

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 223

6
7 H.P. 189

House of Representatives, January 29, 1985

8 Reference to the Committee on Legal Affairs suggested and ordered
9 printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Handy of Lewiston.
Cosponsored by Representative Murphy of Berwick.

11
12 STATE OF MAINE
13

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

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

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

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23 1979, c. 576, §1, is repealed.

24 Sec. 2. 28 MRSA §2, sub-§8, as amended by PL
25 1983, c. 755, §§1, 14, are further amended to read:

26 8. Licensed establishments. "Licensed establish-
27 ments" ~~shall mean~~ means premises licensed to permit
28 the on-premise consumption of spiritous, vinous or
29 malt beverages licensed to sell spirituous, vinous or
30 malt beverages for consumption on or off the licensed
31 premises as defined in this section. Licensed estab-
32 lishments shall consist of the following defined
33 premises:

1 A. "Airline" ~~shall mean~~ means any person operat-
2 ing regularly scheduled intrastate or interstate
3 passenger air transportation.

4 A-1. "Bottle club" means a reputable establish-
5 ment operated on a regular, profit or nonprofit,
6 basis by persons of good reputation where mem-
7 bers, guests or others for a fee or consideration
8 are permitted to consume alcoholic beverages
9 which these patrons have provided. No alcoholic
10 beverages are sold on the premises. This defini-
11 tion includes premises maintained for the use of
12 members who pay dues on a periodic basis and
13 premises that charge a per use fee to members or
14 the general public, including, but not limited
15 to, admission fees, charges for food, mixers or
16 other supplies used with alcoholic beverages or
17 charges for storage of alcoholic beverages or
18 supplies.

19 B. "Civic auditorium" ~~shall mean~~ means a municipi-
20 pal, county or a state or a quasi-municipal,
21 quasi-county or quasi-state owned or operated au-
22 ditorium or civic center.

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

41 (1) "Club member" ~~shall mean~~ means a person
42 who, whether as a charter member or admitted
43 in accordance with the bylaws of the club,

1 has become a bona fide member and who main-
2 tains membership in good standing by payment
3 of dues in a bona fide manner in accordance
4 with bylaws and whose name and address is
5 entered on the list of members, and no per-
6 son who does not have full club privileges
7 shall be considered a bona fide member.

8 D. "Dining cars" and "cars supplying food" shall
9 mean means and include cars in which food is pre-
10 pared and served and also other cars, for accom-
11 modations in which an extra charge is made, in
12 which food is served from a dining car or from a
13 car supplying food in the same train.

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

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

1 No group of buildings which is reasonably classified
2 as overnight camps ~~shall~~ may qualify as a hotel.

3 A hotel shall be deemed to be serving meals when it
4 provides on the premises a public dining room or
5 rooms, open and serving food during the morning, af-
6 ternoon and evening, and a separate kitchen in which
7 food is regularly prepared for the public. The com-
8 mission is specifically authorized to make such rules
9 and regulations as they deem necessary to carry out
10 this section.

11 Nothing in this subsection ~~shall~~ may be held to pre-
12 vent the commission from issuing part-time licenses
13 to bona fide part-time hotels. The above requirements
14 with respect to number of rooms shall not apply to
15 premises licensed on August 13, 1947; nor shall the
16 above requirements with respect to 14 adequate sleep-
17 ing rooms apply to premises licensed 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 ho-
22 tel. 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 incor-
27 porated as a corporation without stock under Ti-
28 tle 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

1 include tennis, squash, handball, paddleball and
2 badminton.

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

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

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

33 L. "Retailer" ~~shall mean~~ means and include per-
34 sons licensed by the commission to engage in the
35 purchase and resale of liquors in the original
36 container or by the drink, for consumption on or
37 off the premises. It shall not include wholesal-
38 ers as defined in subsection 18.

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

1 modations and all persons served shall remain
2 standing at the bar.

