

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date June 3, 1974

To Keith H. Ingraham, Director

Dept. Alcoholic Beverages

From John W. Benoit, Jr., Deputy

Dept. Attorney General

Subject Application for Liquor License by University of Maine Trustees

The University of Maine Trustees have applied for a spirituous and vinous license as well as a malt liquor license for premises located in Memorial Union; i. e. Bear's Den, Damn Yankee Room and Ford Room. You ask whether the State Liquor Commission can legally approve the application and grant the licenses requested. Because the form of the question calls for an administrative determination rather than a request for legal advice, we have re-worded the question as follows: Do the Trustees of the University of Maine have authority to apply for a spirituous and vinous license and for a malt liquor license for premises located on University grounds? We answer the latter question in the affirmative.

Public Laws 1973, Chapter 362, entitled "AN ACT Relating to Premises of Liquor Licenses to Proximity of Post-Secondary Schools", amended the second sentence of 28 M.R.S.A., § 301, to read as follows:

"The Commission may grant licenses to premises which are either in or within 300 feet of a church, chapel, parish house, or post-secondary school, measured as aforesaid, 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, parish house or post-secondary school." (Emphasis supplied)

The words "in or within" did not appear in the original draft of the Bill (L. D. 993). According to the Legislative Record regarding L. D. 993, it was the assumption of the sponsor of the Bill, (as originally drawn), and also the assumption of the Bureau of Alcoholic Beverages, that the Bill would allow the Bureau to grant liquor licenses to post-secondary institutions if the Board of Trustees or Directors of the institution requested a license. Legislative Record, House, May 7, 1973, p. 2370, 2371. However, the Attorney General's office gave its opinion that the original form of the Bill would not bring about the intended result; and there followed an amendment offering the additional words: "in or within"; thus permitting the Bureau to consider applications for liquor licenses from post-secondary institutions, if the applications were otherwise in proper form.

AN INFORMAL OPINION

The fundamental rule in construction of a statute is the legislative intent. Emple Knitting Milk v. City of Bangor, 155 Me. 270, 153 A2d 118. It is reasonable to refer to the Legislative Record as an aid in determining legislative intent whenever, as here, a statute is unclear in it's purpose. Gilman v. Jack, 148 Me. 171, 91 A2d 207. State v. Cormier, 141 Me. 307, 43 A2d 819.

In conclusion, for the reasons given above, the Trustees of the University of Maine have legal standing to present an application to the commission for premises located on University property.

JOHN W. BENOIT, JR.
Deputy Attorney General

JWB/cmf

AN INFORMAL OPINION