

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND THIRTEENTH LEGISLATURE
4

5 Legislative Document

NO. 155
6

7 H.P. 129 House of Representatives, February 2, 1987
8 Reported by Representative PERRY from the Committee on
Legal Affairs. Sent up for concurrence and ordered printed.
9 Approved by the Legislative Council on April 15, 1986.
10 Reported from the Joint Standing Committee on Legal
Affairs under Joint Rule 19.

EDWIN H. PERT, Clerk

11
12 STATE OF MAINE
13

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

17 AN ACT to Recodify the Liquor Laws.
18

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

21 PART A

22 Sec. 1. 5 MRSA §88-A is enacted to read:

23 §88-A. State identification cards; information; fee

24 1. Application. Any person 21 years of age or
25 over may apply for an official state nondriver iden-
26 tification card. The application must be on a form
27 provided by the Secretary of State and include any
28 supporting documents and information required by the
29 Secretary of State.

1 A. The application form must include, directly
2 above the signature line, the following notice to
3 the applicant: "I understand that knowingly sup-
4 plying false information on this form is a Class
5 D crime under Title 17-A, punishable by confine-
6 ment of up to one year or by monetary fine of up
7 to \$500, or both."

8 2. Issuance of card; contents. Upon receipt of
9 a completed application and payment of a fee of \$2,
10 the Secretary of State shall issue an identification
11 card to the applicant. The card must contain:

12 A. The applicant's photograph;

13 B. The applicant's name and address;

14 C. The applicant's date of birth; and

15 D. Any other information and identification
16 which the Secretary of State considers necessary.

17 3. Validity. The identification card issued un-
18 der this section is not valid until signed by the ap-
19 plicant.

20 4. Confiscation of card. Any law enforcement
21 officer who, in the performance of his duty, finds an
22 identification card issued under this section in the
23 possession of a person other than the person to whom
24 the card has been issued shall confiscate that card
25 and return it to the Secretary of State.

26 5. Fraudulent use of identification card. No
27 person may:

28 A. Misrepresent his age or practice any deceit
29 in the procurement of an identification card;

30 B. Have in his possession a false identification
31 card;

32 C. Use or exhibit for the purpose of procuring
33 liquor an identification card belonging to anothe-
34 er or which has been forged or altered; or

35 D. Loan or transfer his identification card to
36 another for use in the procurement of liquor.

1 6. Penalty. Any person who violates subsection
2 5 commits a misdemeanor and shall be punished by a
3 fine of not less than \$25 nor more than \$500, or by
4 imprisonment for not less than 5 days nor more than
5 11 months, or both.

6 7. Rules. The Secretary of State may adopt
7 rules to carry out this section.

8 Sec. 2. 25 MRSA Pt. 10 is enacted to read:

9 PART 10

10 BUREAU OF LIQUOR ENFORCEMENT

11 CHAPTER 451

12 BUREAU OF LIQUOR ENFORCEMENT

13 §3901. Bureau of Liquor Enforcement

14 1. Bureau of Liquor Enforcement. The enforcement
15 division of the State Liquor Commission shall be the
16 Bureau of Liquor Enforcement within the Department of
17 Public Safety, as created in this chapter. Notwith-
18 standing any other provisions of law, the Department
19 of Public Safety is responsible for the enforcement
20 of the liquor laws and the rules of the commission.

21 2. Director. The Commissioner of Public Safety
22 shall appoint as Director of the bureau a person ex-
23 perienced in law enforcement or enforcement of liquor
24 laws, who may be removed for cause by the commission-
25 er.

26 A. The director, subject to the Civil Service
27 Law, may appoint as many liquor enforcement offi-
28 cers as may be found necessary. The liquor en-
29 forcement officers shall be under the direct su-
30 pervision and control of the director.

31 3. Eligibility. The director and the employees
32 of the bureau are subject to the same eligibility re-
33 quirements of Title 28-A, section 52.

34 §3902. Enforcement powers

1 1. Enforcement duties. A liquor enforcement of-
2 ficer appointed under section 3901 shall enforce the
3 provisions of Title 17, chapter 69, Title 28-A and of
4 Title 29, section 2182.

