

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 93

S. P. 66

In Senate, January 7, 1981

Referred to the Committee on Legal Affairs. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Hichens of York.

Cosponsors: Senator Murphy of Kennebunk and Senator Tuttle of Sanford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Revise the Public Drinking Law.

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

Sec. 1. 17 MRSA § 2003 is repealed.

Sec. 2. 17 MRSA § 2003-A is enacted to read:

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Authorized person" means a person having a relationship to the premises, which is unique and not shared by the general public. With respect to property owned by another, it includes a tenant, custodian or night watchman. With respect to publicly-owned property, it includes police officers and other public employees charged with the responsibility of maintaining or protecting public property.

B. "Liquor" means and includes any alcoholic, spirituous vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquors, intended for human consumption, which contains more than ½ of 1% of alcohol by volume.

C. "Public place" means any area that is used or held out for use by the public whether or not owned or operated by public or private interests.

2. Crime. A person is guilty of public drinking if he drinks liquor in any public place knowing that he is not licensed or privileged to do so, unless he has been given permission to do so by the owner or authorized agent. Violation of this section is a Class E crime.

3. Evidence. The possession of an open container of liquor in a public place is prima facie evidence of a violation of this section.

Sec. 3. Application. Nothing in this Act is intended to abrogate, repeal or modify provisions in the Revised Statutes pertaining to liquor licensing or rules of the Bureau of Alcoholic Beverages pertaining to liquor licenses.

STATEMENT OF FACT

This bill would have the effect of making it illegal and an arrestable offense to drink in any public place throughout the State. However, there are certain protections afforded to Maine citizens which makes this law reasonable and fair.

First, any person is permitted to drink in any public place where he has obtained permission to do so by an owner or his authorized agent. As an example, a homeowner sitting on his front porch or having a barbecue in his yard would be permitted to drink alcoholic beverages if he so wished. His guests would have this same privilege and it would not be a crime unless they became unduly boisterous and then a disorderly conduct offense would take place.

A tenant would also have this same right if his landlord permits this activity. It would also be permissible to drink in a public park or picnic area if the local government gave permission to do so.

Second, a person who has legally purchased alcoholic beverages from a licensed establishment, i.e., State Liquor Store, grocery store, etc., would be permitted to carry his purchases of unopened alcoholic beverages without fear of arrest. However, if he had any open containers with alcoholic beverages he would be committing a crime of public drinking.

The thrust of the bill is to protect law abiding citizens from harassment by those individuals who drink in public and then become abusive, threatening and lose control of themselves. A police officer would quickly diffuse a situation by being able to take immediate action once it was determined that public drinking was being done without authorization by an owner or his agents.