

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 159, L.D. 426)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1520

8 S.P. 578

In Senate, May 13, 1985

9 Reported by Senator Trafton of Androscoggin from the Committee on
10 Legal Affairs and printed under Joint Rule 2. Original bill sponsored by
11 Senator Najarian of Cumberland. Cosponsored by Representative Hoglund of
Portland.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

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

18 AN ACT to Provide a Class A Lounge Liquor
19 License.
20

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

23 Sec. 1. 28 MRSA §2, sub-§8, ¶K, as repealed and
24 replaced by PL 1975, c. 741, §1, is amended to read:

25 K. "Class A restaurant" ~~shall mean~~ means a repu-
26 table place operated by responsible persons of
27 good reputation which is ~~properly equipped and~~
28 ~~which prepares and serves full course meals hab-~~
29 ~~itually and regularly used for the purpose of~~
30 ~~providing full course meals for the public on the~~
31 ~~premises. Class A restaurants shall be equipped~~
32 ~~with a separate and complete kitchen and shall~~
33 ~~maintain adequate dining room equipment and ca-~~
34 ~~capacity for preparing and serving full course~~
35 ~~meals upon the premises. A full course meal~~
36 ~~shall consist of a diversified selection of food~~

1 which ordinarily cannot be consumed without the
2 use of tableware and which cannot be conveniently
3 consumed while standing or walking. In municipal-
4 ities having a population of above 50,000 per-
5 sons, year-round Class A restaurants must do a
6 minimum of \$50,000 per year in sale ~~and~~ ~~service~~
7 of food to the public on their premises. In mu-
8 nicipalities having a population of above 50,000
9 persons, part-time licensees must do a minimum of
10 \$30,000 business in sale ~~or~~ ~~service~~ of food to
11 the public on their premises as a requirement for
12 a part-time license not in excess of 6 consecu-
13 tive months and \$20,000 business in sale ~~or~~
14 ~~service~~ of food to the public on their premises
15 as a requirement for a part-time license not in
16 excess of 3 consecutive months. In municipalities
17 having a population of 30,001 to 50,000 persons,
18 year-round Class A restaurants must do a minimum
19 of \$40,000 per year in sale ~~and~~ ~~service~~ of food
20 to the public on their premises. In municipali-
21 ties having a population of 30,001 to 50,000 per-
22 sons, part-time licensees must do a minimum of
23 \$25,000 business in sale ~~or~~ ~~service~~ of food to
24 the public on their premises as a requirement for
25 a part-time license not in excess of 6 consecu-
26 tive months and \$20,000 in sale ~~or~~ ~~service~~ of
27 food to the public on their premises as a re-
28 quirement for a part-time license not in excess
29 of 3 consecutive months. In municipalities having
30 a population of 20,001 to 30,000 persons,
31 year-round Class A restaurants must do a minimum
32 of \$30,000 per year in sale ~~and~~ ~~service~~ of food
33 to the public on their premises and part-time li-
34 censees must do a minimum of \$20,000 business in
35 sale ~~and~~ ~~service~~ of food to the public on their
36 premises as a requirement for a part-time license
37 not in excess of 6 consecutive months. In municipa-
38 lities having a population of 20,000 persons or
39 less, year-round Class A restaurants must do a
40 minimum of \$20,000 per year in sale ~~and~~ ~~service~~
41 of food to the public on their premises, and
42 part-time licensees must do a minimum of \$15,000
43 business in sale ~~or~~ ~~service~~ of food to the public
44 on their premises as a requirement for a part-
45 time license not in excess of 6 consecutive
46 months. If the judgment of the commission is that
47 the applicant would probably qualify, then a li-

1 cense shall be issued. In no case shall the com-
2 mission renew any license for the sale of liquor
3 under this subsection unless ~~they are~~ it is fur-
4 nished with proof that the previous year's busi-
5 ness conformed to the income provisions of this
6 subsection. The commission is specifically autho-
7 rized to make such rules and regulations as ~~they~~
8 ~~deem~~ it deems necessary for carrying out this
9 subsection.

