

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 899

6
7 S.P. 294

In Senate, February 25, 1983

8 Referred to the Committee on State Government. Sent down for concur-
9 rence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Danton of York.

Cosponsor: Representative Paradis of Augusta.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Remove the Bureau of Alcoholic
18 Beverages from Under the Department of Finance
19 and Administration.
20

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

23 Sec. 1. 5 MRSA §283, sub-§6, as enacted by PL
24 1971, c. 615, §3, is repealed.

25 Sec. 2. 5 MRSA §287, as amended by PL 1975, c.
26 771, §52-A, is further amended to read:

27 §287. Department; commissioner

28 The Department of Finance and Administration as
29 ~~heretofore~~ established shall serve as the principal
30 administrative and fiscal department of the State
31 Government, coordinate financial planning and pro-
32 gramming activities of departments and agencies of

1 the State Government for review and action by the
2 Governor, prepare and report to the Governor and to
3 the Legislature financial data and statistics, pro-
4 vide insurance advice for the State Government,
5 establish and administer a master plan for the
6 orderly development of future state buildings and
7 grounds in the Capitol Area of the City of Augusta,
8 develop and supervise the state purchasing policy.
9 ~~and administer under the direction of the Liquor Com-~~
10 ~~mission the laws relating to legalized alcoholic bev-~~
11 ~~erages within this State.~~ The Department of Finance
12 and Administration shall consist of a Commissioner of
13 Finance and Administration and the following as here-
14 ~~before created and established:~~ the Maine Insurance
15 Advisory Board, and the Capitol Planning Commission
16 ~~and the Liquor Commission, except the Enforcement~~
17 ~~Division thereof.~~ The Commissioner of Finance and
18 Administration shall be appointed by the Governor,
19 subject to review by the joint standing committee of
20 the Legislature having jurisdiction over appropria-
21 tions and financial affairs and to confirmation by
22 the Legislature and shall hold office during the
23 pleasure of the Governor.

24 Sec. 3. 28 MRSA §2, as repealed and replaced by
25 PL 1975, c. 741, §1, is amended to read:

26 2. Bureau. "Bureau" shall mean means the Bureau
27 of Alcoholic Beverages within the Department of
28 Finance and Administration under the State Liquor
29 Commission.

30 Sec. 4. 28 MRSA §2, sub-§5-A is enacted to read:

31 5-A. Division. "Division" means the Division of
32 Liquor Enforcement within the Bureau of Alcoholic
33 Beverages.

34 Sec. 5. 28 MRSA §9, 4th ¶, as repealed and
35 replaced by PL 1975, c. 741, §3, is amended to read:

36 All persons carrying on any business, except any
37 bank or savings and loan institution, duly organized
38 and existing by virtue of the laws of the State of
39 Maine or of the United States of America under the
40 common roof and having common entranceways shall in
41 writing to the commission agree to allow reasonable

1 inspection of their premises by authorized enforce-
2 ment agents of the Department of Public Safety Divi-
3 sion of Liquor Enforcement and authorized licensing
4 inspectors of the State Liquor Commission.

5 Sec. 6. 28 MRSA §51, as amended by PL 1975, c.
6 771, §298, is further amended to read:

7 §51. Administration; enforcement

8 The administration of the state liquor laws shall
9 be vested in the State Liquor Commission, and the
10 enforcement of the state liquor laws shall be vested
11 in the Bureau of Division of Liquor Enforcement
12 within the Department of Public Safety Bureau of
13 Alcoholic Beverages.

