

MAINE STATE LEGISLATURE

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1 (After Deadline)

2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 1535

7
8 S.P. 509

In Senate, April 29, 1983

9 Approved for introduction by a majority of the Legislative Council
10 pursuant to Joint Rule 27.

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

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Carpenter of Aroostook.

12 Cosponsor: Representative Smith of Mars Hill.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-THREE
17

18 AN ACT to Provide for Licensing of
19 Bottle Clubs.
20

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

23 Sec. 1. 28 MRSA §2, sub-§1-A, as enacted by PL
24 1979, c. 576, §1, is repealed.

25 Sec. 2. 28 MRSA §2, sub-§8, as amended by PL
26 1979, c. 616, is further amended to read:

27 8. Licensed establishments. "Licensed establish-
28 ments" ~~shall mean~~ means premises licensed to sell
29 spirituous, vinous or malt beverages for consumption
30 on or off the licensed premises as defined in this
31 section or to operate as a bottle club. Licensed
32 establishments shall consist of the following defined
33 premises-.

1 A. "Airline" ~~shall mean~~ means any person oper-
2 ating regularly scheduled intrastate or inter-
3 state passenger air transportation.

4 A-1. Bottle club means any person operating a
5 premise for social and recreational activities
6 and in which members or guests provide their own
7 alcoholic beverages, and where no alcoholic bev-
8 erages are sold on the premises. To qualify for
9 a license or renewal thereof under this Title, a
10 bottle club shall maintain a suitable club house, a
11 hall or quarters for members on a regular basis
12 in conformance with its bylaws or charge an
13 admission fee to members or to the general public
14 and conform to the rules of the State Liquor Com-
15 mission.

16 B. "Civic auditorium" ~~shall mean~~ means a municipi-
17 pal, county or a state or a ~~quasi-municipal~~
18 quasi-municipal, quasi-county or quasi-state
19 owned or operated auditorium or civic center.

20 C. "Club" ~~shall mean~~ means any reputable group
21 of individuals incorporated and operating in a
22 bona fide manner solely for objects of recrea-
23 tional, social, patriotic or fraternal nature and
24 not for pecuniary gain. To qualify for license or
25 any renewal thereof under this Title a club
26 shall, for at least one year immediately pre-
27 ceding application therefor, have been in contin-
28 uous operation and existence, regularly occupied
29 as owner or lessee a suitable clubhouse or quar-
30 ters for use of members, held regular meetings,
31 conducted its business through officers regularly
32 elected, and charged and collected dues from
33 elected members, except that any veterans' orga-
34 nization in the State having a charter from a
35 national veterans' organization shall be exempted
36 from the one-year requirement, provided that it
37 has been established for not less than 3 months.

38 (1) "Club member" ~~shall mean~~ means a person
39 who, whether as a charter member or admitted
40 in accordance with the bylaws of the club,
41 has become a bona fide member and who main-
42 tains membership in good standing by payment
43 of dues in a bona fide manner in accordance

1 with bylaws and whose name and address is
2 entered on the list of members, and no
3 person who does not have full club privi-
4 leges shall be considered a bona fide
5 member.

6 D. "Dining cars" and "cars supplying food" ~~shall~~
7 ~~mean~~ means and ~~include~~ includes cars in which
8 food is prepared and served and also other cars,
9 for accommodations in which an extra charge is
10 made, in which food is served from a dining car
11 or from a car supplying food in the same train.

12 E. "Golf club" means any commercially operated
13 facility, whether publicly or privately owned,
14 offering golfing facilities to the general public
15 for a fee, having as a part thereof a regulation
16 size golf course of not less than 9 holes and an
17 average total of not less than 1,200 yards per 9
18 holes with a value of not less than \$100,000,
19 offering food for sale to the public and having
20 adequate facilities for the sale and consumption
21 of alcoholic beverages as determined by the State
22 Liquor Commission.

23 F. "Hotel" ~~shall mean~~ means any reputable place
24 operated by responsible persons of good reputa-
25 tion, where the public for a consideration
26 obtains sleeping accommodations and where meals
27 may be served, whether or not under one roof. At
28 least 10% of the total volume of business shall
29 be from the sale of food. Each hotel shall be
30 equipped with at least 14 adequate sleeping rooms
31 when it is located in a municipality of 3,000 or
32 less, 20 such sleeping rooms when located in a
33 municipality having population of from 3,000 to
34 7,500 and 30 such sleeping rooms when located in
35 municipalities having more than 7,500 population.
36 All such rooms shall be in addition to rooms used
37 by the owner or his employees. Increase in popu-
38 lation as shown by the 1960 and any subsequent
39 Federal Census shall not affect the eligibility
40 for license of premises licensed prior to any
41 such census.