5 2. Enforcement powers. For the purpose of en-
6 forcing the provisions referenced in subsection 1, a
7 liquor enforcement officer has the same powers
8 throughout the several counties of the State as sher-
9 iffs have in their respective counties to investigate
10 and prosecute violations, to execute warrants, to
11 serve process and to arrest offenders.

12 3. Other crimes. In addition to the powers
13 granted in subsection 2, a liquor enforcement officer
14 may arrest without a warrant any person who has com-
15 mitted or is committing any other crime in the
16 officer's presence. An arrest made under this sub-
17 section must be made at the time of the criminal con-
18 duct or within a reasonable time. An arrest under
19 this subsection may be made only by a liquor enforce-
20 ment officer who has completed the basic training
21 course for liquor enforcement officers at the Maine
22 Criminal Justice Academy or for whom that basic
23 training course or a portion of that course has been
24 waived by the board of trustees of the academy be-
25 cause of successful completion of equivalent train-
26 ing.

27 Sec. 3. 28 MRSA, as amended, is repealed.

28 Sec. 4. 28-A MRSA is enacted to read:

29 TITLE 28-A

30 LIQUORS

31 PART 1

32 GENERAL PROVISIONS

33 CHAPTER 1

34 GENERAL PROVISIONS

35 §1. Compliance required; penalty

1 Any person who purchases, imports, transports,
2 manufactures, possesses or sells alcohol in violation
3 of law commits a Class E crime.

4 §2. Definitions

5 As used in this Title, unless the context other-
6 wise indicates, the following terms have the follow-
7 ing meanings.

8 1. Agency liquor store. "Agency liquor store"
9 means a person who is licensed by the commission to
10 sell spirits to be consumed off the premises.

11 2. Alcohol. "Alcohol" means the substance known
12 as ethyl alcohol, hydrated oxide of ethyl or spirit
13 of wine which is commonly produced by the fermenta-
14 tion or distillation of grain, starch, molasses, sug-
15 ar, potatoes or other substances, and includes all
16 dilutions and mixtures of these substances.

17 3. Bottle club. "Bottle club" means a person
18 operating on a regular, profit or nonprofit basis a
19 facility for social activities in which members or
20 guests provide their own liquor, where no liquor is
21 sold on the bottle club premises, which maintains
22 suitable facilities for the use of members on a regu-
23 lar basis or charges an admission fee to members or
24 the general public and where members, guests or oth-
25 ers are regularly permitted to consume liquor. As
26 used in this definition, "regularly" includes daily,
27 weekly or monthly, but does not include once a year
28 or less often. A bottle club is not a public place,
29 as defined in Title 17, section 2003-A.

30 A. "Bottle club premises" includes all parts of
31 contiguous real estate occupied by the bottle
32 club over which the bottle club owner has direct
33 or indirect control or interest and which the
34 bottle club owner uses in the operation of the
35 bottle club.

36 4. Bottler. "Bottler" means a person who pack-
37 ages spirits, wine or beer for sale in containers,
38 and is not engaged in distilling, brewing, fermenting
39 or rectifying liquor.

1 5. Brewer. "Brewer" means a person who produces
2 malt liquor by fermentation of malt, wholly or par-
3 tially, or from any substitute for malt.

4 6. Bureau. "Bureau" means the Bureau of Alco-
5 holic Beverages within the Department of Finance.

6 7. Catering. "Catering" means service of liquor
7 with or without food by a person to groups at a pre-
8 arranged function.

9 A. "Off-premise catering" means service of li-
10 quor with or without food by a licensee to groups
11 at prearranged functions located at a place other
12 than the licensee's premises.

13 B. "On-premise catering" means service of liquor
14 with or without food by a licensed club having
15 the catering privilege to groups of nonmembers at
16 prearranged functions.

17 8. Certificate of approval holder. "Certificate
18 of approval holder" means an instate manufacturer,
19 out-of-state manufacturer or out-of-state wholesaler
20 licensed by the commission.

21 9. Commission. "Commission" means the State Li-
22 quor Commission.

23 10. Corporation. "Corporation" means a corpora-
24 tion organized and incorporated under the laws of the
25 State or authorized to transact business within the
26 State.

27 11. Distiller. "Distiller" means a person who
28 produces spirits by the process of distillation.

