on spirits imposed by the State do not apply to sales of spirits by manufacturers, bottlers and rectifiers holding licenses from the commission:

A. To any instrumentality of the United States;

B. To any vessel of foreign registry;

C. To industrial establishments for use as an ingredient in the manufacture of food products; or

D. For use as an ingredient in the manufacture of commodities which by reason of their nature cannot be used for beverage purposes.

4. Net revenue deposited to General Fund. The commission shall deposit all net revenue derived from the tax under this section to the credit of the General Fund.

§1652. Excise tax on malt liquor and wine; deficiency account; credits; refunds

1. Excise tax on malt liquor. An excise tax is imposed on the privilege of manufacturing and selling malt liquor in the State. A manufacturer shall pay an excise tax of 5 1/3¢ per gallon of malt liquor manufactured in the State. A wholesale licensee who imports malt liquor shall pay an excise tax of 25¢ per gallon.

2. Excise tax on wine. An excise tax is imposed on the privilege of manufacturing and selling wine in the State. A wholesale licensee who imports wine shall pay an excise tax of 30¢ per gallon on all wine other than sparkling wine imported into the State and \$1 per gallon on all sparkling wine imported into the State. Except as provided in paragraph A, the manufacturer or bottler shall pay an excise tax of 20¢ per gallon on all wine other than sparkling wine manufactured or bottled in the State and \$1 per gallon on all sparkling wine manufactured or bottled in the State.

A. Until July 1, 1989, the excise tax imposed on wine

produced by a licensed Maine farm winery, is 5¢ per gallon on the first 10,000 gallons of wine produced in one year; 10¢ per gallon on all wine produced in excess of 10,000 gallons, but not in excess of 25,000 gallons; and 20¢ per gallon on all wine produced in excess of 25,000 gallons.

3. General Fund. The commission shall immediately deposit all money received under this section to be credited to the General Fund.

4. Excise tax accounts and adjustments. The commission shall open an excise tax account with all manufacturers, wholesale licensees and certificate of approval holders and make the following adjustments when appropriate.

A. The commission may grant credits and make tax adjustments that it determines the wholesale licensee or certificate of approval holder is entitled to upon the filing of affidavits in the form prescribed by the commission.

B. The commission shall refund all excise tax and premium paid by the wholesale licensee or certificate of approval holder on all malt liquor or wine caused to be destroyed by a supplier as long as the quantity and size are verified by the bureau and the destruction is witnessed by an authorized representative of the bureau.

C. If a wholesale licensee's inventories are destroyed by fire, flood or other natural disaster, the commission may refund the excise tax and premium on the wholesale licensee's inventories.

D. Any wholesale licensee selling to an instrumentality, training site or ship chandler shall present proof of that sale to the commission. The commission shall grant to the wholesale licensee a credit of all state excise tax and premium paid in connection with that sale under the following conditions.

(1) The commission shall grant a credit for the excise tax and premium on malt liquor or wine sold by wholesale licensees to any instrumentality of the United States or any Maine National Guard state training site exempted by the commission.

(2) The commission shall grant a credit for the excise tax and premium on malt liquor or wine sold to any ship chandler, provided that the malt liquor and wine are resold to vessels of foreign registry for consumption after that vessel has left port or are resold for consumption on board vessels of United States registry which are destined for a foreign port.

CHAPTER 67

ALCOHOLISM PREVENTION, EDUCATION, TREATMENT AND RESEARCH

§1701. Findings and intent1. Findings. The Legislature finds that:A. Alcoholism is an increasingly costly burden on the personal lives and pocketbooks of Maine citizens;B. A small minority of the population consumes the vast majority of liquor sold;C. The public is unfairly burdened with the expense of preventing alcoholism and of caring for alcoholics; andD. The growing cost of prevention and treatment should be borne by those persons who deliberately incur the risk of contracting this disease.2. Intent. Accordingly, the intent of this chapter is to ensure that programs for alcoholism prevention, education, treatment and research are adequately supported by shifting the financial burden of preventing and treating alcoholism to those who choose to drink.§1702. Alcoholism Prevention, Education, Treatment and Research Fund1. Establishment. There is established a nonlapsing fund known as the Alcoholism Prevention, Education, Treatment and Research Fund, which shall be used to carry out the purposes of this chapter.2. Revenues. All premiums collected under section 1703 and money received from any other source shall be deposited in this fund.3. Expenditures. Expenditures shall be made from the fund in accordance with the allocation procedure of section 1704.4. Reports. The State Controller shall maintain records and prepare reports in accordance with the provisions of Title 5, chapter 143.§1703. Premiums; collection1. Spirits. The commission shall sell all spirits, at a price which will produce, in addition to any other tax or charge imposed under state or federal law, a premium in the amount specified in subsection 3.2. Malt liquor and wine. In addition to any other tax or charge imposed under state or federal law, a premium shall be imposed on all malt liquor and wine sold in the State. The premium shall be in the amount specified in subsection 3.A. The commission shall open a premium account with all manufacturers and importing wholesalers.B. Premiums shall be collected in the same manner provided for the collection of excise taxes under sec-tions 1404 and 1405.C. Premiums shall be paid to the commission by the Maine manufacturer or importing wholesaler.D. The duties, prohibitions and liabilities under this subsection of licensees and certificate of approval holders are the same as those under sections 1361, 1364, 1404 and 1405.E. The commission shall grant credits and make adjustments under this subsection on the same terms and conditions as provided in section 1652.3. Amount of premium. The premium imposed by subsections 1 and 2 is:A. Ten cents per gallon on all malt beverages sold in the State;B. Thirty cents per gallon on all wine, other than sparkling wine, sold in the State;C. Twenty-four cents per gallon on all sparkling wine sold in the State; andD. One dollar and twenty-five cents per proof gallon as the term proof gallon is defined in the United States Code, Title 26, Section 5002, on all spirits sold in the State.4. Payment to fund. The commission shall immediately pay all premiums it collects under this section to the Treasurer of State to be credited to the fund under section 1702.§1704. Allocations procedure1. Purposes and objects. The Legislature may make allocations from the fund to any public or private agency or person to carry out the purposes of this chapter. Beginning in 1987, legislation relating to allocations from the fund shall be reviewed by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. This legislation shall be submitted in the same line category format, including position count, as that required of legislation affecting the General Fund. Other legislation relating to the alcoholism programs shall be reviewed by the appropriate committee.2. Commissioners' reports. The Commissioner of Corrections, the Commissioner of Educational and Cultural Services, the Commissioner of Human Services and the Commissioner of Mental Health and Mental Retardation, through the Alcohol and Drug Abuse Planning Committee established in Title 22, chapter 1601, subchapter V, shall prepare and submit the reports specified in that subchapter. Other governmental departments and non-governmental organizations may be consulted in the preparation of these reports. The planning committee may hold hearings, solicit and receive proposals or take

any other action it considers necessary and appropriate in order to prepare its reports.

