

MAINE STATE LEGISLATURE

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Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 5
Titles 26 to 32



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
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CHAPTER 9
LICENSES GENERALLY

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SUBCHAPTER I

GENERAL PROVISIONS

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§ 201. Eligibility

No license shall be issued to any natural person unless such person is at least 21 years of age and is a citizen of the United States and of this State. A part-time or 6 months' license, as authorized by law, may be issued to any natural person who is at least 21 years of age and is a citizen of the United States. No license shall be issued to a partnership or to an association unless all persons having an interest therein are at least 21 years of age and are citizens of the United States and of this State. A part-time or 6 months' license, as authorized by law, may be issued to a partnership or association if all persons having an interest therein are at least 21 years of age and are citizens of the United States. No license shall be issued to any corporation unless it shall be incorporated under the laws of this State or authorized to transact business in this State. No license shall be issued to a corporation any of the principal officers of which would not personally be eligible for a liquor license because such officer had had a license for sale of liquor revoked. No person, who is not at the time of the offense the holder of a liquor license, convicted of violating any of the laws of this State or the United States

with respect to manufacture, transportation, importation, possession or sale of intoxicating liquor shall be granted a license for sale of liquor for a period of 5 years from the date of such conviction, and no person who sells liquor of a greater alcoholic content than authorized by his license shall be considered the holder of a license for the purposes of this sentence. No clerk, servant or agent of a licensee, who is convicted of sale of liquor on Sunday, shall himself be granted a license for sale of liquor for a period not exceeding 5 years from the date of such conviction. No person whose license for sale of liquor expires pending an appeal from conviction of a violation of law forbidding sale of intoxicating liquor on Sunday, by himself or his clerk, servant or agent, on his licensed premises, shall, after subsequent final conviction of himself, clerk, servant or agent be eligible for a liquor license for a period not exceeding 5 years from the date of such final conviction. No license shall be issued in which any law enforcement official benefits financially either directly or indirectly.

R.S.1954, c. 61, § 29; 1955, c. 71, § 2; 1957, c. 202; c. 218, §§ 8, 9.

§ 202. Display of licenses

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

R.S.1954, c. 61, § 35.

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

Except as otherwise provided in this section, no license privilege nor any interest in a license privilege shall be sold, transferred, assigned or otherwise subject to control by any person other than the licensee, and in case of sale, transfer or assignment of the business or any interest in the business in connection with which a licensed activity is conducted the license holder shall immediately send in his license to the commission and submit a statement under oath showing the name and address of the purchaser or any other person directly or indirectly interested in the enterprise.

1. Transfer within same municipality. The commission upon application in writing may transfer any retail liquor license from one place to another within the same municipality, provided such transfer shall be made only with approval of mu-

nicipal officers of such municipality in all cases which required such approval originally. No such transfer shall be made to premises for which the license could not have been originally lawfully issued.

2. Death, bankruptcy or receivership. In the case of death, bankruptcy or receivership of any licensee, the duly appointed executor or administrator of the deceased licensee or the duly appointed trustee or receiver of the bankrupt licensee or licensee in receivership may retain the license for the balance of the license year or transfer the license without additional fee. Personal representatives, receivers or trustees may operate the premise themselves or through a duly appointed manager for a year from the date of their appointment for the benefit of the estate but must renew the license on January 1st of any year at the regular license fee, and if the license or renewal thereof is not transferred during the year from date of appointment it shall be void and returned to the commission for cancellation. No personal representative, receiver, trustee or manager appointed by them, shall be eligible to operate under license unless and until approved by the commission, and in event of suspension or revocation of the license by the Administrative Hearing Commissioner for any violation, such suspension or revocation shall apply against both the manager and the personal representative, receiver or trustee. In case of decease of a license holder with express written permission and approval of the commission, any widow or widower or person who has filed a petition for appointment as executor or administrator for the estate of the deceased licensee or any sole heir of the deceased licensee or any person designated by all of the heirs of the licensee may continue the operation of the license for a period not to exceed 60 days pending appointment of a personal representative of the estate.

In cases where no administration of the estate of a deceased licensee is contemplated, the widow or widower or person designated by all of the heirs of the deceased licensee may take over the license under the same conditions as are provided for operation and transfer by executors and administrators.

1959, c. 274, § 10; c. 378, § 54.

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, provided they or their managers are approved by the commission, and in all cases, except retail store licenses approved by the municipal officers in their municipality, they shall

have no privilege of transferring their wards' licenses and must renew licenses each year. Penalty for violations shall apply to both guardians or conservators and their managers in the same manner provided in the case of executors or administrators and their managers. Any sale of stock of a corporate licensee which effects a change of control of the licensed premises shall be considered a transfer within the meaning of this section, and a new license must be purchased.