29 12. Fortified wine. "Fortified wine" means wine
30 to which spirits have been added.

31 13. Imitation liquor. "Imitation liquor" means
32 any product containing less than 1/2 of 1% alcohol by
33 volume which seeks to imitate by appearance, taste
34 and smell liquor or which is designed to carry the
35 impression to the purchaser that the beverage has an
36 alcohol content. "Imitation liquor" includes, but is
37 not limited to, products bearing the brand names
38 "Near Beer," "Brew" or "Champaigne-0."

1 14. Licensee. "Licensee" means the person to
2 whom a license of any kind is issued by the commis-
3 sion. "Licensee" includes, but is not limited to,
4 agency liquor stores and certificate of approval
5 holders.

6 15. Licensed establishment. "Licensed establish-
7 ment" means premises to which a license for the sale
8 of spirits, wine or malt liquor to be consumed on or
9 off the licensed premises applies, and any person or
10 organization which is licensed to sell spirits, wine
11 or malt liquor in the times, places and manners as
12 specified in the license. The following may be li-
13 icensed establishments.

14 A. "Airline" means any person operating regular-
15 ly scheduled intrastate or interstate passenger
16 air transportation.

17 B. "Auditorium" means any commercially operated
18 facility designed or used for the gathering of an
19 audience for speeches and live performances of
20 theater, music, dance or other performing arts,
21 which charges a fee and which has adequate facil-
22 ities for the sale and consumption of liquor.

23 C. "Civic auditorium" means a municipal, county
24 or state or a quasi-municipal, quasi-county or
25 quasi-state owned or operated auditorium or civic
26 center.

27 D. "Club" means any reputable group of individu-
28 als incorporated and operating in a bona fide
29 manner solely for purposes of recreational, so-
30 cial, patriotic or fraternal nature and not for
31 pecuniary gain.

32 (1) "Club member" means a person who,
33 whether as a charter member or admitted in
34 accordance with the bylaws of the club, has
35 become a bona fide member of that club and
36 who maintains membership in good standing by
37 payment of dues in a bona fide manner in ac-
38 cordance with bylaws and whose name and ad-
39 dress is entered on the list of members. No
40 person who does not have full club privi-
41 leges may be considered a bona fide member.

1 E. "Dining car" and "car supplying food" mean
2 cars in which food is prepared and served, and
3 other cars, for accommodations in which an extra
4 charge is made, in which food is served from a
5 dining car or a car supplying food in the same
6 train.

7 F. "Florist" or "florist shop" means a store
8 whose primary business is the retail sale of
9 flowers, cut flowers and arrangements of flowers
10 and cut flowers.

11 G. "Golf club" means any commercially operated
12 facility, whether publicly or privately owned,
13 offering golfing facilities to the general public
14 for a fee, which includes a regulation size golf
15 course of not less than 9 holes and an average
16 total of not less than 1,200 yards per 9 holes,
17 which has a value of not less than \$100,000,
18 which offers food for sale to the public and
19 which has adequate facilities for the sale and
20 consumption of liquor.

21 H. "Hotel" means any reputable place operated by
22 responsible persons of good reputation, where the
23 public obtains sleeping accommodations for a con-
24 sideration and where meals may be served, whether
25 or not under one roof.

26 (1) A hotel is considered to be serving
27 meals when it provides on the premises one
28 or more public dining rooms, open and
29 serving food during the morning, afternoon
30 and evening, and a separate kitchen in which
31 food is regularly prepared for the public.

32 (2) Nothing in this paragraph may be held
33 to prevent the commission from issuing part-
34 time licenses to bona fide part-time hotels.

35 (3) "Hotel guest" means a person whose name
36 and address is registered on the registry
37 maintained by the hotel and who is the bona
38 fide occupant of a room of the hotel. A
39 person registering solely for the purpose of
40 obtaining liquor is not considered a hotel
41 guest.

1 (4) No group of buildings which is reason-
2 ably classified as overnight camps qualifies
3 as a hotel.

4 I. "Incorporated civic organization" means any
5 charitable or nonprofit civic organization incor-
6 porated as a corporation without stock under Ti-
7 tle 13, chapter 81.