42 No group of buildings which is reasonably classi-
43 fied as overnight camps ~~shall~~ may qualify as a
44 hotel.

1 A hotel shall be deemed to be serving meals when
2 it provides on the premises a public dining room
3 or rooms, open and serving food during the morn-
4 ing, afternoon and evening, and a separate
5 kitchen in which food is regularly prepared for
6 the public. The commission is specifically
7 authorized to make such rules and ~~regulations~~
8 they deem necessary to carry out this section.

9 Nothing in this subsection ~~shall~~ may be held to
10 prevent the commission from issuing part-time
11 licenses to bona fide part-time hotels. The ~~above~~
12 requirements of this paragraph with respect to
13 number of rooms shall not apply to premises li-
14 censed on August 13, 1947; nor shall the ~~above~~
15 requirements of this paragraph with respect to 14
16 adequate sleeping rooms apply to premises li-
17 censed during 1969.

18 (1) "Hotel guest" ~~shall mean~~ means a person
19 whose name and address is registered on the
20 registry maintained by the hotel and who is
21 the bona fide occupant of a room of the
22 hotel. A person registering solely for the
23 purpose of obtaining liquor is not deemed a
24 hotel guest.

25 G. "Incorporated civic organization" means any
26 charitable or nonprofit civic organization
27 incorporated as a corporation without stock under
28 Title 13, chapter 81.

29 H. "Indoor ice skating club" ~~shall mean~~ means
30 any commercially operated indoor facility offer-
31 ing ice skating facilities to the general public,
32 which charges a fee and which has adequate facil-
33 ities for the sale and consumption of alcoholic
34 beverages.

35 I. "Indoor tennis club" ~~shall mean~~ means any
36 commercially-operated indoor facility with 4 or
37 more courts or areas designed or used for the
38 playing of any racquet sport, which is open to
39 the general public, which charges a fee and which
40 has adequate facilities for the sale and consump-
41 tion of alcoholic beverages. Racquet sports ~~shall~~
42 ~~include~~ includes tennis, squash, handball,
43 paddleball and badminton.

1 J. "Restaurant" ~~shall~~ mean means a reputable
2 place operated by responsible persons of good
3 reputation and habitually and regularly used for
4 the purpose of providing food for the public, and
5 provided with adequate and sanitary kitchen and
6 dining room equipment and capacity for preparing
7 and serving suitable food for the public. In the
8 case of both full-time and part-time licenses at
9 least 10% of the total volume of business shall
10 be sale of food. In no case ~~shall~~ may the commis-
11 sion renew any license for the sale of malt or
12 vinous liquor unless they are furnished with
13 proof that the previous year's business conformed
14 to the income provision of this subsection. The
15 income provision of this subsection shall not
16 apply to the bowling business conducted in bow-
17 ling alleys, so called. The commission is specifi-
18 cally authorized to make such rules ~~and regula-~~
19 ~~tions~~ as they deem necessary for carrying out
20 this subsection.

21 K. "Class A restaurant" ~~shall~~ mean means a repu-
22 table place operated by responsible persons of
23 good reputation which is properly equipped and
24 which prepares and serves full course meals. In
25 municipalities having a population of above
26 50,000 persons, year-round Class A restaurants
27 must do a minimum of \$50,000 per year in sale and
28 service of food to the public on their premises.
29 In municipalities having a population of above
30 50,000 persons, part-time licensees must do a
31 minimum of \$30,000 business in sale or service of
32 food to the public on their premises as a re-
33 quirement for a part-time license not in excess
34 of 6 consecutive months and \$20,000 business in
35 sale or service of food to the public on their
36 premises as a requirement for a part-time license
37 not in excess of 3 consecutive months. In muni-
38 cipalities having a population of 30,001 to 50,000
39 persons, year-round Class A restaurants must do a
40 minimum of \$40,000 per year in sale and service
41 of food to the public on their premises. In
42 municipalities having a population of 30,001 to
43 50,000 persons, part-time licensees must do a
44 minimum of \$25,000 business in sale or service of
45 food to the public on their premises as a re-
46 quirement for a part-time license not in excess