10 Sec. 2. 28 MRSA §2, sub-§8, ¶K-1 is enacted to
11 read:

12 K-1. "Class A lounge" means a reputable place
13 operated by responsible persons of good reputa-
14 tion, where food and liquor are sold at tables,
15 booths and counters. At least 10% of the total
16 volume of business shall be the sale of food.
17 Minors are not permitted to remain on the
18 premises unless accompanied by a parent, legal
19 guardian or custodian as defined in Title 22,
20 section 4002. All Class A lounges shall be li-
21 censed by the Department of Human Services.

22 Sec. 3. 28 MRSA §301, as amended by PL 1973, c.
23 362, is further amended to read:

24 §301. Proximity to churches and schools; exception

25 No new ~~hotel, restaurant, tavern or club~~ licenses
26 for the consumption of alcoholic beverages on the
27 premises where sold shall be granted under this Title
28 to new premises within 300 feet of a public or pri-
29 vate school, school dormitory, church, chapel or par-
30 ish house in existence as such at the time such new
31 license is applied for, measured from the main en-
32 trance of the premises to the main entrance of the
33 school, school dormitory, church, chapel or parish
34 house by the ordinary course of travel, except such
35 premises as were in use as hotels or clubs on July
36 24, 1937. The commission may grant licenses to
37 premises which are either in or within 300 feet of a
38 church, chapel, parish house or post-secondary
39 school, measured as aforesaid, when the application
40 therefor has the unanimous approval of the members of
41 the commission and the written approval of a majority
42 of the officers or the written approval of the offi-

1 cer, person or pastor in charge of such church, chap-
2 el, parish house or post-secondary school.

3 Sec. 4. 28 MRSA §701, sub-§1, ¶F is enacted to
4 read:

5 F. Class X License, Class A Lounge, spirituous,
6 vinous and malt beverages.....\$2,000

7 Sec. 5. 28 MRSA §701, sub-§2, ¶A is enacted to
8 read:

9 A. Notwithstanding this subsection, the fee for
10 a part-time Class X license is the same as the
11 full-time fee.

12 Sec. 6. 28 MRSA §701-A, subsection 8 is enacted
13 to read:

14 8. Class X license. The following premises
15 shall be eligible for a Class X license:

16 A. Class A lounges.

17 Sec. 7. 28 MRSA §801, as amended by PL 1983, c.
18 755, §§12 and 14, is repealed and the following en-
19 acted in its place:

20 §801. Licenses generally

21 Licenses for the sale of spirituous, vinous and
22 malt liquor to be consumed on the premises where sold
23 may be issued to qualified applicants for qualified
24 premises, as defined in section 2, upon payment of
25 the fees provided, subject to the provision that the
26 initial application for the license is approved by
27 the municipal officers of the town or city in which
28 the intended qualified premises is located. If the
29 qualified premises is located in an unorganized
30 place, the application shall be approved by the county
31 commission of the county within which the unorga-
32 nized place is located. All approvals shall be accom-
33 plished pursuant to section 252-A.

34 No licensee for the sale of liquor to be consumed
35 on the premises where sold may by himself, clerk,
36 servant or agent, sell, give, furnish or deliver any

1 liquor to be consumed elsewhere than upon the li-
2 icensed premises, except that, subject to law and the
3 rules of the commission, hotel licensees may sell li-
4 quor in the original packages to bona fide registered
5 room guests.

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

7 §809. Licenses for Class A lounges

8 1. Issue of licenses. The commission may issue
9 licenses for the sale of spirituous and vinous liquor
10 and malt liquor to be consumed on the premises to
11 Class A lounges as defined in section 2, subsection
12 8, paragraph K-1.

13 2. Food availability. Food shall be for sale to
14 the public at all times that liquor is for sale.