8 J. "Indoor ice skating club" means any commer-
9 cially operated indoor facility offering ice
10 skating facilities to the general public, which
11 charges a fee and which has adequate facilities
12 for the sale and consumption of liquor.

13 K. "Indoor racquet club" means any commercially
14 operated indoor facility with 4 or more courts or
15 areas designed or used for the playing of any
16 racquet sport, which is open to the general pub-
17 lic, which charges a fee and which has adequate
18 facilities for the sale and consumption of li-
19 quor. Racquet sports include tennis, squash,
20 handball, paddleball and badminton.

21 L. "Class A lounge" means a reputable place op-
22 erated by responsible persons of good reputation,
23 where food and liquor are sold at tables, booths
24 and counters.

25 M. "Outdoor stadium" means any commercially op-
26 erated outdoor facility with 5,000 or more seats
27 designed or used for the playing of any sport or
28 event, which is open to the general public, which
29 charges a fee and which has adequate facilities
30 for the sale and consumption of wine and malt li-
31 quor.

32 N. "Performing arts center" means any charitable
33 or nonprofit corporation incorporated as a corpo-
34 ration without capital stock under Title 13,
35 chapter 81, and which has as its primary purpose
36 the encouragement, promotion and presentation of
37 the arts for the benefit of the general public.

38 O. "Public service corporation" means an air-
39 line, railroad or vessel corporation operating in
40 the State.

1 P. "Qualified catering service" means a catering
2 establishment as defined in Title 22, chapter
3 562, and licensed by the Department of Human Ser-
4 vices.

5 Q. "Restaurant" means a reputable place operated
6 by responsible persons of good reputation, which
7 is regularly used for the purpose of providing
8 food for the public, and which has adequate and
9 sanitary kitchen and dining room equipment and
10 capacity for preparing and serving suitable food
11 for the public.

12 R. "Class A restaurant" means a reputable place
13 operated by responsible persons of good reputa-
14 tion which is regularly used for the purpose of
15 providing full course meals for the public on the
16 premises, which is equipped with a separate and
17 complete kitchen, and which maintains adequate
18 dining room equipment and capacity for preparing
19 and serving full course meals upon the premises.

20 (1) A full course meal consists of a diver-
21 sified selection of food which ordinarily
22 cannot be consumed without the use of
23 tableware and which cannot be conveniently
24 consumed while standing or walking.

25 S. "Ship chandler" means a retail establishment
26 supplying provisions, including malt liquor and
27 wine, to ships of foreign registry.

28 T. "Tavern" means a reputable place operated by
29 responsible persons where no food is sold, other
30 than prepared packaged foods and bar snacks, and
31 no business is carried on except:

32 (1) The sale of cigarettes and tobacco
33 products; and

34 (2) The sale of malt liquor at a bar.

35 U. "Class A tavern" means a reputable place op-
36 erated by responsible persons of good reputation
37 where food may be sold and malt liquor is sold at
38 tables, booths and counters.

1 V. "Vessel" means any ship, vessel or boat of
2 any kind used for navigation of the water, li-
3 censed for carrying not less than 25 passengers
4 under the requirements of the Public Utilities
5 Commission or the United States Coast Guard, and
6 used only on waters other than inland waters.

7 16. Liquor. "Liquor" means spirits, wine or
8 malt liquor, or any substance containing liquor, in-
9 tended for human consumption, which contains more
10 than 1/2 of 1% of alcohol by volume.

11 17. Maine farm winery. "Maine farm winery"
12 means a facility that is fermenting, aging and bot-
13 tling its own wine within the State, not to exceed
14 50,000 gallons per year.

15 18. Malt liquor. "Malt liquor" means liquor
16 produced by the fermentation of malt, wholly or par-
17 tially, or from any malt substitute, which contains
18 1/2 of 1% of alcohol or more by volume. "Malt li-
19 quor" includes, but is not limited to, ale, beer,
20 porter and stout. "Malt liquor" includes beverages
21 made with malt liquor.

22 19. Manufacturer. "Manufacturer" means a person
23 who distills, rectifies, brews, ferments, bottles or
24 otherwise produces liquor.

25 20. Minor. "Minor" means a person who has not
26 reached the age of 21 years.

