

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 189, L.D. 223)  
(New Title)  
FIRST REGULAR SESSION

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ONE HUNDRED AND TWELFTH LEGISLATURE

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Legislative Document

No. 1282

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H.P. 905

House of Representatives, April 11, 1985

Reported by Representative Paul from the Committee on Legal Affairs  
and printed under Joint Rule 2. Original bill sponsored by Representative  
Handy of Lewiston. Cosponsored by Representative Murphy of Berwick.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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

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AN ACT to Provide for Registration of Bottle  
Clubs.

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

Sec. 1. 28 MRSA §2, sub-§1-A, as enacted by PL  
1979, c. 576, §1, is repealed and the following en-  
acted in its place:

1-A. Bottle club. "Bottle club" means an estab-  
lishment not licensed or permitted to sell liquor  
which is operated on a regular, profit or nonprofit  
basis where members, guests or others are regularly  
permitted to consume liquor. Charges paid by the  
bottle club's members or the general public for mem-  
bership, admission, food, mixers or other supplies  
used with liquor or storage or handling of liquor be-  
longing to members or the general public are not  
sales, as defined in this Title, or gifts. A bottle

1 club is not a public place as defined in Title 17,  
2 section 2003-A.

3       Sec. 2. 28 MRSA §809 is enacted to read:

4       §809. Bottle clubs

5       1. Registration. Each bottle club as defined in  
6 section 2, subsection 1-A, shall register annually  
7 with the State Liquor Commission on forms provided by  
8 the commission. Registration shall consist of pay-  
9 ment of the registration fee and submission of the  
10 information required in paragraph A.

11       A. The information each bottle club is required  
12 to submit consists of only the following:

13               (1) The name and address of each owner of  
14 the bottle club;

15               (2) The name and address of each operator  
16 of the bottle club; and

17               (3) The regular hours of operation.

18       B. The annual fee for registration of a bottle  
19 club is \$50. Each bottle club shall submit the  
20 registration fee with the required information.

21       C. Any bottle club which does not register with  
22 the commission commits a civil violation for  
23 which a forfeiture not to exceed \$500 may be ad-  
24 judged.

25       2. Minors on the premises. No minor not em-  
26 ployed by the bottle club or accompanied by his par-  
27 ent, legal guardian or custodian, as defined in Title  
28 22, section 4002, may be permitted to remain on the  
29 premises except on special occasions when liquor is  
30 prohibited on the premises. A bottle club may employ  
31 minors only if an employee of legal drinking age or  
32 older is present in a supervisory capacity.

33       3. Consumption on premises. No bottle club may  
34 permit consumption of liquor on the bottle club  
35 premises by minors or persons visibly intoxicated.

1           4. Violation of state law. No bottle club may  
2 knowingly allow any violation of any state law on the  
3 bottle club premises.

4           5. Civil violations and jurisdiction. A bottle  
5 club which violates any provision of subsections 2, 3  
6 or 4 commits a civil violation for which a forfeiture  
7 may be adjudged of not less than \$100 nor more than  
8 \$300 for the first offense; not less than \$200 nor  
9 more than \$500 for the 2nd offense; and \$500 for the  
10 3rd and subsequent offenses. The District Court has  
11 jurisdiction over civil violations defined in this  
12 section pursuant to Title 17-A, section 9.

13           6. Right of access. Every bottle club shall al-  
14 low liquor enforcement officers and other law en-  
15 forcement officers to enter the premises at reason-  
16 able times for the purpose of investigating compli-  
17 ance with the liquor laws of this Title. The liquor  
18 enforcement officers and other law enforcement offi-  
19 cers have the power to enforce all provisions of this  
20 Title. Entry into the premises under this subsection  
21 shall be conducted in a reasonable manner so as not  
22 to disrupt the operation of the bottle club. The in-  
23 vestigation shall be limited to those areas involved  
24 in the actual operation of the bottle club, including  
25 storage areas.

26                                   FISCAL NOTE

27           It is estimated that enactment of this new draft  
28 would result in an increase in General Fund revenues  
29 in fiscal year 1985-86 of \$7,500 and in fiscal year  
30 1986-87 of \$7,500.