R.S.1954, c. 61, § 39; 1957, c. 218, § 10; 1959, c. 274, § 10; c. 378, § 54; 1963, c. 412, § 23.

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

All persons, except public service corporations operating interstate, licensed to sell spirituous or vinous liquor shall purchase all such liquor from the commission. The commission shall sell to such licensees spirituous and vinous liquor for a price of 10% less than the retail price in state retail stores provided that such discount shall not apply to federal taxes levied on and after November 1, 1941. The commission may sell spirituous and vinous liquor to approved government instrumentalities within the State at a price to be set by the commission which shall be approved by the Governor and Council.

R.S.1954, c. 61, § 43; 1955, c. 72; c. 359, § 10; 1959, c. 274, § 11.

SUBCHAPTER II

PROCEDURE

Sec.

251. Applications.

252. Hearings; publications; appeals.

§ 251. Applications

All applicants for license shall be required to file applications in such form as the commission shall require and every application shall disclose the complete and entire ownership or any interest in the establishment for which a license is sought and if applicant is a purchaser by contract, in addition, the terms of the contract. All questions required to be answered in applications for licenses shall be sworn to, and intentionally untruthful answers shall constitute the crime of perjury. All applications shall

be signed by the owner, if a natural person, who shall be at least 21 years of age, or in the case of a partnership by the partners thereof, or in the case of a corporation by an executive officer thereof or any person thereto specifically authorized by the corporation, except a bona fide prospective purchaser may apply. No applicant whose application is denied by the commission shall be eligible to apply for a liquor license of the same type again for a period of 6 months from the date of such denial unless the commission denial is overruled by the court under appeal provided by section 403, and no license for the same premises shall be issued to the husband, wife, father, mother, child or other close relation by blood or marriage of a person whose license has been denied by the commission or revoked by the Administrative Hearing Commissioner for a period not exceeding 6 months after such denial or revocation.

Every applicant for a license for sale of liquor to be consumed on the premises where sold shall include in his application a description of the premises for which he desires license and shall set forth such other material information, description or plan of that part of the premises where it is proposed to keep or sell liquor as the commission may require.

R.S.1954, c. 61, § 28; 1955, c. 355, § 5; 1957, c. 127; 1959, c. 274, §§ 8, 9; 1963, c. 412, § 23.

§ 252. Hearings; publications; appeals

The municipal officers, or in case of unincorporated places the county commissioners of the county wherein such unincorporated place is located, shall hold public hearing for the consideration of all applications for liquor licenses requiring their approval, after giving public notice at the applicant's expense, which shall be prepaid, by causing a notice, stating the name and business address of the applicant and the time and place of hearing, to be printed for at least 6 consecutive days prior to the date of hearing in a daily newspaper published in the city or town in which the premises proposed to be licensed are situated; or, if no daily newspaper is so published, the notice shall be printed for 2 consecutive weeks prior to the date of hearing in any newspaper published in such city or town, or, if no newspaper is published in such city or town, the notice shall be printed for at least 6 consecutive days in a daily newspaper published in the county in which the premises are situated or for 2 consecutive weeks prior to the date of hearing in any newspaper published in that county.

Any applicant for license aggrieved by the refusal of municipal officers or county commissioners to approve any applica-

tion for license requiring their approval or a transfer of location of licensed premises under section 203 may appeal to the commission, who shall hold a public hearing thereon in the city, town or unincorporated place where such license is applied for and, if it finds the refusal arbitrary or without justifiable cause, it may issue license or transfer notwithstanding the lack of such approval. Upon notification of appeal, the municipal officers or county commissioners refusing approval shall promptly certify to the commission their reasons for refusal and evidence on such appeal shall be limited to the reasons specified. The commission shall furnish the appellant with a copy of such reasons for refusal and give adequate public notice of the time and place of such hearing. In no event shall the commission issue a license to any person who has moved a retail store or restaurant into or opened a new retail store or restaurant in an unincorporated place contiguous to any organized or unincorporated place where a local option vote has resulted in his being unable to procure a license in the place of his prior location of business for a period of one year after such local option vote.

R.S.1954, c. 61, § 24; 1961, c. 271; c. 344, § 5.

SUBCHAPTER III

RESTRICTIONS

Sec.

- 301. Proximity to churches and schools; exception.
- 302. Employment of violators prohibited.
- 303. Credit sales; sales to certain persons restricted.
- 304. Licensee not to be indebted, obligated or involved.
- 305. Premiums and rebates.
- 306. Advertising signs.

