

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. H-621)

COMMITTEE AMENDMENT "B" to H.P. 875, L.D. 1068, Bill,
"AN ACT Relating to Music, Dancing or Entertainment."

Amend the Bill by striking out all of the title and
inserting in its place the following:

'AN ACT to Authorize Local Control over Special Amusement
Permits Issued to Licensees under the Alcoholic Beverages
Statutes.'

Further amend the Bill by striking out everything
after the enacting clause and inserting in its place the
following:

Sec. 1. 28 MRSA §702, as last amended by PL 1975, c. 74,
is repealed and the following enacted in its place:

§702. Special permit for music, dancing or entertainment

1. Permit required. No licensee for the sale of liquor
to be consumed on his licensed premises shall permit, on his
licensed premises, any music, except radio or other mechanical
device, any dancing or entertainment of any sort unless the licensee
shall have first obtained from the municipality in which the
licensed premises are situated a special amusement permit. The
fee for a special amusement permit shall be \$10. The municipal
officers shall, prior to granting a permit and after reasonable
notice to the municipality and the applicant, hold a public
hearing at which the testimony of the applicant and that of any
interested members of the public shall be taken. The municipal

officers shall grant a permit unless they find that issue of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances or rules and regulations. A permit shall be valid only for the license year of the existing license.

2. Municipal suspension or revocation of a permit. The officers of a municipality which have issued a permit may, after a public hearing preceded by notice to interested parties, suspend or revoke any permits which they have issued under this section on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety or welfare, or violates municipal ordinances or rules and regulations.

3. Municipal ordinances or rules and regulations. A municipality shall adopt ordinances or authorize the municipal officers to establish written rules and regulations, governing the issuing, suspension and revocation of these permits, the classes of permits, the music, dancing or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These ordinances or rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises and the hours during which the permitted activities are permitted.

4. Permit and appeal procedures.

A. Any licensee requesting an amusement permit from the municipal officers as provided in this section shall be notified in writing of their decision no later than 15 days from the date the request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit/has been denied.

B. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals, as defined in Title 30, section 2411. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, revocation or suspension was arbitrary and capricious.

5. Unorganized territories. If a licensed premise is located in/^{an}unorganized territory, the county commissioners of the county in which the unorganized territory is located shall grant, suspend or revoke permits in the same manner and with the same ority as municipal officers. The county commissioners shall adopt rules and regulations in the same manner as municipal officers.

6. Admission. A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued an amusement permit may charge admission in designated areas approved by the municipal permit.

7. Definition of entertainment. For the purposes of this section, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

Sec. 2. 30 MRSA §2411, sub-§4, as enacted by PL 1971, c. 455, §1, is amended by adding a new sentence to read:
Any board of appeals operating under this section shall hear any appeal submitted to the board in accordance with Title 28, section 702.

Sec. 3. Transition. The State Liquor Commission shall continue to issue special amusement permits for licensees in a municipality under Title 28, section 704, as in effect on the day before the effective date of this Act, until the municipality has adopted ordinances or established rules and regulations under this Act, but in no event shall the commission issue any permits after June 30, 1978. All special amusement permits issued by the commission prior to June 30, 1978, shall be valid for one year from their date of issue.

Fiscal Note

This bill will result in an estimated loss of revenue of \$7,440, representing 744 licenses that will be issued by municipalities under this bill rather than by the State.

Statement of Fact

The amendment gives municipalities a much-needed measure of local control over the issuing and continuation of special amusement permits under the liquor laws.

The amendment provides that special amusement permits under the liquor laws shall be issued by the municipal officers of the municipality in which the licensee is located, instead of by the commission as^{is} presently the case.

The amendment further provides that the permit is to be issued or denied on the standard of municipal health, welfare and safety and provides that the municipality issuing the permit may, after a public hearing, suspend or revoke it if the permit is found detrimental to the public health, safety or welfare.

The amendment requires the adoption of municipal ordinances or rules and regulations to govern the activities in the municipality.

The amendment also provides for an appeal to the municipal board of appeals when the permit has been denied.

The amendment provides that county commissioners shall issue permits for premises located in unorganized territories.

The amendment provides for a transition period until June 30, 1978, during which the State Liquor Commission may issue permits until municipalities are prepared to issue them under this Act.

This amendment is identical to the other amendment to H.P. 875, L.D. 1068, except that it adds a new subsection defining "entertainment." The definition clarifies the term to include entertainment provided by regular employees that is incidental to their regular employment duties.

Reported by the Committee on Liquor Control.

Reproduced and distributed under the direction of the Clerk of the House.
6/15/77

(Filing No. H-621)