1 of 6 consecutive months and \$20,000 in sale or
2 service of food to the public on their premises
3 as a requirement for a part-time license not in
4 excess of 3 consecutive months. In municipalities
5 having a population of 20,001 to 30,000 persons,
6 year-round Class A restaurants must do a minimum
7 of \$30,000 per year in sale and service of food
8 to the public on their premises and part-time
9 licensees must do a minimum of \$20,000 business
10 in sale and service of food to the public on
11 their premises as a requirement for a part-time
12 license not in excess of 6 consecutive months. In
13 municipalities having a population of 20,000 per-
14 sons or less, year-round Class A restaurants must
15 do a minimum of \$20,000 per year in sale and ser-
16 vice of food to the public on their premises, and
17 part-time licensees must do a minimum of \$15,000
18 business in sale or service of food to the public
19 on their premises as a requirement for a part-
20 time license not in excess of 6 consecutive
21 months. If the judgment of the commission is that
22 the applicant would probably qualify, then a li-
23 cense shall be issued. In no case ~~shall~~ may the
24 commission renew any license for the sale of liq-
25 uor under this subsection unless they are fur-
26 nished with proof that the previous year's busi-
27 ness conformed to the income provisions of this
28 subsection. The commission is specifically
29 authorized to make such rules and regulations as
30 they deem necessary for carrying out this subsec-
31 tion.

32 L. "Retailer" ~~shall mean~~ means and include
33 includes persons licensed by the commission to
34 engage in the purchase and resale of liquors in
35 the original container or by the drink, for con-
36 sumption on or off the premises. It shall not
37 include wholesalers as defined in subsection 18.

38 M. "Tavern" ~~shall mean~~ means a reputable place
39 operated by responsible persons where no food is
40 sold, other than prepared packaged foods, and bar
41 snacks, and no business is carried on except the
42 sale of cigarettes and tobacco products and
43 except the sale of malt liquor at a bar. There
44 shall be no table, chairs or other seating accom-
45 modations and all persons served shall remain
46 standing at the bar.

1 N. "Class A tavern" ~~shall mean~~ means a repu-
2 table place operated by responsible persons of
3 good reputation where food may be sold and malt
4 liquors are sold at tables, booths and counters,
5 and where no minors ~~shall~~ may be permitted to
6 remain on the licensed premises, unless employed
7 under section 852. All such taverns shall comply
8 with the rules and ~~regulations~~ of the Department
9 of Human Services and be licensed by same and
10 this license fee shall be \$15.

11 O. "Vessel" ~~shall mean~~ means a craft used for
12 navigation of the water, any ship, vessel or boat
13 of any kind, licensed for carrying not less than
14 25 passengers under the requirements of the
15 Public Utilities Commission or the United States
16 Coast Guard, and propelled by steam or otherwise
17 and used only on waters other than inland waters.

18 Sec. 3. 28 M RSA §201-B is enacted to read:

19 §201-B. Services of bottle clubs regulated

20 No person, firm or corporation, not licensed
21 under this Title, may keep, maintain, operate, lease
22 or otherwise furnish to its members and guests or to
23 the general public any premises, building, apartment
24 or place wherein the members, guests or other persons
25 shall engage in the drinking of alcoholic liquors for
26 a fee or any consideration, including any admission
27 charge, charges for food, misers or other fluids used
28 with alcoholic drinks or the storage of alcoholic
29 beverages.

30 If a majority of the votes cast in any municipal-
31 ity in answer to local option questions 2 or 3, as
32 provided in section 101, is in the negative, no li-
33 cence for a bottle club may be issued in that commu-
34 nity.

35 Any person found in violation of this section
36 shall be punished by a fine of not more than \$300 or
37 by imprisonment for not more than 60 days, or by
38 both.

39 Sec. 4. 28 M RSA §251, last ¶ is amended to read:

1 Every applicant for a bottle club license and
2 every applicant for a license for sale of liquor to
3 be consumed on the premises where sold shall include
4 in his application a description of the premises for
5 which he desires license and shall set forth such
6 other material information, description or plan of
7 that part of the premises where it is proposed to
8 keep or sell liquor as the commission may require.

9 Sec. 5. 28 MRSA §301, as amended by PL 1973, c.
10 362, is further amended to read:

11 §301. Proximity to churches and schools; exception

12 No new hotel, restaurant, tavern ~~or~~, club or bot-
13 tle club licenses shall may be granted under this
14 Title to new premises within 300 feet of a public or
15 private school, school dormitory, church, chapel or
16 parish house in existence as such at the time such
17 new license is applied for, measured from the main
18 entrance of the premises to the main entrance of the
19 school, school dormitory, church, chapel or parish
20 house by the ordinary course of travel, except such
21 premises as were in use as hotels or clubs on July
22 24, 1937. The commission may grant licenses to prem-
23 ises which are either in or within 300 feet of a
24 church, chapel, parish house or post-secondary
25 school, measured as aforesaid, when the application
26 therefor has the unanimous approval of the members of
27 the commission and the written approval of a majority
28 of the officers or the written approval of the offi-
29 cer, person or pastor in charge of such church,
30 chapel, parish house or post-secondary school.

