

MAINE STATE LEGISLATURE

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Liquor! Change in Drinking Age
Liquor! Differing Ages For on-premises +
off-premises sales.

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

February 28, 1977

Honorable James Wilfong
House of Representatives
State House
Augusta, Maine

Dear Representative Wilfong:

You have asked whether Legislative Document No. 4, which raises the minimum age at which persons may purchase or sell alcoholic beverages, violates the Equal Protection Clauses of the United States and Maine Constitutions in that it creates a situation whereby persons eighteen years of age may be treated differently for one purpose under the Maine statutes than for another. The answer to this question is that the Legislature may constitutionally make such a change in the law. Further, in response to your more recent question, we advise that we do not believe that it would violate the Equal Protection Clause to permit on-premises sales to 18 year olds, while limiting off-premises sales to 20 year olds.

In analyzing a statute to determine whether it comports with the Equal Protection Clause, the general procedure is to examine any classifications or discriminations which it makes to see whether such distinctions have a rational basis in fact to support them. Thus, a legislative determination to restrict the purchase and sale of alcohol to persons of less than eighteen (or nineteen or twenty-one) years of age would probably withstand equal protection scrutiny in that there is a rational basis for dividing the purchasers and sellers of alcohol into two classes, namely, that the nature of alcohol is such that trade in it should be restricted to persons of some degree of maturity. Generally, however, equal protection analysis does not go beyond this point. Thus, a person eighteen years of age may well be determined by the Legislature to be mature enough to vote or to drive an automobile, but not old enough to purchase alcohol or purchase alcohol for consumption off-premises. So long as the latter age

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is not itself without a rational basis, the legislative judgment would be sustained. See Republican College Council of Pennsylvania v. Winner, 357 F. Supp. 739 (E.D. Pa., 1973) and Houser v. Washington, 540 P.2d 412 (Wash., 1975), both sustaining state statutes denying persons between the ages of eighteen and twenty-one access to alcoholic beverages against an equal protection challenge.

If I can be of further assistance to you in this matter, please ~~fee~~ free to contact me.

Sincerely,

Cabanne Howard

CABANNE HOWARD
Assistant Attorney General

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