§ 301. Proximity to churches and schools; exception

No new hotel, restaurant, tavern or club licenses shall be granted under this Title 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 such new license is applied for, 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, except such premises as were in use as hotels or clubs on July 24, 1937. The commission may grant licenses to premises which are within 300 feet of a church, chapel or parish house, measured as aforesaid and which

do not adjoin any of the same, when the application therefor has the unanimous approval of the members of the commission and the written approval of a majority of the officers or the written approval of the officer, person or pastor in charge of such church, chapel or parish house.

R.S.1954, c. 61, § 26.

§ 302. Employment of violators prohibited

No licensee shall employ as a manager or leave in charge of his licensed premises any person who by reason of conviction of violation of any liquor laws or because of having had his license for sale of liquor revoked would not himself be eligible for a liquor license.

R.S.1954, c. 61, § 30.

§ 303. Credit sales; sales to certain persons restricted

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

No licensee by himself, clerk, servant or agent shall sell, offer to sell or furnish any liquor to any person on a passbook or store order, or receive from any person any goods, wares, merchandise or other articles in exchange for liquor, except only such packages or original containers as were originally purchased from such licensee by the person returning the same. No licensee, by himself, clerk, servant or agent entitled to sell malt liquor not to be consumed on the premises shall sell, furnish, give or deliver such malt liquor to any person visibly intoxicated, to any mentally ill person, to a known habitual drunkard, to any pauper, to persons of known intemperate habits or to any minor under the age of 21 years. No licensee by himself, clerk, servant or agent shall sell, furnish, give, serve or permit to be served any liquor to be consumed on the premises to any person visibly intoxicated, to any mentally ill person, to a known habitual drunkard, to any

pauper, to persons of known intemperate habits or to any minor under the age of 21 years. Any licensee who accepts an order or receives payment for liquor from a minor shall be considered as in violation of this paragraph.

Any person under the age of 21 years who purchases any intoxicating liquor or any person under the age of 21 years who consumes any intoxicating liquor in any on-sale premises, or who presents or offers to any licensee, his agent or employee, any written or oral evidence of age which is false, fraudulent or not actually his own, for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any intoxicating liquor, or who has any intoxicating liquor in his possession except in the scope of his or her employment on any street or highway, or in any public place or in any automobile, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$50.

R.S.1954, c. 61, § 51; 1955, c. 196; 1957, c. 218, § 11; 1959, c. 242, § 8; 1961, c. 344, § 7; 1963, c. 36.

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

Except as provided by section 601, no person shall be issued a license or a renewal of a license if he shall be indebted in any manner, directly or indirectly, to any other person for liquor. It shall be unlawful for any licensee or any applicant for license, directly or indirectly, to receive any money, credit, thing of value, indorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person, association or corporation within or without the State if such person, association or corporation shall be engaged, directly or indirectly, in the manufacture, distribution, sale, storage or transportation of liquor; or if such person, association or corporation shall be engaged in the manufacture, distribution, sale or transportation of any commodity, equipment, material or advertisement used in connection with the manufacture, distribution, sale, storage or transportation of liquor. No Maine retail liquor licensee shall have any interest, direct or indirect, in any Maine manufacturer's or wholesaler's license or certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor; and no out-of-state manufacturer or foreign wholesaler having a state certificate of approval, nor any state wholesale or manufacturing licensee, shall have any interest, direct or indirect, in any state retail liquor license. Minor investment in securities of a corporation engaged in liquor business not amounting to more than 1%

shall not be held to be an interest forbidden by the foregoing sentence. This section shall not prohibit a wholesaler from receiving normal credits for the purchase of malt liquor from the manufacturer thereof within or without the State.

R.S.1954, c. 61, § 52; 1959, c. 148, § 2.

§ 305. Premiums and rebates

Except as provided by section 601, no licensee shall, directly or indirectly, offer or give any liquor, or any price premium, gift or inducement of any sort to other trade or consumer buyers, except such advertising novelties of nominal value as the commission may approve.

No licensee shall offer to pay, make or allow, and no licensee shall solicit or receive any allowance, rebate, refund or concession, whether in the form of money or otherwise, in connection with the purchase of liquor dealt in by such licensee.

R.S.1954, c. 61, § 53; 1959, c. 148, § 3.