3. Additional information. In addition to the information required by subsection 2, the commissioners shall compile information concerning payments for health care of alcoholism and drug dependency treatment paid by any nonprofit hospital or medical service organization or insurer to recipients of allocations from the fund, under a group contract or policy of health care coverage. The commissioners shall compile this information, which the agencies or other persons receiving these allocations shall provide, showing the amount of group health care coverage money received by each agency or other person in the appropriate fiscal year. The commissioners shall submit this information together with the report required by subsection 2, and may include any specific recommendations concerning possible adjustments to allocations, based upon receipts of money under group health care policies or contracts.

4. Other recommendations. The public shall be afforded appropriate opportunity to make recommendations directly to the Legislature concerning allocations from the fund.

5. Legislative prerogative. Nothing in this chapter or in Title 22, chapter 1601, may be construed to:

A. Authorize any agency or person to disburse, administer, coordinate or otherwise act with respect to allocations from the fund, unless so authorized by the allocation;

B. Require the Legislature to make an allocation from the fund or to allocate a specific amount to any particular agency or person; or

C. Preclude the Legislature from making any allocation of any amount from the fund irrespective of any recommendation, provided that the allocation carries out the purposes of this chapter.

PART 5

NONBEVERAGE USE OF LIQUOR

CHAPTER 75

SALE OF FOOD PRODUCTS WITH A HIGH ALCOHOL CONTENT

§1901. Restrictions on sale of food containing liquor

1. Sales of food containing liquor restricted. No person other than a licensee may sell food products with an alcohol content greater than 1/2 of 1% by volume.

2. Minors as purchasers or consumers. No person may sell to minors food products with an alcohol content greater than 1/2 of 1% by volume. No minor may consume such food products except in the presence of a par-

ent, legal guardian or custodian, as defined in Title 22, section 4002.

3. Food flavorings with high alcohol content. This section does not apply to the sale of food flavorings, such as vanilla extract or lemon extract, or other similar articles commonly used for cooking or flavoring which contain alcohol, but are not intended to be consumed as beverages.

§1902. Penalties

Any person who violates a provision of this chapter is guilty of a Class E crime.

PART 6

PROHIBITED ACTS AND PENALTIES

CHAPTER 81

PROHIBITED ACTS BY MINORS

§2051. Prohibited acts by minors

1. Prohibited acts. A minor may not:

A. Purchase any liquor;

B. Consume any liquor, except in his own home in the presence of his parent, legal guardian or custodian, as defined in Title 22, section 4002;

C. Have on his person any liquor in any premises licensed for the sale of liquor to be consumed on the premises;

D. Present or offer to any licensee, the licensee's agent or employee any written or oral evidence of age which is false, fraudulent or not actually his own, for the purpose of:

(1) Ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any liquor; or

(2) To gain access to a licensed premise when minors are not allowed; or

E. Have any liquor in his possession except:

(1) In the scope of his employment; or

(2) In his own home in the presence of his parent, legal guardian or custodian, as defined in Title 22, section 4002.

2. Violation. Any minor who violates this section commits a civil violation for which a forfeiture shall be adjudged of not less than \$100 or more than \$300 for the first offense; not less than \$200 or more than \$500 for the 2nd offense, none of which may be suspended; and

\$500 for the 3rd and subsequent offenses, none of which may be suspended.

A. When a person is adjudged to have committed his first offense under this section, the judge shall inform that person that the forfeitures for the 2nd and subsequent offenses are mandatory and cannot be suspended. Failure to inform the first offender that subsequent forfeitures are mandatory is not a ground for suspension of any subsequent forfeiture.

3. Minor cannot be charged with more than one offense. No minor may be charged with more than one offense under this section in any given instance in which the same set of facts is involved.

4. Illegal possession and illegal transportation. If a minor is charged with illegal possession under this section, he may not be charged with illegal transportation under section 2052.

§2052. Illegal transportation by minors

1. Minor may not transport liquor; exception. Except as provided in paragraph A, no minor may knowingly transport or knowingly permit to be transported any liquor in a motor vehicle under his control.

A. A minor may transport liquor or permit liquor to be transported in a motor vehicle if in the scope of his employment, or at the request of his parent, legal guardian or custodian, as defined in Title 22, section 4002.

2. No conviction if liquor not within minor's section. No minor may be found in violation of any offense under this section if liquor is found outside the passenger or driver's section of a motor vehicle under his control, unless the minor has actual knowledge of the presence of the liquor. The trunk or locked glove compartment of any vehicle shall not be construed under this section to be within the passenger or driver's section of the motor vehicle.

3. Violation. Any minor who violates this section commits a traffic infraction.

4. Minor cannot be charged with both illegal transportation and illegal possession. If a minor is charged with illegal transportation under this section, he may not be charged with illegal possession under section 2051.

§2053. Suspension of minor's operator's license for illegal transportation

1. Court shall suspend license. The court shall suspend the operator's license or right to operate, or right to obtain a license, of a minor found in violation of section 2052 for a period of 20 days. The court shall immediately forward the license to the Secretary of State together with the record of adjudication on the form furnished for reporting convictions and adjudications for violations of Title 29.

2. Additional suspension by court. 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 the recommendation must be noted on the abstract of adjudication sent to the Secretary of State.

3. Secretary of State shall suspend license. Immediately upon receipt of the record, the Secretary of State shall suspend the license, or right to operate, or right to obtain a license, of the minor for the recommended period not to exceed 60 days, including the 20-day suspension imposed by the court, without further hearing. The Secretary of State shall also assign demerit points according to Title 29, section 2241, subsection 2.

4. Exclusive penalty. The penalty provided in this section is the exclusive penalty for violating section 2052, and is not in conflict with Title 15, Part 6, but is additional to the criminal offense defined in section 2051.

§2054. Execution of suspension stayed during appeal

If any person adjudicated to be in violation of section 2052 appeals from the judgment of the trial court, the execution of any suspension imposed on his license, right to obtain a license, and right to operate a motor vehicle in the State shall be stayed pending appeal and shall begin when and if the judgment is upheld or the appeal is withdrawn.

