

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 839

H. P. 712

House of Representatives, March 9, 1977

Referred to the Committee on Liquor Control. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Norris of Brewer.

Cosponsor: Mr. Rideout of Mapleton.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Allow Municipalities and County Commissioners in
Unincorporated Places to Grant or Deny Applications for Liquor Licenses.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 28 MRSA § 53, as last repealed and replaced by PL 1975, c. 741, § 4, is repealed.

Sec. 2. 28 MRSA § 102, 2nd ¶, as enacted by PL 1967, c. 49, § 2, is repealed and the following enacted in its place:

If a majority of the votes cast in any municipality in answer to any local option question is in the affirmative, the Liquor Commission may issue licenses of the type authorized by such affirmative vote in such municipality, subject to chapter 9.

Sec. 3. 28 MRSA § 251, 1st ¶, 4th sentence, as amended by PL 1973, c. 303, § 3, is repealed and the following enacted in its place:

No applicant whose application is denied by the municipal officers or county commissioners in unorganized places 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 municipal officers' or county commissioners' denial is overruled by the court under appeal provided by section 252, 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 Court Judge for a period not exceeding 6 months after such denial or revocation.

Sec. 4. 28 MRSA § 252, as last amended by PL 1975, c. 37, and PL 1975, c. 741, §§ 13, 14, 15 and 16, is repealed and the following enacted in its place:

§ 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 a public hearing for the consideration of all new applications for liquor licenses requiring their approval. Prior public notice of any such hearings shall be given 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 having general circulation in the city or town in which the premises are situated or for 2 consecutive weeks prior to the date of hearing in any newspaper published in that county.

Every municipality or county shall request applications for liquor licenses from the State Liquor Commission and those applications shall be approved by the State Liquor Commission.

In reviewing new applications, the municipal officers or county commissioners in unincorporated places shall consider the following criteria in granting or denying licenses:

1. Traffic conditions. The effect the granting of the license will have on traffic conditions, highway and road congestion and public safety in general;
2. Surrounding property values. The impact of the granting of the license on surrounding property values and the neighborhood in general;
3. Health. The effect of the granting of the license upon the health, morals and safety of residents living near the proposed licensed establishment; and
4. Businesses. The impact of the granting of the license upon businesses surrounding the proposed licensed establishment.

Any applicant aggrieved by the decision of the municipal officers, or county commissioners in unincorporated places, shall have the right to appeal the decision within 30 days to the Superior Court of the county in which the municipality or unorganized place is located.

Requests for renewal of liquor licenses shall be directed to the State Liquor Commission. The municipal officers, or in the case of unincorporated places the county commissioners of the county wherein such unincorporated place is located, shall hold a hearing as required in application for new licenses requiring their approval and shall consider the same criteria in approving or denying the license renewal.

Any applicant aggrieved by the decision of the municipal officers, or county commissioners in unincorporated places, shall have the right to appeal the decision within 30 days to the Superior Court of the county in which the municipality or unorganized place is located.

Part-time licenses may be extended by the State Liquor Commission upon request by a licensee for a 2-month period only.

The State Liquor Commission shall issue a full-time license only to the applicant who has received approval by the municipal officers or county commissioners in unincorporated places or by a Judge of the Superior Court on appeal, when such approval is required by this Title.

Judges of the Superior Court shall on appeal consider all evidence admissible in courts of law which relate to the denial of the license, or renewal thereof by the municipal officers or county commissioners in unorganized places. After hearing, the presiding judge shall, upon considering all the evidence, determine whether the refusal was arbitrary or without justifiable cause. If in fact the presiding judge finds the refusal to be arbitrary or without justification, he shall order the license to issue.

Sec. 5. 28 MRSA § 801, 1st sentence, as amended by PL 1975, c. 623, § 44, and PL 1975, c. 741, §§ 25 and 26, is further amended to read as follows:

Licenses for the sale of spirituous and vinous liquor and malt liquor to be consumed on the premises where sold may be issued to clubs and to bona fide hotels, restaurants, vessels, railroad dining cars, airlines, to incorporated civic organizations pursuant to section 801-B and civic auditoriums on payment of the fees provided; subject to the provisions of section 252 and to the condition that the initial application therefor be approved by the municipal officers of the town or city in which such intended licensee, if operating a club, restaurant, hotel or municipal auditorium is operating the same, and if said hotel, restaurant or club is located in an unorganized place, said application shall be approved by the county commissioners of the county, within which such unorganized place is located, and subject to the further condition that licenses issued to restaurants, except class A restaurants, shall be limited to malt liquor or wine, or both.

Sec. 6. 28 MRSA § 801-A, as amended by PL 1975, c. 122, §§ 1 and 2, is repealed.

Sec. 7. 28 MRSA § 801-B, as last amended by PL 1975, c. 741, § 27, is repealed.

STATEMENT OF FACT

The purposes of this bill are to:

1. Provide criteria for municipal officers and county commissioners in reviewing applications for licenses which require their approval;

2. Allow municipalities and county commissioners to make the decision of whether liquor licenses which require their approval will be granted or denied;
3. Change the appeal procedure on denials from the State Liquor Commission to the Superior Court; and
4. Remove the need for municipal or county commissioner approval in certain areas.