§ 306. Advertising signs

No person, except a wholesaler or manufacturer, shall advertise or permit to be advertised on the outside of any licensed premises, or on any building, ground or premises, under his control, contiguous or adjacent to the licensed premises, by more than one outside sign, the fact that the licensee has for sale any liquor, or any brand of such liquor, or the price at which liquor is sold by the licensee, or display on the outside of any licensed premises any other advertisement which would indicate any reference whatsoever to liquor.

No licensee shall display from the inside of any licensed premises where it may be seen from the outside any electrically lighted sign advertising the fact that the licensee has for sale any liquor unless the total area of such sign does not exceed 750 square inches and no licensee shall display more than one such sign from within any one window.

R.S.1954, c. 61, § 54.

SUBCHAPTER IV

RECORDS

Sec.

351. Licensee to keep records.

§ 351. Licensee to keep records

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

No licensee shall refuse the commission or its representatives the right at any time completely to inspect the entire licensed premises or to audit the books and records of the licensee.

R.S.1954, c. 61, § 50; 1955, c. 355, § 12.

SUBCHAPTER V

REVOCATION

Sec.

401. Procedure and grounds.

402. Appeal from decision of Administrative Hearing Commissioner.

403. Additional appeals.

§ 401. Procedure and grounds

1. **Hearing commissioner.** The Administrative Hearing Commissioner, as designated in Title 5, chapters 301 to 307, shall conduct hearings on all matters concerning violations by licensees

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

The Administrative Hearing Commissioner may suspend or revoke licenses. Except as provided by subsection 2, paragraph C, suspensions must be for a definite period of time. If the Administrative Hearing Commissioner revokes a license, he shall specify that no license shall issue to the person whose license is revoked for a period of not less than one nor more than 5 years from the date of such revocation.

1963, c. 81; c. 412, §§ 17, 23.

2. Causes for revocation and suspension of licenses. Licenses may be revoked or suspended by the Administrative Hearing Commissioner for the following causes:

A. Violation of any federal or state law or regulation relating to intoxicating liquor or substantial infraction of any rule or regulation issued by the commission; except that

licensees selling to minors furnishing fraudulent proof of age may be held not administratively liable by the Administrative Hearing Commissioner;

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

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

1963, c. 412, § 23.

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

1961, c. 395, § 29; 1963, c. 412, § 23.

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

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

In cases of corporations the officers, directors and substantial stockholders shall be treated in the same manner as though they were partners in a partnership. (1963, c. 412, § 23.)

R.S.1954, c. 61, § 56; 1955, c. 355, § 13; 1957, c. 218, §§ 12, 13; c. 410, §§ 1-5; c. 429, §§ 54, 55; 1959, c. 218; c. 274, § 12; c. 378, § 56; 1961, c. 395, § 29; 1963, c. 81; c. 412, §§ 17, 23.

§ 402. Appeal from decision of Administrative Hearing Commissioner

A full and complete record shall be kept of all proceedings had before the Administrative Hearing Commissioner on the revoking and suspending of any license issued by the commission, but the Administrative Hearing Commissioner need not have a transcript of the testimony prepared unless required for rehearing or appeal.

If any person is aggrieved by the decision of the Administrative Hearing Commissioner in revoking or suspending any license issued by the commission, he may within 10 days thereafter appeal to the commission by presenting to it a petition therefor. The commission shall forthwith fix a time and place for immediate hearing; and after hearing, the commission may affirm, modify or reverse the decision of the Administrative Hearing Commissioner. Pending judgment of the commission, the decision of the Administrative Hearing Commissioner in revoking or suspending any license shall remain in full force and effect.

1957, c. 410, § 6; 1963, c. 412, §§ 18, 23.

§ 403. Additional appeals

If any person is aggrieved by the decision of the commission in revoking or suspending any license issued by the commission or by refusal of the commission to issue any license applied for, he may within 30 days thereafter appeal to the Superior Court, by filing a complaint therefor. The 30-day period for appeal shall commence on the effective date of any suspension or revocation of a license, and, in the case of refusal of the commission to issue license, on the day when the commission sends by registered or certified mail notice to the applicant at the address of his business given in his application for license. Filing appeal in the Superior Court shall stop the running of the limitation period. The court shall forthwith fix a time and place for immediate hearing and cause notice thereof to be given to the commission. After hearing, the court may affirm, modify or reverse the decision of the commission. Pending judgment of the court, the decision of the commission in revoking or suspending any license shall remain in full force and effect. Appeal by such aggrieved person to the law

court from such decision may be taken. Upon such appeal the law court may, after consideration, reverse or modify any decree so made by the court based upon an erroneous ruling or finding of law.

R.S.1954, c. 61, § 57; 1957, c. 218, § 13-A; 1961, c. 317, § 210; c. 344, § 10.