27 21. Municipal officers. "Municipal officers"
28 has the same meaning as set forth in Title 30, sec-
29 tion 1901, subsection 7, except "municipal officers"
30 also includes assessors of plantations.

31 22. Municipality. "Municipality" has the same
32 meaning as set forth in Title 30, section 1901, sub-
33 section 6, except "municipality" also includes plan-
34 tations.

35 23. Person. "Person" means an individual, part-
36 nership, corporation, firm, association or other le-
37 gal entity.

1 24. Premises. "Premises" means all parts of the
2 contiguous real estate occupied by a licensee over
3 which the licensee has direct or indirect control or
4 interest, which the licensee uses in the operation of
5 the licensed business and which have been approved by
6 the commission as proper places for the exercise of
7 the license privilege.

8 A. "Premises" includes the place where an incor-
9 porated civic organization sells or serves spir-
10 its, wine and malt liquor under a license ob-
11 tained under section 1071.

12 25. Rectifier. "Rectifier" means a person who
13 produces spirits by combining spirits with other
14 products.

15 26. Retail sale. "Retail sale" means any single
16 sale of liquor of less than 20 gallons, or its metric
17 equivalent, for consumption on or off the premises
18 where sold and whether in the original package or as
19 a mixed drink for immediate consumption.

20 27. Retailer. "Retailer" means any person li-
21 censed by the commission to engage in the purchase
22 and resale of liquor in the original container or by
23 the drink, for consumption on or off the premises
24 where sold. "Retailer" does not include wholesalers
25 as defined in subsection 35.

26 A. "Off-premise retail licensee" means a person
27 licensed to sell liquor to be consumed off the
28 premises where sold.

29 B. "On-premise retail licensee" means a person
30 licensed to sell liquor to be consumed on the
31 premises where sold.

32 28. Sale or sell. "Sale" or "sell" means any
33 transfer or delivery of liquor for a consideration.

34 29. Small Maine brewery. "Small Maine brewery"
35 means a facility that is brewing, lagering and
36 kegging, bottling or packaging its own malt liquor
37 within the State, not to exceed 50,000 gallons per
38 year.

1 30. Sparkling wine. "Sparkling wine" means
2 carbonated wine.

3 31. Spirits. "Spirits" means any liquor pro-
4 duced by distillation or, if produced by any other
5 process, strengthened or fortified by the addition of
6 distilled spirits of any kind. "Spirits" includes
7 fortified wine.

8 32. State liquor store. "State liquor store"
9 means a store operated by the commission which sells
10 spirits to be consumed off the premises.

11 33. Unincorporated place. "Unincorporated
12 place" means a place which is not incorporated as a
13 municipality.

14 34. Wholesale licensee. "Wholesale licensee"
15 means a person licensed by the commission as a whole-
16 saler.

17 35. Wholesaler. "Wholesaler" means a person who
18 engages in the purchase and resale of malt or brewed
19 beverages and wines, or both, in the original con-
20 tainers, as prepared for the market by the manufac-
21 turer at the place of manufacture, but not for con-
22 sumption, except taste testing, on the premises of
23 that wholesaler.

24 36. Wine. "Wine" means any liquor produced by
25 natural fermentation, including, but not limited to,
26 sparkling wines and beverages containing wine to
27 which no spirits have been added.

28 37. Winery. "Winery" means a facility which
29 ferments, ages and bottles wine.

30 §3. Payments to commission by check

31 1. Commission may accept payment by personal
32 check. The commission may accept personal checks of
33 licensees and persons applying for licenses for fees,
34 premiums, excise taxes and permits authorized to be
35 collected by it under this Title and for liquor sold
36 to licensees.

1 2. Checks not honored on presentation; conse-
2 quences. If any check is not honored on presentation
3 by the State, the commission shall withhold the li-
4 cence if not issued, or immediately take back the li-
5 cence if already issued, voiding it until the check,
6 together with all costs of check failure, have been
7 paid by the person paying by the personal check. The
8 commission may order that person to make all payments
9 to the commission only by cash, certified check or
10 money order for a period not to exceed one year.