14 Sec. 7. 28 MRSA §52, as amended by PL 1981, c.
15 698, §122, is further amended to read:

16 §52. State Liquor Commission; appointment

17 The State Liquor Commission, as ~~heretofore~~ estab-
18 lished, shall consist of ~~3~~ 5 members to be appointed
19 by the Governor, subject to review by the joint
20 standing committee of the Legislature having juris-
21 diction over legal affairs and to confirmation by the
22 Legislature, to serve for 3 years and may be removed
23 by the Governor on the address of both branches of
24 the Legislature or by impeachment. The Governor
25 shall designate one of the members to be its chairman
26 and not more than ~~2~~ 4 members thereof shall belong to
27 the same political party. Any vacancy shall be filled
28 by appointment for a like term. The State Liquor Com-
29 mission shall meet at the call of the chairman and at
30 least once a month.

31 Sec. 8. 28 MRSA §53, sub-§1, as enacted by PL
32 1975, c. 741, §4, is amended to read:

33 1. Supervision of the Bureau of Alcoholic Bever-
34 ages. To supervise and direct the Director of the
35 Bureau of Alcoholic Beverages relating to all phases
36 of the merchandising of liquor through state stores
37 and special agency stores and to all phases of the
38 enforcement of the state liquor laws.

1 Sec. 9. 28 MRSA §57, first ¶, as amended by PL
2 1977, c. 674, §26, is further amended to read:

3 The ~~Commissioner of Finance and Administration,~~
4 ~~with the advice and consent of a majority of the~~ The
5 State Liquor Commission, shall appoint a Director of
6 the Bureau of Alcoholic Beverages by a majority vote
7 whose term of office shall be continuous, subject
8 only to removal by a majority of the commission ~~and~~
9 ~~the Commissioner of Finance and Administration.~~ The
10 salary of the director shall be fixed by the ~~Commis-~~
11 ~~sioner of Finance and Administration with the advice~~
12 ~~and consent of a majority of the State Liquor Commis-~~
13 ~~sion.~~

14 Sec. 10. 28 MRSA §58, as enacted by PL 1975, c.
15 741, §4, is amended to read:

16 §58. Director of the Bureau of Alcoholic Beverages;
17 powers and duties

18 The Director of the Bureau of Alcoholic Beverages
19 ~~within the Department of Finance and Administration~~
20 shall be the chief administrative officer of the
21 bureau. The Director of the Bureau of Alcoholic Bev-
22 erages shall be subject to the direction of the State
23 Liquor Commission as defined in this chapter. The
24 director of the bureau shall administer the policies,
25 ~~and rules and regulations~~ of the State Liquor Commis-
26 ~~sion~~ under the supervision of the commission. The
27 director of the bureau shall operate the bureau and
28 implement the liquor laws according to the procedures
29 established by the State Liquor Commission.

30 The Director of the Bureau of Alcoholic Beverages
31 shall have general charge of the office and records
32 and shall employ, with the approval of ~~the Commis-~~
33 ~~sioner of Finance and Administration~~ and the State
34 Liquor Commission, subject to the Personnel Law, such
35 personnel and make expenditures as may be necessary
36 to fulfill the purposes of this Title.

37 Sec. 11. 28 MRSA §59, sub-§1, as enacted by PL
38 1977, c. 86, is amended to read:

39 1. Bureau of Liquor Enforcement. The enforcement
40 division of the State Liquor Commission shall be the

1 Bureau Division of Liquor Enforcement within the
2 Department of Public Safety Bureau of Alcoholic Bev-
3 erages. as heretofore created. The Commissioner of
4 Public Safety Director of the Bureau of Alcoholic
5 Beverages shall appoint as Director of the Bureau
6 Division of Liquor Enforcement a person experienced
7 in law enforcement or enforcement of liquor laws, who
8 may be removed for cause by the commissioner Director
9 of the Bureau of Alcoholic Beverages. The division
10 director, subject to the Personnel Law, may appoint
11 as many inspectors as may be found necessary. The
12 inspectors shall be under the direct supervision and
13 control of the division director.

14 Notwithstanding any other provisions of law, the
15 Department of Public Safety Bureau of Alcoholic Bev-
16 erages shall be responsible for the enforcement of
17 the liquor laws and the rules and regulations of the
18 commission.