CHAPTER 83

PROHIBITED ACTS IN GENERAL

§2071. Failure to appear before the commission

1. Failure to appear when summoned. It is illegal for a person who is summoned as a witness by a member of the commission to appear before the commission, to fail to appear without reasonable cause at the time and place designated in the subpoena or summons.

2. Penalties. A person who violates this section commits a Class E crime.

§2072. Illegal deposit or possession with intent to sell

1. Illegal deposit or possession. No person may deposit or have in his possession any liquor:

A. With intent to sell the liquor in the State in violation of law;

B. With intent that the liquor shall be sold in the State in violation of law by any person; or

C. With intent to aid or assist any person in an illegal sale.

2. Penalties. A person who violates this section commits a Class E crime.

§2073. Importation and transportation of liquor within the State

1. Illegal transportation of liquor within the State. No person may knowingly transport within the State any liquor:

A. With intent to sell the liquor in the State in violation of law;

B. With intent that the liquor be illegally sold by any person; or

C. With intent to aid any person in illegal sale of liquor.

2. Penalties. A person who knowingly violates this section commits a Class E crime.

3. Legal importation into and transportation of liquor within the State. Liquor may be legally imported into and transported within the State in the following situations.

A. Upon application, the commission may grant to an individual a permit to transport liquor purchased for his own personal use.

B. For-hire carriers and contract carriers, authorized by the Department of Public Safety, may transport liquor to state liquor stores, to liquor warehouses, to licensees, to purchasers of liquor at state liquor stores and from manufacturers to liquor warehouses, state liquor stores and to the state line for transportation outside the State.

C. Licensees may transport liquor from state liquor stores to their places of business.

D. Manufacturers may transport liquor within the State to liquor warehouses and state liquor stores, to persons authorized under paragraph E and to the state line for transportation outside the State.

E. The commission may permit in writing the importation of liquor into the State and the transportation of liquor from place to place within the State to the following destinations for the specified purposes:

(1) To hospitals and state institutions, for medicinal purposes only, liquor made available to them from stocks of liquor seized by the Federal Government.

(2) To industrial establishments in the State for industrial uses;

(3) To schools, colleges and state institutions for laboratory use only;

(4) To any licensed pharmacist in the State for use in the compounding of prescriptions and other medic-

inal use, but not for sale by pharmacists unless compounded with or mixed with other substances; or

(5) To any physician, surgeon, osteopath, chiropractor, optometrist, dentist or veterinarian for medicinal use only.

F. The commission may authorize hospitals and state institutions to purchase liquor, for medicinal purposes only, from wholesale licensees and state liquor stores. Such authorization must be in writing.

§2074. Illegal transportation of liquor on or off licensed premises

1. Transportation on-premises or off-premises. Any person who transports liquor onto or off of the premises of an on-premise retail licensee is guilty of a Class E crime.

2. Defense. It is a defense to a prosecution under this section that the transportation was authorized or permitted by the licensee, the licensee's agent or the licensee's employee.

§2075. Importation and transportation of spirits

1. Only the commission may import spirits; exception. Except as provided in this section, no person other than the commission may import spirits into the State.

A. An individual may transport into the State and may transport from place to place within the State spirits for his personal use in a quantity not greater than 4 quarts.

2. Transportation of spirits within the State. No person may transport or cause to be transported any spirits within the State in a quantity greater than 4 quarts unless the spirits were purchased from a state liquor store.

3. Importation and transportation of spirits for special purposes. The commission may, in writing, permit and authorize the importation of spirits into the State and the transportation of spirits from place to place within the State to the following destinations for the specified purposes:

A. To industrial establishments for use as an ingredient in the manufacture of food products, or for use as an ingredient in the manufacture of commodities which by reason of their nature cannot be used for beverage purposes, or for use in the manufacture of commodities unfit for beverage purposes;

B. To licensed distillers and manufacturers of spirits in the State for use as an ingredient in distilling or manufacturing spirits and other spirituous products which are authorized by Federal Regulations 27, Code of Federal Regulations; and

C. To churches or to the pastor of any church for sacramental purposes or similar religious rites.

4. Penalties. Any person who illegally imports spirits, or causes spirits to be shipped into the State commits a Class E crime.

§2076. Illegal delivery of liquor

1. Delivery of liquor. Except with the commission's written permission, no person may knowingly transport to or cause to be delivered to any person other than the commission any spirits not purchased from a state liquor store or the commission.

2. Penalties. Any person who violates this section commits a Class E crime.

§2077. Importation and transportation of malt liquor and wine

1. Importation of malt liquor or wine into the State. No person other than a wholesale licensee may transport or cause to be transported malt liquor or wine into the State in a quantity greater than one case for malt liquor and 4 quarts for wine, unless it was legally purchased in the State.

A. All shipments of malt liquor or wine transported or caused to be transported by wholesale licensees into the State must be accompanied by an invoice, including the wholesale licensee's name and purchase number.

2. Transportation of malt liquor and wine within the State. No person other than a licensee may transport malt liquor, in a quantity greater than one case, or wine, in a quantity greater than 4 quarts, within the State unless it was purchased from an off-premise retail licensee.

3. For-hire carriers and contract carriers may import and transport within the State. For-hire carriers and contract carriers, authorized by the Department of Public Safety, may transport malt liquor or wine into and within the State to licensees, to purchasers of malt liquor or wine from licensees and to the state line for transportation outside the State.

4. Penalties. Any person who illegally transports malt liquor or wine into or within the State commits a Class E crime.

§2078. Illegal sale of liquor

1. Sale of liquor without a valid license. Any person who, or any person whose employee or agent, sells liquor within the State without a valid license commits a Class E crime and, notwithstanding Title 17-A, section 4-A, shall be punished:

A. For the first offense, by a fine of not less than \$300 plus costs nor more than \$500 plus costs, which fine

and costs may not be suspended, and an additional penalty of not more than 30 days imprisonment at the discretion of the court;

B. For a 2nd offense, by a fine of not less than \$500 plus costs nor more than \$1,000 plus costs, which fine and costs may not be suspended, and an additional penalty of not more than 60 days imprisonment at the discretion of the court; and

C. For all subsequent offenses, by a fine of not less than \$1,000 plus costs and 60 days imprisonment, which fine and costs and sentence may not be suspended, and an additional penalty of 4 months imprisonment at the discretion of the court.

