

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

September 16, 1969
Liquor Commission

William E. Gautreau, Director
Licensing Division

Interpretation of Sec. 301, Title 28

SYLLABUS:

The reference, in 28 M.R.S.A. §301 to "school" is to an entire campus.

FACTS:

The Maine State Liquor Commission has asked the Office of the Attorney General for an interpretation of certain portions of 28 M.R.S.A. §301.

QUESTION:

Whether the reference in 28 M.R.S.A. §301 to "school" is to an entire campus or to buildings individually.

ANSWER:

The reference is to an entire campus.

REASONS:

The pertinent portion of 28 M.R.S.A. § 301 reads as follows:

"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. . . ."

In *Smith v. Ballas*, 335 Ill. App. 418, 82 N. E. 2d 181 (1948), the statute in question read:

"No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school, hospital, home for aged or indigent persons or for veterans, their wives or children or any military or naval station;"

The Court held that the reference in the statute to "school" meant within 100 feet of the school grounds; not merely a school building. In 28 M.R.S.A. § 301, there is a reference to "school dormitory" as well as to "school", whereas the reference in the Illinois statute is only to "school". It appears that the additional reference in the Maine Statute was meant to include situations in which an off-campus dormitory was involved.

Therefore, it is concluded that the reference to "school" in 28 M.R.S.A. §301 refers to an entire campus.

WARREN E. WINSLOW, JR.
Assistant Attorney General