11 §4. Business days and hours

12 No liquor may be sold except as provided in this
13 section.

14 1. Hours for sale of liquor. Except as provided
15 in paragraphs A, B and C, licensees may sell or de-
16 liver liquor from 6 a.m. on any day until 1 a.m. of
17 the following day.

18 A. Licensees may not sell liquor on Sunday be-
19 tween the hours of 6 a.m. and 12 noon.

20 B. Licensees may sell liquor on January 1st of
21 any year from 12 midnight to 2 a.m.

22 (1) In areas in which liquor may be sold
23 except on Sundays, if January 1st falls on a
24 Monday, licensees may sell or deliver liquor
25 between 9 p.m. Sunday, December 31st and 2
26 a.m. January 1st, notwithstanding any local
27 option decisions to the contrary.

28 C. Licensees may not sell or deliver liquor on
29 Memorial Day before 12 noon.

30 2. Consumption of liquor. Except as provided in
31 paragraphs A and B, licensees may not permit the con-
32 sumption of liquor on their premises after 1:15 a.m.

33 A. Licensees may permit the consumption of li-
34 quor on their premises until 2:15 a.m. on January
35 1st.

36 B. This subsection does not apply to consumption
37 by bona fide hotel guests in their rooms.

1 3. Regulation of bottle clubs. Except as pro-
2 vided in paragraph A, municipalities may regulate the
3 hours of operation of bottle clubs between the hours
4 of 1 a.m. and 6 a.m.

5 A. Municipalities may regulate the hours of op-
6 eration of bottle clubs between the hours of 2
7 a.m. and 6 a.m. on January 1st.

8 4. Local option decisions govern. Except as
9 provided in subsection 1, paragraph B, nothing in
10 this section may be construed to allow the sale of
11 liquor in municipalities in violation of chapter 5.

12 5. Illegal sales and purchases on Sunday. The
13 following acts are prohibited.

14 A. No person, except a law enforcement officer
15 in performance of his duties, may purchase liquor
16 on Sunday during the hours in which subsection 1
17 prohibits sales.

18 B. No licensee or licensee's employee or agent
19 may sell liquor on Sunday during the hours in
20 which subsection 1 prohibits sales, nor in any
21 manner aid or assist in violating the law relat-
22 ing to Sunday sale of liquor.

23 6. Penalty. Any person who violates subsection
24 5 commits a Class E crime.

25 7. License or right to sell on Sunday suspended
26 or revoked. Any licensee or licensee's employee or
27 agent who sells liquor on Sunday in municipalities
28 and unincorporated places which have voted affirma-
29 tively to the questions pertaining to Sunday sales in
30 chapter 5 during the hours of 1 a.m. and 12 noon and
31 who violates any of the rules of the commission, upon
32 conviction, after a hearing before the Administrative
33 Court Judge, shall be subject to the suspension or
34 revocation, or both, of his license or right to sell
35 on Sunday.

36 8. License suspended during appeal of convic-
37 tion. If any licensee or any employee or agent of a
38 licensee is convicted of a violation of this section
39 and appeals from the judgment and sentence of the

1 trial court, the licensee's license to sell liquor
2 shall be suspended during the time the appeal is
3 pending in the appellate court, unless the trial
4 court otherwise orders, and no new or renewal license
5 to sell liquor may be issued to the licensee during
6 the time of the appeal.

7 §5. Prevailing time

8 The hours referred to in this Title are the legal
9 time prevailing in the State on the day of the sale
10 or other activity.

11 §6. Form of advertising restricted

12 1. Advertising form subject to commission autho-
13 rization. No person may advertise liquor within the
14 State, except in the form specifically authorized by
15 the commission. Radio, television, billboards,
16 signs, newspapers, magazines and periodicals may car-
17 ry advertising subject to the rules of the commis-
18 sion.

19 2. Commission may adopt rules governing adver-
20 tising brand names in local option areas. The com-
21 mission may adopt rules restricting the advertising
22 of any type of liquor by brand names during the peri-
23 od when such sales are prohibited in any municipality
24 which has voted in any particular local option elec-
25 tion against the sale of all types of liquor.

26 3. Use of picture or representation of State
27 House prohibited. No person may use or display a
28 picture or other form of representation of the State
29 House for the advertising of liquor.