2. Employee or agent equally guilty. Any agent or other person in the employment of or on the premises of another, who violates or in any manner assists in violating any law relating to liquor, is equally guilty with the principal and is subject to the same penalties.

§2079. Aiding children in illegal possession or sale

Any person who personally or by his employee or agent, directly or indirectly, employs or permits any child under the age of 16 years to assist him in the illegal possession or the illegal sale of liquor shall be punished, in addition to the penalties otherwise provided against the illegal possession for sale or illegal sale of liquor, by a fine of not less than \$100 or by imprisonment for not less than 60 days.

§2080. Common sellers

1. Common seller. No person may be a common seller of liquor.

2. Penalties. Any person who violates this section commits a Class E crime.

§2081. Furnishing or allowing consumption of liquor by certain persons prohibited

1. Offense. Except as provided in subsection 2, no person may knowingly:

A. Procure, or in any way aid or assist in procuring, furnish, give or deliver liquor for or to a minor or an intoxicated person; or

B. Allow any minor under his control, or on premises under his control, to consume liquor.

2. Exceptions. This section does not apply to a person who serves liquor to a minor in a home in the presence of the minor's parent, legal guardian or custodian, as defined in Title 22, section 4002.

3. Penalty. Any person who violates this section commits a Class E crime.

4. Application. This section does not apply to licensees or agents of licensees in the scope of their employment.

§2082. Sale of imitation liquor

1. Sale of imitation liquor to minor prohibited. No person may sell or offer for sale or exchange to any minor any imitation liquor.

2. Applicability. This section does not apply to the following products:

A. Products commonly known as "root beer," "ginger ale," "cider" and all soft drinks; and

B. Beverages containing more than 1/2 of 1% alcohol by volume.

3. Violation. Any person who violates this section is guilty of a Class E crime.

§2083. Sale or delivery of liquor to prisoners

1. Offense. No person may:

A. Give or deliver any liquor to a person confined in any jail, house of correction or other place of confinement, or to a person in custody of any officer qualified to serve criminal process; or

B. Have in his possession, within the precincts of any jail, house of correction or other place of confinement, any liquor, with intent to convey or deliver the liquor to any person confined there.

2. Exception. This section does not apply to any person who provides liquor to a prisoner, or possesses liquor to provide it to a prisoner:

A. Under the direction of the physician appointed to attend the prisoner; or

B. Under the direction of the officer in charge of the place of confinement.

3. Penalties. Any person who violates this section commits a Class E crime.

PART 7

ENFORCEMENT

CHAPTER 91

ENFORCEMENT AND JURISDICTION

SUBCHAPTER I

GENERAL

§2201. Jurisdiction of courts

In prosecutions under this Title, except when otherwise expressly provided, the District Court shall have, by complaint, jurisdiction concurrent with the Superior Court.

§2202. Bail after failure to comply with terms of bond

In any prosecution for violation of the laws relating to manufacture or sale of liquor, a defendant who has failed to comply with the term of any bond entered into by him in that case may not again be admitted to bail in that case or upon arrest on any warrant issued in that case, except by a justice of the court in which that prosecution is pending.

§2203. Evidence; parties liable; prosecution; prior convictions; amendment of process

1. Evidence of illegal sale. Whenever an illegal sale is alleged and a delivery proved, the delivery is sufficient evidence of sale and it is not necessary to prove a payment.

2. Parties liable. A partner in business is liable for the illegal keeping or selling by his partner, done in the partnership business, or by any other person in any shop, store or other place of business of the partnership with his knowledge or assent. A principal and his agent and employee may all be included in the same complaint and process.

3. Prosecution of bond when municipality interested. 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 Title in which the municipality is interested. The civil action shall be prosecuted to final judgment unless paid in full with costs.

4. Enforcement by municipality. The municipal officers or law enforcement officers in each municipality shall file the complaint and prosecute all violations and shall promptly enforce this Title.

A. Any municipal officer or law enforcement officer who willfully or corruptly neglects or refuses to enforce this Title shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months.

B. If, after being furnished with a written notice of a violation of this Title, signed by 2 persons competent to be witnesses in civil actions, and containing the names and residences of the witnesses to prove the offense, a municipal officer willfully neglects or refuses to institute proceedings on the violation, he shall be punished by a fine of not less than \$20 nor more than \$50, to be recovered by indictment.

C. The oath required of any municipal 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.

D. If an execution or other final process, issued in any civil or criminal action instituted under this Title, is placed in the hands of any proper officer to be by him executed and that officer unreasonably neglects or refuses to do so, any voter in the county may commence an action against him and prosecute the action to final judgment.

(1) The action shall be for the full amount of the judgment and interest on the execution.

(2) If the process requires the officer to take and commit an offender to prison, the damages must not be less than \$50 nor more than \$500.

5. Former conviction. In actions, complaints, indictments or other proceedings for a violation of any provision of this Title, other than for a first offense, it is not necessary to set forth particularly the record of a former conviction, but it is sufficient to allege briefly that the person has been convicted of a violation of a particular provision or as a common seller, as the case may be.

6. Amendment of allegation and process. The 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.

§2204. Persons in illegal liquor traffic disqualified from jury

1. Ineligible to sit on jury. No person engaged in the illegal traffic in liquor is competent to sit as a juror in any case arising under this Title.

2. Juror believed to be involved in illegal traffic in liquor. When information is communicated to the court that a member of any panel is engaged in illegal traffic in liquor, or that he is believed to be so engaged, the court shall inquire of the panel member of whom the claim is made.

A. No answer which the questioned panel member makes may be used against him in any case arising under this Title.

B. If the questioned panel member answers falsely, he is not eligible to serve on any jury.

C. The questioned panel member may decline to answer, in which case the court shall discharge him from all further attendance as a juror.

§2205. Appeals; discharge of sureties

1. Procedure for appeals. In appeals, the proceedings shall be the same in the appellate court as they would be in the court below, and shall be conducted by the attorney for the State.

A. The jury shall find specially under the direction of the court on all facts necessary to adjudicate the case.

2. Claimant or respondent fails to appear. If a claimant or other respondent fails to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed.

3. Recognizance or surety retained. No portion of the penalty of any recognizance taken under this Title shall be remitted by any court in any suit. No surety in any such recognizance may be discharged from his liability by a surrender of his principal in court after he has been defaulted upon his recognizance, unless the principal has been sentenced upon the indictment or complaint on which the recognizance was taken.