15 3. Sunset. The following provisions are re-
16 pealed on September 30, 1987:

17 A. Section 2, subsection 8, paragraph K-1;

18 B. Section 701, subsection 1, paragraph F;

19 C. Section 701, subsection 2, paragraph A;

20 D. Section 701-A, subsection 8, paragraph A; and

21 E. This section.

22 Prior to September 30, 1987, the State Liquor Commis-
23 sion shall evaluate the effectiveness of the Class A
24 lounge license and shall make a written report to the
25 113th Legislature.

26 FISCAL NOTE

27 It is estimated that enactment of this new draft
28 will result in the following increase in revenues.

	<u>1985-86</u>	<u>1986-87</u>
29 General Fund	\$215,000	\$215,000
30		

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STATEMENT OF FACT

2 This new draft does 2 things. First, it provides
3 stricter requirements for Class A restaurants in
4 terms of their volume of food sales. Second, this
5 new draft adds a temporary provision for a new li-
6 cense for Class A lounges.

7 Under this new draft, the definition of Class A
8 restaurant is amended to make sure that Class A res-
9 taurants are actually in the food business, and li-
10 quor sales are just a part of their business. In or-
11 der to be licensed as a Class A restaurant, the res-
12 taurant must be habitually and regularly used for the
13 purpose of providing full course meals for the public
14 on the restaurant's premises. This provision will
15 avoid confusing a "take-out" restaurant with a res-
16 taurant that does most of its business from selling
17 food to be consumed on its premises. The definition
18 of full course meal is added for clarification pur-
19 poses. The food sales requirement based on popula-
20 tion is retained, but the sales volume can be deter-
21 mined only by the sale of food, not the service of
22 food. This change will avoid the problem of whether
23 to include the value of food which is served free of
24 cost to customers.

25 This new draft provides a new license for estab-
26 lishments qualifying as Class A lounges. A Class A
27 lounge may sell the same kinds of liquor that Class A
28 restaurants sell: Spirituous, vinous and malt bever-
29 ages. Food must be for sale at all times that liquor
30 may be purchased and at least 10% of the business
31 must come from the sale of food. The license fee is
32 a substantial \$2,000 which will eliminate the
33 proliferation of irresponsible and haphazard estab-
34 lishments. In addition, the fee for a part-time li-
35 cense will not be reduced from the full-time fee. A
36 Class A lounge that is well run will be able to cover
37 this high license fee, whether it is operated
38 year-round or just seasonally. People that cannot
39 run a Class A lounge under these circumstances will
40 be discouraged from even opening such an establish-
41 ment.

1 No minor may remain on the premises of a Class A
2 lounge unless accompanied by his parent, legal guard-
3 ian or custodian. "Custodian" is defined in the
4 Maine Revised Statutes, Title 22, section 4002, as
5 the person who has legal custody and power over the
6 person of the child.

7 The classification of Class A lounges is intended
8 to license the establishments which should not prop-
9 erly be classed as Class A restaurants or hotels be-
10 cause they do not meet the Class A restaurant food
11 requirement or do not rent rooms. The license fee
12 for a Class A lounge is more than twice that for a
13 Class A restaurant which is consistent with the prac-
14 tice that the cost of a license increases as the re-
15 strictions on the license decrease.

16 The provisions creating a Class A lounge license
17 are repealed on September 30, 1987, unless the Legis-
18 lature removes the "sunset" provision before that
19 time. The Bureau of Alcoholic Beverages and the Bu-
20 reau of Liquor Enforcement shall submit a written re-
21 port on the effectiveness of the Class A lounge li-
22 cense before the repeal date.

23 This new draft will result in an increase in Gen-
24 eral Fund revenues of approximately \$215,000 annual-
25 ly. This figure is based on the Bureau of Alcoholic
26 Beverage's estimate that 140 Class A restaurants and
27 40 hotels, currently maintaining unrented rooms, will
28 transfer to the proposed Class A lounge liquor li-
29 cense.

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