31                                   STATEMENT OF FACT

32           This new draft is offered as an alternative to  
33 licensing bottle clubs. There is some concern that  
34 licensing a bottle club implies that it is in the li-  
35 quor business and most operators feel this is improper.  
36

37           The definition of bottle club is amended from the  
38 current law to be more specific. A bottle club is  
39 not licensed to sell liquor, nor may it sell any li-

1 quor. The definition includes only establishments  
2 that operate on a regular basis. This excludes fra-  
3 ternal and similar organizations which may occasion-  
4 ally host an event where members bring their own li-  
5 quor and the organization neither sells nor supplies  
6 liquor. The definition does include organizations  
7 which open their premises on a regular basis where  
8 their members or the general public can consume the  
9 alcoholic beverages the patrons supply themselves,  
10 whether or not the organization receives a profit  
11 from such operation. A bottle club remains a bottle  
12 club even if it charges for mixers or other supplies  
13 or for the storage or handling of the patrons' liquor  
14 or supplies. The purpose of this definition is to  
15 clarify that a bottle club is not subject to the Dram  
16 Shop Act, the Maine Revised Statutes, Title 17, sec-  
17 tion 2002, unless it makes an illegal sale. A bottle  
18 club is not a public place as defined in the Maine  
19 Revised Statutes, Title 17, section 2003-A.

20 Section 2 of the new draft requires bottle clubs  
21 to register with the State Liquor Commission annual-  
22 ly. Registration is defined as payment of the \$50  
23 registration fee, to cover administrative and en-  
24 forcement costs, and submission of certain informa-  
25 tion. The required information is limited to the  
26 names and addresses of all owners and operators and  
27 the hours of operation.

28 Section 2 of the new draft also adds a provision  
29 prohibiting minors on the premises except in 3 cases.  
30 First, if the minor is escorted by his parent, legal  
31 guardian or custodian he may remain on the premises  
32 as long as the parent, legal guardian or custodian  
33 also remains on the premises. "Custodian" is defined  
34 in the Maine Revised Statutes, Title 22, section  
35 4002, subsection 5, as "the person who has legal cus-  
36 tody and power over the person of the child." Sec-  
37 ond, minors may remain on the premises when the bot-  
38 tle club is sponsoring an event where alcohol is pro-  
39 hibited for the specified hours of the event. Third,  
40 a minor may remain on the premises when he is em-  
41 ployed by the bottle club. Bottle clubs may employ  
42 minors only when an employee of legal drinking age or  
43 older is present in a supervisory capacity.

1        This new draft makes it illegal for a bottle club  
2 to allow a minor or a person who is visibly intoxic-  
3 cated to consume liquor on the premises. This ad-  
4 dresses the concern that people who would not be  
5 served in a licensed establishment will not be al-  
6 lowed to consume alcoholic beverages in the bottle  
7 club either.

8        It is also illegal for a bottle club to knowingly  
9 allow any violation of any state law on the premises.  
10 The bottle club is not held responsible for crimes  
11 committed on the premises, e.g., trafficking in  
12 drugs, unless the bottle club knows of the activity  
13 and allows it to continue.

14        This new draft specifies that violations of the  
15 Maine Revised Statutes, Title 28, section 809, sub-  
16 sections 2, 3 and 4, are civil violations for which  
17 civil forfeitures may be adjudged. The new draft  
18 clarifies that the District Court has jurisdiction  
19 over these civil violations.

20        Bottle clubs are required to provide access to  
21 liquor enforcement officers and other law enforcement  
22 officers for the purposes of investigating whether  
23 the club and its patrons are in compliance with the  
24 liquor laws. This section also clarifies that the  
25 liquor enforcement officers and other law enforcement  
26 officers have the authority to enforce the provisions  
27 of the Maine Revised Statutes, Title 28. The scope  
28 of the investigation includes only the parts of the  
29 building actually used in the operation of the bottle  
30 club, including storage areas. This provision is  
31 necessary to insure the privacy of offices and other  
32 rooms in the same building as the bottle club, but  
33 not used in the operation of the bottle club. If at  
34 all possible, the agents are required to conduct the  
35 investigation without disturbing the normal operation  
36 of the bottle club.

It is estimated that if this new draft is enacted the General Fund revenues will be increased by \$7,500 annually. This estimate is based on 150 bottle clubs paying the annual registration fee of \$50. It is estimated that the enforcement of this legislation will not produce additional costs for Liquor Enforcement within the Department of Public Safety.

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