19 All business and financial records of licensees shall
20 be confidential.

21 Sec. 12. 28 MRSA §60, as amended by PL 1979, c.
22 734, §10, is further amended to read:

23 §60. Eligibility of members and employees

24 No person ~~shall~~ may be eligible for appointment
25 as a member of the State Liquor Commission, as an
26 employee of the commission, the Bureau of Alcoholic
27 Beverages or the Bureau Division of Liquor Enforce-
28 ment in any capacity, including the director, who has
29 any connection with, official, professional or other-
30 wise, or who owns any stock in a corporation inter-
31 ested either directly or indirectly in the manufac-
32 ture or sale of liquor or who has been convicted of
33 the breach of any state or federal law regulating the
34 manufacture, sale or transportation of intoxicating
35 liquor. In addition to the limitations of Title 5,
36 section 18, neither the commission, nor any employee,
37 shall accept directly or indirectly any samples,
38 gratuities, favors or anything of value from a manu-
39 facturer, seller, brewer or licensee or any repre-
40 sentative of the same under circumstances which might
41 reasonably be construed as influencing or improperly
42 relating to past, present or future performance of
43 his official duties.

1 Sec. 13. 28 MRSa §351, as amended by PL 1981, c.
2 581, §1, is further amended to read:

3 §351. Licensee to keep records

4 Every retail licensee shall keep for 2 years com-
5 plete records separate and apart from records relat-
6 ing to any other transactions engaged in by the
7 licensee showing the date of all purchases, the actu-
8 al prices paid therefor and the fact that the licen-
9 see paid cash for all liquor bought by him at the
10 time of or prior to delivery of such that liquor
11 together with the name and address of every person
12 from whom such that liquor was purchased. In the
13 case of wholesalers, records shall be kept for 2
14 years in the principal licensed establishment of the
15 wholesale licensee showing that all sales and pur-
16 chases are in accordance with the law relating to
17 cash sales, including detailed accounts of all its
18 transactions with brewers, wineries, other whole-
19 salers and retailers. In the case of certificate of
20 approval licensees operating special warehouse stor-
21 age facilities within this State, complete records
22 shall be kept and maintained upon the premise relat-
23 ing to all transactions conducted at the special
24 warehouse storage facility, showing the date and
25 amounts of all liquors received and from whom they
26 were received, as well as the dates and amounts of
27 all liquors shipped or withdrawn and the name of the
28 person for whom such that liquor was shipped or with-
29 drawn. All such records shall be open to the commis-
30 sion, its representatives or representatives of the
31 Bureau Division of Liquor Enforcement ~~of the Depart-~~
32 ~~ment of Public Safety~~ at any time and the commission,
33 its representatives or representatives of said the
34 Bureau Division of Liquor Enforcement shall have the
35 right to make copies thereof which may be used as
36 evidence of violation of this section.

37 No licensee ~~shall~~ may refuse the commission, its
38 representatives or representatives of said Bureau the
39 Division of Liquor Enforcement, the right at any time
40 completely to inspect the entire licensed premises or
41 to audit the books and records of the licensee.

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STATEMENT OF FACT

2 The purpose of this bill is to consolidate both
3 the administration and enforcement of the state liquor
4 laws under one body to better implement the laws.
5 At present, these functions are dispersed among
6 several agencies. The Director of the Bureau of
7 Alcoholic Beverages takes direction from the Department
8 of Finance and Administration, while the Director
9 of the Bureau of Liquor Enforcement answers to
10 the Department of Public Safety, while both bureaus
11 are under a 3rd body, the State Liquor Commission.
12 Under this bill, both bureaus will be consolidated
13 under the commission, thus bringing the administrative
14 and enforcement arms under the control of the
15 policy-making body. This leads to more efficient use
16 of personnel and resources and to more effective
17 oversight of alcoholic beverages in this State.

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