

MAINE STATE LEGISLATURE

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28 M.R.S.A. § 52
Liquor Commission: Gratuities

September 10, 1976

Keith H. Ingraham, Director

Bureau of Alcoholic Beverages

Phillip M. Kilmister, Assistant

Attorney General

Acceptance of New Items of Liquor by the Commission

In your memorandum under date of August 17, 1976, you inquire as to whether or not it is permissible for the Liquor Commission to accept new items of liquor presented for listings for personal evaluation.

The answer to said question is in the negative.

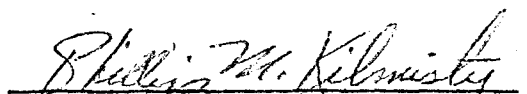
Members of the Liquor Commission have no more right or interest in bottles of liquor left on display at the premises of the Bureau of Alcoholic Beverages, than any other state employee. When sales representatives of manufacturers leave bottles on the premises with the express agreement that members of the Commission may consume or otherwise dispose of same as they see fit, a gift or gratuity occurs in violation of the terms of 28 M.R.S.A. § 52.

Chapter 187 of the Public Laws of 1969 entitled "An Act Relating to Accepting Gratuities by Liquor Commission Members and Employees" amended the last sentence of Title 28, section 52 of the Revised statutes to read as follows:

"Neither the commission, nor any employee, shall accept directly or indirectly any samples, gratuities, favors or anything of value from a manufacturer, seller, brewer or licensee or any representatives of the same under circumstances which might reasonably be construed as influencing or improperly relating to past, present or future performance of his official duties." (emphasis supplied)

The above-quoted statutory language when read in conjunction with the Legislative Record relating to its enactment, leads inescapably to the conclusion that the Legislature intended that members of the Commission as well as employees should refrain from accepting any gratuity or gift which might, in any manner, be construed as relating to the performance of their duties.

A review of the Legislative debate relating to the enactment of Chapter 187 of the Public Laws of 1967 reveals an acute awareness on behalf of the Legislature that the above-quoted language is unduly strict and is intended to prohibit the acceptance of favors, however innocuous, by Commission members and employees, from licensees and others, when acceptance of same, although totally lacking in impropriety, might reasonably be construed by the public to be otherwise.


PHILLIP M. KILMISTER
Assistant Attorney General