

MAINE STATE LEGISLATURE

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(New Draft of H.P. 364, L.D. 484)
FIRST REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No. 1513

H.P. 1039

House of Representatives, May 10, 1985

Reported by Representative Perry from the Committee on Legal Affairs and printed under Joint Rule 2. Original bill sponsored by Representative Murphy of Kennebunk. Cosponsored by Representative Perry of Mexico, Representative Murphy of Berwick and Representative Warren of Scarborough.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Provide Guidance to Municipal
Officers in Granting and Denying
Liquor Licenses for On-premise
Consumption.

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

Sec. 1. 28 MRSA §252-A, sub-§2, as enacted by PL 1981, c. 366, §5, is amended to read:

2. Findings. In granting or denying an application under subsection 1, the municipal officers or the county commissioners, as the case may be, shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

1 B. Noncompliance of the licensed premises or its
2 use with any local zoning ordinance or other land
3 use ordinance not directly related to liquor con-
4 trol;

5 C. Conditions of record such as waste disposal
6 violations, health or safety violations or re-
7 peated parking or traffic violations on or in the
8 vicinity of the licensed premises and caused by
9 persons patronizing or employed by the licensed
10 premises or other such conditions caused by per-
11 sons patronizing or employed by the licensed
12 premises which unreasonably disturb, interfere
13 with or affect the ability of persons or busi-
14 nesses residing or located in the vicinity of the
15 licensed premises to use their property in a rea-
16 sonable manner;

17 D. Repeated incidents of record of breaches of
18 the peace, disorderly conduct, vandalism or other
19 violations of law on or in the vicinity of the
20 licensed premises and caused by persons
21 patronizing or employed by the licensed premises;
22 and

23 E. A violation of any provision of this Title.

24 Sec. 2. 28 MRSA §252-A, sub-§3, as enacted by PL
25 1981, c. 366, §5, is amended to read:

26 3. Appeal to commission. Any applicant aggrieved
27 by the decision of the municipal officers or county
28 commissioners under this section may appeal to the
29 commission, who shall hold a public hearing in the
30 city, town or unincorporated place where the premises
31 are situated. In acting on such an appeal, the com-
32 mission may consider all of the requirements for li-
33 censure referred to in subsection 2.

34 A. If the decision appealed from was to grant
35 the application or request, the commission may
36 reverse the decision if it was arbitrary or based
37 on an erroneous finding.

38 B. If the decision appealed from was to deny the
39 application or request, the commission may grant
40 the application or request only if it finds by

1 clear and convincing evidence that the decision
2 was without justifiable cause.

3 STATEMENT OF FACT

4 The current liquor laws do not provide adequate
5 guidance to municipal officers or county commission-
6 ers as to the reasons a liquor license can be denied.
7 It has been the experience of both the State Liquor
8 Commission and the various municipalities that some
9 liquor licensees are responsible for an inordinate
10 number of municipal and state violations, civil dis-
11 turbances and other violations which adversely affect
12 the ability of surrounding property owners and ten-
13 ants to use their property in a reasonable and lawful
14 manner. This new draft establishes a number of factu-
15 al criteria for the denial of a liquor license and
16 allows municipal or county officials and the State to
17 deny a liquor license to an applicant when it has
18 been documented that the operation of the applicant's
19 business has been responsible for violations of law
20 or for conditions which interfere with the reasonable
21 and lawful use of surrounding property. Relative to
22 the decision of the Supreme Judicial Court in Ullis
23 v. Inhabitants of the Town of Boothbay Harbor, 459
24 A.2d 153 (Me. 1983), this new draft also allows the
25 denial of a liquor license for noncompliance of the
26 licensed premises with local zoning or other land use
27 ordinances not directly related to liquor control.
28 Land use ordinances regulating "adult uses," for ex-
29 ample, are proper bases for denial of liquor li-
30 censes.

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