4. Appeals provided for under section 2224. The appeals of claimants provided for in section 2224 shall be entered as all other appeals in criminal cases and be subject to the requirements of law pertaining to them.

§2206. Continuance for sentence

When a person is convicted in the Superior Court of a violation of any of the provisions of this Title, the county attorney shall move for sentence at the same term, unless for reasons satisfactory to the court the case is continued for sentence for at most one term.

SUBCHAPTER II

OFFICIALS AND THEIR DUTIES

§2211. Power of law enforcement officers to stop vehicles; restrictions

If a law enforcement officer has probable cause to believe that a violation of the liquor laws has taken or is taking place, the officer may, at any time, stop any motor vehicle or other conveyance to arrest or question its operator or occupant or to search the motor vehicle or conveyance.

§2212. State liquor enforcement officers vehicles

Notwithstanding the provisions of Title 29, sections 1362 and 1368, motor vehicles operated by state liquor enforcement officers may be equipped with sirens and with lights which emit a blue beam of light. The equipment permitted by this section may be used only to discharge law enforcement responsibilities in connection with this Title and Title 29, sections 1312 and 1312-B.

SUBCHAPTER IIISEARCH AND SEIZURE§2221. Seizure and forfeiture of vehicles containing liquor

1. Seizure of vehicles. Any law enforcement officer seizing liquor intended for illegal sale shall also seize the automobile, truck, wagon, aircraft, boat, vessel or vehicle of any kind, other than for-hire carriers, containing the liquor. The officer shall libel the liquor as provided in section 2224.

2. Seizure within 30 days; libeling of vehicle. In all cases where an officer may seize liquor which is transported for illegal sale, he may seize within a period of 30 days of the transportation, with a warrant upon a sworn complaint issued by the proper officer of the District Court upon complaint, the automobile, truck, wagon, aircraft, boat, vessel or vehicle of any kind, other than a common carrier, which was used to transport liquor intended for illegal sale.

A. The officer shall libel and dispose of the automobile, truck, wagon, aircraft, boat, vessel or vehicle in the same manner as liquor as provided in section 2224.

3. Rights of bona fide purchaser or lienholder. 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 the illegal transportation and the seizure under the terms of this section.

4. Rights of persons not in possession or control. This section is subject to the rights of persons not in possession or control of the automobile, truck, wagon, aircraft, boat, vessel or vehicle of any kind as provided by section 2222.

§2222. Claim of owner that illegal use of vehicle or boat was without knowledge or consent

1. Interest in vehicle forfeited. Any right, title or interest of any person other than the person or persons in possession or control of any automobile, truck, wagon, boat, vessel or vehicle seized under section 2221 shall be forfeited unless the use of the vehicle for the transportation of liquor was without his knowledge or consent.

2. Allege and prove lack of knowledge or consent. Any claimant of any right, title or interest in an automobile, truck, wagon, boat, vessel or vehicle seized under section 2221 must allege and prove that its use for the transportation of liquor was without his knowledge or consent. The court may determine in the proceeding on such claim the right, title or interest, if any, of the claimant.

§2223. Dumping of evidence; prima facie evidence of common sellers

1. Seizure of liquor illegally kept or deposited. A law enforcement officer shall seize liquor illegally kept or deposited, with the receptacles containing the liquor. The liquor must be safely kept until final action on the liquor.

2. Arrest of person illegally keeping liquor. The person who is found to be illegally keeping liquor shall be arrested and held to answer for keeping the liquor intended for illegal sale.

3. Destruction of liquor is prima facie evidence that liquor was intended for illegal sale. The pouring out or other destruction of fluids by any person on or about the premises which are about to be or are being searched, for the purpose of preventing the seizure of those fluids by officers authorized to make such search and seizure, is prima facie evidence that the fluids poured out or destroyed were liquor intended for illegal sale.

4. Penalties. Any person who violates this section commits a Class E crime.

5. Notice is prima facie evidence that person is a common seller and premises are a common nuisance. Notice of any kind in any place, indicating that liquor is illegally kept, sold or given away is prima facie evidence that the person or persons displaying the notice are common sellers of liquor and that the premises kept by them are common nuisances.

§2224. Duty of officer on seizure; proceedings

1. Officer's duty. When an officer seizes liquor and receptacles containing the liquor under section 2223, the officer shall immediately file with the court before whom the warrant is returnable, a libel against the liquor and receptacles, and shall pray for a decree of forfeiture of the liquor and receptacles. The libel must:

A. Set forth the seizure of the liquor and receptacles by the officer;

B. Describe the liquor and the place of seizure; and

C. Set forth that the liquor was deposited, kept and intended for sale in violation of law.

2. Court action. The court shall set a time for the hearing on the libel and shall issue his monition and notice of the hearing to all persons interested.

A. At least 10 days before the day to which the libel is returnable, the court shall cause a true and attested copy of the libel and monition to be posted in 2 public and conspicuous places in the town or place where the liquor was seized. The monition must cite all interested parties to appear at the time and place appointed and show cause why the liquor and the receptacles in which it is contained should not be declared forfeited.

3. Forfeiture if no claimant appears. If no claimant

appears, the court shall, on proof of notice, declare the liquor and the receptacles in which it is contained forfeited to the county in which they were seized.

4. Claimant who appears must file claim in writing; admitted as party. Any person who appears and claims all or any part of the liquor as having a right to possession at the time when they were seized shall file with the court his claim in writing. He must sign the claim and swear to its truth before the court.

A. The claim must state:

- (1) Specifically the right claimed and the foundation of that right;
- (2) The items claimed;
- (3) The time and place of the seizure;
- (4) The name of the officer by whom they were seized;
- (5) That they were not kept or deposited for illegal sale as alleged in the libel and monition; and
- (6) The claimant's business and place of residence.

B. Any person who files a claim under this subsection shall be admitted as a party to the process.

5. Hearing on the libel and claim. The court shall hold a hearing to determine the truth of the allegations in the libel and claim and may hear any pertinent evidence offered by the libellant or claimant.

6. Liquor not kept for illegal sale. If the court is satisfied that the liquor was not kept or deposited for illegal sale and that the claimant is entitled to the custody of all or part of the liquor, the court shall give the claimant a written order. The order must direct the officer having the liquor in custody to deliver to the claimant within 48 hours of demand, the liquor to which the court has determined the claimant is entitled.