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

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

20 P. "Outdoor stadium" means any
21 commercially-operated outdoor facility with 5,000
22 or more seats designed or used for the playing of
23 any sport or event, which is open to the general
24 public, which charges a fee and which has ade-
25 quate facilities for the sale and consumption of
26 malt and vinous liquors.

27 Sec. 3. 28 MRSA §101, sub-§9, first ¶, as en-
28 acted by PL 1983, c. 487, §1, is further amended to
29 read:

30 9. Shall this municipality or unincorporated
31 place prohibit the operation of bottle clubs, which
32 are defined as any person operating on a regular ba-
33 sis a premise for social activities in which members
34 or guests provide their own alcoholic beverages,
35 where no alcoholic beverages are sold on the premises
36 and which maintains suitable quarters for the use of
37 members on a regular basis or charges an admission
38 fee to members or to the general public? a reputable
39 establishment operated on a regular, profit or non-
40 profit, basis by persons of good reputation where
41 members, guests or others for a fee or consideration
42 are permitted to consume alcoholic beverages which

1 these patrons have provided. No alcoholic beverages
2 are sold on the premises.

3 Sec. 4. 28 MRSA §251, last ¶ is amended to read:

4 Every applicant for a license for sale the
5 consumption of liquor ~~to be consumed~~ on the premises
6 ~~where sold~~ shall include in his application a de-
7 scription of the premises for which he desires li-
8 cense and shall set forth such other material infor-
9 mation, description or plan of that part of the
10 premises where it is proposed to keep or sell liquor
11 as the commission may require.

12 Sec. 5. 28 MRSA §301, as amended by PL 1973, c.
13 362, is further amended to read:

14 §301. Proximity to churches and schools; exception

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

34 Sec. 6. 28 MRSA §303, 3rd ¶, as amended by PL
35 1983, c. 81, is further amended to read:

36 Any person under the age of 20 years who pur-
37 chases any intoxicating liquor or any person under
38 the age of 20 years who consumes any intoxicating li-
39 quor or has on his ~~or her~~ person any intoxicating li-
40 quor in any on-sale premises or bottle club, or who

1 presents or offers to any licensee, his agent or em-
2 ployee any written or oral evidence of age which is
3 false, fraudulent or not actually his own, for the
4 purpose of ordering, purchasing, attempting to pur-
5 chase or otherwise procuring or attempting to pro-
6 cure, the serving of any intoxicating liquor, or who
7 has any intoxicating liquor in his possession except
8 in the scope of his ~~or her~~ employment on any street
9 or highway, or in any public place or in any automo-
10 bile, commits a civil violation for which a forfei-
11 ture may be adjudged of no less than \$100 nor more
12 than \$300 for the first offense; not less than \$200
13 nor more than \$500 for the 2nd offense; and \$500 for
14 the 3rd and subsequent offenses. If a minor is
15 charged with illegal possession under this section,
16 he may not be charged with illegal transportation.
17 No minor may be charged with more than one offense
18 under this section in any given instance wherein the
19 same set of facts is involved.

20 Sec. 7. 28 MRSA §702, sub-§6, as enacted by PL
21 1977, c. 501, §1, is amended to read:

22 6. Admission. A licensed hotel, Class A restau-
23 rant, Class A tavern, bottle club or restaurant malt
24 liquor licensee who has been issued an amusement per-
25 mit may charge admission in designated areas approved
26 by the ~~municipal permit~~ commission.

27 Sec. 8. 28 MRSA §809 is enacted to read:

28 §809. Bottle clubs

29 1. Licenses generally. No persons, not licensed
30 under this Title may operate a bottle club.

31 2. License eligibility. In conformation with
32 local option questions, bottle clubs are eligible for
33 class VIII license - consumption, only, of alcoholic
34 beverages, no sales.

35 3. Fees:

36 A. Full year.....\$25;

37 B. Six months.....1/2 the full year fee; or