31 Sec. 6. 28 MRSA §303, 3rd ¶, as amended by PL
32 1977, c. 23, §6, is further amended to read:

33 Any person under the age of 20 years who pur-
34 chases any intoxicating liquor or any person under
35 the age of 20 years who consumes any intoxicating
36 liquor or has on his ~~or her~~ person any intoxicating
37 liquor in any on-sale premises or bottle club, or who
38 presents or offers to any licensee, his agent or
39 employee any written or oral evidence of age which is
40 false, fraudulent or not actually his own, for the
41 purpose of ordering, purchasing, attempting to pur-
42 chase or otherwise procuring or attempting to pro-

1 cure, the serving of any intoxicating liquor, or who
2 has any intoxicating liquor in his possession except
3 in the scope of his ~~or her~~ employment on any street
4 or highway, or in any public place or in any automomobile,
5 shall be guilty of a misdemeanor and shall be
6 punished by a fine of not ~~more~~ less than \$100 for the
7 first offense, not less than ~~\$50~~ \$100 nor more than
8 ~~\$100~~ \$200 for the 2nd offense and ~~\$100~~ \$300 for the
9 3rd and subsequent offenses. If a minor is charged
10 with illegal possession under this section, he may
11 not be charged with illegal transportation. No minor
12 ~~shall~~ may be charged with more than one offense under
13 this section in any given instance wherein the same
14 set of facts is involved.

15 Sec. 7. 28 MRSA §701, sub-§§8 and 9 are enacted
16 to read:

17 8. Fees for full-year licenses. Fees for
18 full-year licenses for the consumption of alcoholic
19 beverages on the premises shall be as follows:

20 A. Class VIII license, bottle clubs.....\$100

21 9. Fees for part-time licenses. Fees for part-
22 time licenses for the consumption of alcoholic bever-
23 ages on the premises of bottle clubs shall be 1/2 the
24 full-year license fee.

25 Sec. 8. 28 MRSA §701-A, sub-§8 is enacted to
26 read:

27 8. Class VIII license. The following premises
28 shall be eligible for a Class VIII license:

29 A. Bottle clubs, consumption of alcoholic bever-
30 ages on the premises only.

31 Sec. 9. 28 MRSA §702, sub-§1, as amended by PL
32 1979, c. 562, §3, is further amended to read:

33 1. Permit required. No licensee for the sale of
34 liquor or the consumption of liquor to be consumed on
35 his licensed premises shall may permit, on his li-
36 icensed premises, any music, except radio or other
37 mechanical device, any dancing or entertainment of
38 any sort unless the licensee shall have first

1 obtained from the municipality in which the licensed
2 premises are situated a special amusement permit for
3 which he shall pay to the commission a fee of \$10.
4 The municipal officers shall, prior to granting a
5 permit and after reasonable notice to the municipal-
6 ity and the applicant, hold a public hearing at which
7 the testimony of the applicant and that of any inter-
8 ested members of the public shall be taken. The
9 municipal officers shall grant a permit unless they
10 find that issue of the permit would be detrimental to
11 the public health, safety or welfare, or would vio-
12 late municipal ordinances or rules and regulations. A
13 permit shall be valid only for the license year of
14 the existing license.

15 Sec. 10. 28 MRSA §702, sub-§6, as enacted by PL
16 1977, c. 501, §1, is repealed and the following
17 enacted in its place.

18 6. Admission. Licensed hotels, Class A restau-
19 rants, Class A taverns, restaurant malt liquor and
20 bottle club licensees who have been issued an special
21 amusement permit may charge admission in designated
22 areas approved by the commission.

23 STATEMENT OF FACT

24 The purpose of this bill is to apply the rules of
25 the State Liquor Commission in an equitable manner to
26 all facilities on which alcoholic beverages are sold
27 or consumed. Presently, bottle clubs are not under
28 any regulation, and actions deemed illegal for li-
29 censed establishments are not illegal for bottle
30 clubs. This bill corrects this inequity.

31 3220041283