7. Liquor kept for illegal sale. If the court finds that the claimant is entitled to no part of the liquor, he shall:

- A. Render judgment against the claimant and for the libellant for costs, to be taxed as in civil cases before the court; and
- B. Issue execution and shall declare such liquor forfeited to the county where seized.

8. Claimant may appeal. The claimant may appeal and shall recognize with sureties as on appeals in civil cases.

§2225. Warrant for claimant

1. Warrant issued for claimant. The court shall is-

sue a warrant for a claimant against whom a sworn complaint has been filed alleging that:

A. The liquor claimed by the claimant was, before and at the time when it was seized, kept or deposited by the claimant or by a person under the claimant's authority; and

B. The liquor was intended for illegal sale in the State either by the claimant or by a person under the claimant's authority.

2. Claimant arrested and tried. The claimant shall be arrested under the warrant and be tried before the court.

3. Penalties. A claimant who is convicted shall be punished as is provided in section 2223.

§2226. Destruction to prevent seizure; arrest of owner; appliances and evidences seized

1. Destruction of liquor to prevent seizure. If a law enforcement officer, who has a warrant directing him to seize any liquor and to arrest the owner or keeper of that liquor, is prevented from seizing the liquor because it was poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant and bring him before the court.

2. Return upon warrant when liquor destroyed. The officer shall make return upon the warrant that he was prevented from seizing the liquor because it was poured out or otherwise destroyed.

A. The officer shall state in the return the quantity of liquor poured out or destroyed, as nearly as possible

3. Penalties. If it is proved that the liquor described in the warrant was poured out or destroyed, and that the liquor was kept or deposited and intended for illegal sale, and that the person arrested was the owner or keeper of the liquor, he shall be punished in the same manner as if the liquor described in the warrant and in the return had been seized on the warrant and brought before the court by the officer.

4. Dumps or appliances used to conceal or destroy liquor to be seized. The officer making the search or seizure shall also seize, as far as may be practicable:

A. All dumps or appliances for concealing, disguising or destroying liquors to prevent the liquor from being seized or identified, found in the possession or under the control of any person or persons; and

B. All bottles and drinking glasses or receptacles found in the possession or under the control of the person or persons.

5. Dumps, appliances, other equipment and evidence presented to grand jury; subject to order of court. All

items seized under subsection 4, together with all evidences of the dumps or appliances for concealing, disguising or destroying liquors, shall be presented to the next grand jury sitting in the county where the search and seizure is made for their consideration. The items shall then be subject to the order of the court issuing the warrant for the search and seizure.

§2227. Replevy pending proceeding prohibited

Liquor seized and the receptacles containing it shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings under this chapter are pending.

§2228. Recovery of liquor and damages upon final judgment

Final judgment in proceedings under this chapter 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.

§2229. Disposal of forfeited liquors

1. Court or judge to order forfeited liquor to be turned over to the commission. All liquors declared forfeited by a court under this Title shall, by order of the court rendering the final judgment, be turned over to the commission.

2. Sale of forfeited liquor by commission. Except as provided in paragraph A, the commission shall sell forfeited liquor in the state liquor stores throughout the State.

A. If any liquor is determined by the court to be unfit or unsatisfactory for consumption or retail sale, the court may order the liquor to be destroyed by any officer competent to serve the process on which it was forfeited. The officer shall make the return accordingly to the court.

(1) The liquor shall be destroyed by pouring it upon the ground or into a public sewer.

PART 8

LIQUOR LIABILITY

CHAPTER 100

MAINE LIQUOR LIABILITY ACT

§2501. Short title

This Act shall be known and may be cited as the "Maine Liquor Liability Act."

§2502. Purposes

1. Primary legislative purpose. The primary legislative purpose of this Act is to prevent intoxication-related injuries, deaths and other damages among the State's population.

2. Secondary purposes. The secondary legislative purposes are to:

A. Establish a legal basis for obtaining compensation for those suffering damages as a result of intoxication-related incidents in accordance with this Act;

B. Allocate the liability for payment of damages fairly among those responsible for the damages, which will encourage liquor liability insurance availability; and

C. Encourage all servers of alcohol to exercise responsible serving practices.

§2503. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Intoxicated individual. "Intoxicated individual" means an individual who is in a state of intoxication as defined by this Act.

2. Intoxication. "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or liquor use.

3. Licensee. Notwithstanding section 2, subsection 14, "licensee" means any person to whom a license of any kind is issued by the commission and any person who is required to be licensed to serve liquor.

4. Nonlicensee. "Nonlicensee" means any person who is neither a licensee nor an employee or agent of a licensee and is not required to be licensed under this Title.

5. Server. "Server" means a person who sells, gives or otherwise provides liquor to an individual.

6. Service of liquor. "Service of liquor" means any sale, gift or other furnishing of liquor.

7. Visibly intoxicated. "Visibly intoxicated" means a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual which clearly demonstrates a state of intoxication.

§2504. Plaintiffs

1. Persons who may bring suit. Except as provided in subsection 2, any person who suffers damage, as provided in section 2508, may bring an action under this Act, against a server for negligently or recklessly serving liquor to an individual.

2. Persons who may not bring suit. The following may not bring an action under this Act against a server for negligently serving liquor to an individual:

A. The intoxicated individual if he is at least 18 years of age when served by the server;

B. The estate of the intoxicated individual if the intoxicated individual was at least 18 years of age when served by the server; and

C. Any person asserting claims arising out of the personal injury or death of the intoxicated individual if the intoxicated individual was at least 18 years of age when served by the server.

§2505. Defendants

1. Licensee as a defendant. Any server who is a licensee or employee or agent of a licensee who commits an act giving rise to liability, as provided in sections 2506 and 2507, may be made a defendant to a claim under this Act.

2. Nonlicensee as a defendant. Any server who is a nonlicensee who commits an act giving rise to liability, as provided in section 2506, subsection 1, and section 2507, may be made a defendant to a claim under this Act.

§2506. Negligent service of liquor; liability

1. Negligent service to a minor. A server who negligently serves liquor to a minor is liable for damages proximately caused by that minor's consumption of the liquor.

2. Negligent service to a visibly intoxicated individual. A server who negligently serves liquor to a visibly intoxicated individual is liable for damages proximately caused by that individual's consumption of the liquor.

3. Negligent conduct. Service of liquor to a minor or to an intoxicated individual is negligent if the server knows or if a reasonable and prudent person in similar circumstances would know that the individual being served is a minor or is visibly intoxicated.

4. Server's knowledge of individual's consumption. A server is not chargeable with knowledge of an individual's consumption of liquor or other drugs off the server's premises, unless the individual's appearance and behavior, or other facts known to the server, would put a reasonable and prudent person on notice of such consumption.

§2507. Reckless service of liquor; liability

1. Reckless service to a minor. A server who recklessly provides liquor to a minor is liable for damages proximately caused by that minor's consumption of the liquor.

2. Reckless service to a visibly intoxicated individual.

A server who recklessly serves liquor to a visibly intoxicated individual is liable for damages proximately caused by that individual's consumption of the liquor.

3. Reckless conduct. Service of liquor is reckless if a server intentionally serves liquor to an individual when the server knows that the individual being served is a minor or is visibly intoxicated and the server consciously disregards an obvious and substantial risk that serving liquor to that individual will cause physical harm to the drinker or to others.

For purposes of this Act, the disregard of the risk, when viewed in light of the nature and purpose of the server's conduct and the circumstances known to him, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.

4. Evidence of reckless conduct. Specific serving practices that are admissible as evidence of reckless conduct include, but are not limited to, the following:

A. Active encouragement of intoxicated individuals to consume substantial amounts of liquor;

B. Service of liquor to an individual who is under 18 years of age when the server has actual or constructive knowledge of the individual's age; and

C. Service of liquor to an individual that is so continuous and excessive that it creates a substantial risk of death by alcohol poisoning.

§2508. Damages

1. Damages. Damages may be awarded for property damage, bodily injury or death proximately caused by the consumption of the liquor served by the server.

2. Damages under wrongful death and survival laws. Except as otherwise provided in this Act, damages may be recovered under Title 18-A, sections 2-804 and 3-817, as in other tort actions, subject to the damage limit of section 2509.

§2509. Limit on awards

1. Limitation on damages for losses other than expenses for medical care and treatment. In actions for damages permitted by this Act, the claim for and award of damages for all losses, except expenses for medical care and treatment, including devices or aids, against both a server and the server's employees and agents, may not exceed \$250,000 for any and all claims arising out of a single accident or occurrence.

2. Multiple claimants. When the amount for all losses, except expenses for medical care and treatment, including devices and aids, awarded to or settled for multiple claimants, exceeds the limit imposed by this section, any party may apply to the Superior Court for the

county where the server is located to allocate each claimant his equitable share of the total, limited as required by this section.

A. Any award by the court in excess of the maximum liability limit specified by subsection 1 shall be automatically abated by operation of this section to the maximum limit of liability.

§2510. Common law defenses

Defenses applicable to tort actions based on negligence and recklessness in this State may be asserted in defending actions brought under this Act.

§2511. Exclusive remedy

This Act is the exclusive remedy against servers who may be made defendants under section 2505, for claims by those suffering damages based on the servers' service of liquor.

§2512. Named and retained; several liability

1. Named and retained. No action against a server may be maintained unless the minor, the intoxicated individual or the estate of the minor or intoxicated individual is named as a defendant in the action and is retained in the action until the litigation is concluded by trial or settlement.

2. Several but not joint liability. The intoxicated individual and any server, as described in section 2505, are each severally liable and not jointly liable for that percentage of the plaintiff's damages which corresponds to each defendant's percentage of fault as determined by the court or a jury.

§2513. Notice required

Every plaintiff seeking damages under this Act must give written notice to all defendants within 180 days of the date of the server's conduct creating liability under this Act. The notice must specify the time, place and circumstances of the server's conduct creating liability under this Act and the time, place and circumstances of any resulting damages. No error or omission in the notice voids the effect of the notice, if otherwise valid, unless the error or omission is substantially material. Failure to give written notice within the time specified is grounds for dismissal of a claim, unless the plaintiff provides written notice within the limits of section 2514 and shows good cause why notice could not have reasonably been filed within the 180-day limit.

§2514. Statute of limitations

Any action under this Act against a server alleging negligent or reckless conduct must be brought within 2 years after the cause of action accrues.

§2515. Evidence of responsible serving practices

1. Responsible practices. Proof of the server's responsible serving practices is admissible as evidence that the server was not negligent or reckless. Responsible serving practices include, but are not limited to:

A. The server's and server's employees attendance at a server education training course; and

B. The server's implementation, at the time of service, of responsible management policies, procedures and actions.

2. Neither proof nor disproof of negligence or recklessness. Proof or disproof that the server was adhering to responsible serving practices is not by itself proof or disproof of negligence or recklessness.

§2516. Privileges

1. Refusal to serve. No licensee is liable for damages resulting from a good faith refusal to serve liquor to any individual who:

A. Fails to show proper identification of age;

B. Reasonably appears to be a minor; or

C. Is refused service in a good faith effort to prevent him from becoming visibly intoxicated.

2. Holding identification documents. No licensee is liable for retaining identification documents presented to the licensee as proof of the individual's age for the purpose of receiving liquor provided that:

A. Retention is for a reasonable length of time in a good faith effort to determine whether the individual is of legal age; and

B. The licensee informs the individual why he is retaining the identification documents.

3. Other defenses not limited. This section does not limit a licensee's right to assert any other defense provided by law.

4. Failure to exercise privileges. A licensee may not be held liable under this Act for failing to exercise any privilege provided in this section. This section does not provide immunity from liability under sections 2506 and 2507.

§2517. Insurance records

1. Superintendent shall keep records. The Superintendent of Insurance shall collect and maintain records on the following statistics concerning liquor liability insurance in this State:

A. The number and names of companies writing liquor liability insurance, either as a separate line or in a large policy;

B. The number and dollar amount of premiums collected for liquor liability insurance policies; and

C. The number and dollar amount of claims incurred under liquor liability insurance.

2. Superintendent shall make records available. The Superintendent of Insurance shall make available to the Legislature the information collected and maintained under subsection 1.

§2518. Informal evaluation

The joint standing committee of the Legislature having jurisdiction over legal affairs shall conduct an informal evaluation of this Act, to be completed within 2 years of its effective date. The evaluation shall address the effectiveness of the Act in achieving its stated purposes.

§2519. Approval of alcohol server education courses

1. Approval of alcohol server education courses. The Commissioner of Public Safety shall approve alcohol server education courses which meet the criteria developed under this section.

2. Advisory committee; appointment. The commissioner shall appoint the Server Education Advisory Committee consisting of 7 members, to include:

A. A representative of the faculty at the Maine Criminal Justice Academy;

B. A representative of the Bureau of Liquor Enforcement;

C. A representative of the Department of the Attorney General;

D. A representative of the Department of Human Services;

E. A representative of the Department of Educational and Cultural Services;

F. A representative of a statewide liquor licensee organization; and

G. A representative of a statewide trial lawyers organization.

3. Advisory committee; course criteria. The advisory committee shall determine specific criteria which an alcohol server education course must contain to receive approval. The specific criteria shall be based on and include the following.

A. The instructors of the program possess the relevant skills to provide instruction.

B. The course provides instruction and the development of skills in the following subject matters:

(1) Identification of intoxicated individuals and minors;

(2) Intervention to prevent excessive consumption of alcohol by such methods as serving food and encouraging the consumption of nonalcoholic beverages;

(3) Making consumers aware of their condition and their responsibility for driving in an intoxicated condition and providing alternate transportation when available;

(4) Knowledge of state laws relating to the sale and distribution of alcohol and the legal responsibilities of servers and consumers;

(5) Knowledge of the effect of alcohol by volume and timing of intake in relation to an individual's weight;

(6) Examination of proof of age identification and methods of detecting false or altered age identification documents;

(7) Policies and practices to prevent the sale or service of alcohol to minors and visibly intoxicated individuals; and

(8) The effects of alcohol on the human body, including the disease concept of alcoholism.

C. Participants are evaluated before taking the course and after completion of the course.

D. Participants who successfully complete the course and the final evaluation are awarded certificates recognizing that they have successfully completed an approved alcohol server education course.

4. Advisory committee; review and recommendation. The advisory committee shall review each alcohol server education course submitted to the commissioner and recommend that the commissioner either approve or not approve the course based on whether the course meets the criteria the advisory committee developed under subsection 3.

Sec. 5. Transition. The following provisions apply to the transition from the Maine Revised Statutes, Title 28 to Title 28-A.

1. Personnel. This Act shall have no effect on the terms or appointment of the commission members or employees of the commission, the bureau or the Bureau of Liquor Enforcement.

2. Funds and equipment. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in an account or subdivision of an account created by or ad-

ministered under Title 28 shall be transferred to the proper place under this Act by the State Controller on the request of the commission and the State Budget Officer, and with the approval of the Governor.

3. Agreements, leases, contracts, authorizations or licenses. All agreements, leases, contracts, authorizations or licenses issued under the Maine Revised Statutes, Title 28, prior to the effective date of this Act shall continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked.

4. Rules. All current rules of the commission shall remain in force and effect until rescinded, amended or otherwise changed by the commission.

Sec. 6. Legislative intent. It is the intent of the Legislature that this Act shall be considered a revision of the State Liquor Commission and the Bureau of Alcoholic Beverages governing laws.

PART B

Sec. 1. 5 MRSA §12004, sub-§6, ¶A, sub-¶(2) is amended to read:

(2) State Liquor Commission Legislative Per Diem ~~28~~ 28-A MRSA §51

Sec. 2. 15 MRSA §1702, as amended by PL 1975, c. 499, §3, is further amended to read:

§1702. No punishment until conviction; costs; concurrent or consecutive sentences

No person shall be punished for an offense until convicted thereof in a court having jurisdiction of the person and case. In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution, except before the District Court in which court he may be sentenced to pay a fine sufficient to cover said costs as provided in Title 4, section 173; and except before a District Court for violations of Title ~~28~~ 28-A, sections ~~1055; 1057, 1203 and 1207~~ 2078, 2080, 2223 and 2225, and Title 30, chapter 215, subchapter IV, he shall be sentenced to pay such costs.

Sec. 3. 15 MRSA §3103, sub-§1, ¶C, as amended by PL 1977, c. 664, §11, is further amended to read:

C. Offenses involving intoxicating liquor, as provided in Title ~~28~~ 28-A, section ~~303~~ 2051;

Sec. 4. 17 MRSA §1301-A, 2nd ¶, as amended by PL 1973, c. 567, §20, is further amended to read:

The inspectors and agents of licensing authorities issuing licenses under this section shall have the authority to investigate and prosecute complaints against its licensees for violation of this section, and to institute proceedings before the Administrative Court Judge who shall be empowered to proceed under Title 5, chapters

301 to 307, and not under Title ~~28~~ 28-A, section ~~401~~ chapter 33.

Sec. 5. 30 MRSA §2411, sub-§4, as amended by PL 1977, c. 501, §2, is further amended to read:

4. Jurisdiction. Any municipality establishing a board of appeals under this section may vest the board with the power to hear any appeal by any person, affected directly or indirectly, from any decision, order, rule or failure to act of any officer, board, agency or other body where such appeal is necessary, proper or required. No board created under this section may assert jurisdiction over any matter unless the municipality has by ordinance specified the precise subject matter that may be appealed to the board and the official or officials whose action or nonaction may be appealed to the board. Any board of appeals operating under this section shall hear any appeal submitted to the board in accordance with Title ~~28~~ 28-A, section ~~702~~ 1054.

Sec. 6. 36 MRSA §172, sub-§1, as enacted by PL 1981, c. 364, §11, is amended to read:

1. Liquor licensee. If the taxpayer is a liquor licensee, to the State Liquor Commission, which shall construe that liability and lack of cooperation to be a ground for denying, suspending or revoking the taxpayer's liquor license in accordance with Title ~~28~~ 28-A, sections ~~304 and 401~~ section 707 and chapter 33; or

Effective September 29, 1987.

CHAPTER 46

H.P. 49 — L.D. 52

AN ACT Regarding Motor Vehicle Accident Reports.

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

Sec. 1. 29 MRSA §783, sub-§1, as repealed and replaced by PL 1979, c. 430, §1, is amended to read:

1. Contents of report and duty of Chief of the State Police. Where an accident on a public way, or in any place where public traffic may reasonably be anticipated, has resulted in bodily injury to or death of any person, or in property damage to an apparent extent of ~~\$300~~ \$500 or more, the accident report required by section 891 shall contain, in a form prescribed by the Secretary of State, information to enable the Secretary of State to determine whether the requirement for proof of financial responsibility is inapplicable by reason of the existence of insurance or other exceptions specified in this section. The driver, or the person acting for him in reporting, shall furnish such additional relevant information as the Secretary of State shall require. The Secretary of State may rely upon the accuracy of the information unless and until he has reason to believe that the information is erroneous.