30 §7. Action not maintainable upon promise to pay for
31 liquor

32 1. No action maintainable for promises to pay
33 for liquor. Except as provided in paragraph A, no
34 action may be maintained upon any claim or demand,
35 promissory note or other security contracted or given
36 for liquor sold in violation of any of the provisions
37 of this Title, or for any liquor purchased out of the
38 State with intent to sell all or any part in viola-
39 tion of this Title.

1 A. This section does not apply to negotiable pa-
2 per in the hands of a holder for a valuable con-
3 sideration and without notice of the illegality
4 of the contract.

5 §8. Entrances from premises

6 The commission may grant written permission to a
7 licensee to maintain entrances, doorways or other
8 apertures leading directly from the licensed
9 premises.

10 §9. Separation of areas

11 The commission shall establish rules for the
12 separation of areas where the license privilege may
13 be exercised from areas where it may not be exer-
14 cised, but complete nonaccess between the areas con-
15 trolled by the licensee need not be required.

16 §10. Class A restaurant and off-premise retail li-
17 icensee on same premises

18 1. Class A restaurant and off-premise retail li-
19 icensee on same premises not prohibited. If a portion
20 of a premise is licensed as an off-premise retail li-
21 icensee, no provision within this Title may be con-
22 strued to prohibit issuance of a Class A restaurant
23 license to the same licensee for the remaining por-
24 tion of the premises, provided that necessary quali-
25 fications are maintained for each separately licensed
26 area.

27 2. Access between the 2 licensed areas. There
28 may be access between the 2 license areas for the li-
29 icensee or his employees if it is through areas open
30 only to the licensee or his employees. There must be
31 complete nonaccess between the 2 license areas by the
32 public.

33 3. Licensee to maintain separate records, sup-
34 plies and inventory. The licensee shall maintain
35 records, supplies and inventory within each separate
36 licensed establishment in accordance with the appro-
37 priate license privilege authorized for each separate
38 area.

1 §11. Retailer on same premises as other businesses

2 1. Connection with other licensed premises.
3 Notwithstanding any other law or rule of the commis-
4 sion, any retailer's licensed premise may be con-
5 ected with any other retailer's licensed premise by
6 a doorway or other apertures that are not securely
7 and permanently sealed.

8 2. Violation of public drinking law. Any pers-
9 ons taking a drink of liquor to another, offering a
10 drink of liquor to another or consuming liquor within
11 the licensed premises of an off-premise retail li-
12 cence under the common roof shall be considered in
13 violation of Title 17, section 2003-A and shall be
14 punished accordingly.

15 3. Premises operated by licensee identified. An
16 applicant for a license shall fully describe in the
17 application the part of the premises which the appli-
18 cant owns, leases or rents. The commission may re-
19 quire the licensee to identify on the premises by an
20 appropriate marking, the area which he owns, rents or
21 leases.

22 4. Inspection of business premises under common
23 roof of licensee. All persons carrying on any busi-
24 ness, except any bank or savings and loan institu-
25 tion, under the common roof and having common
26 entranceways with a licensee shall agree in writing
27 to allow reasonable inspection of their premises by
28 authorized enforcement agents of the Department of
29 Public Safety and authorized representatives of the
30 commission.

31 §12. Inspection of premises

32 No licensee may refuse the commission, its repre-
33 sentatives or representatives of the Bureau of Liquor
34 Enforcement the right at any time to inspect the en-
35 tire licensed premises or to audit the books and
36 records of the licensee.

37 CHAPTER 3

38 ADMINISTRATION AND ORGANIZATION

1 past, present or future performance of his official
2 duties.

3 SUBCHAPTER II

4 THE STATE LIQUOR COMMISSION

5 §61. State Liquor Commission

6 1. Membership. The State Liquor Commission
7 shall consist of 3 members to be appointed by the
8 Governor, subject to review by the joint standing
9 committee of the Legislature having jurisdiction over
10 legal affairs and to confirmation by the Legislature.
11 Not more than 2 members of the commission may belong
12 to the same political party. The Governor shall des-
13 ignate one of the members to be the commission chair-
14 man.

15 2. Term. Each member of the commission is ap-
16 pointed to serve for 3 years. Any vacancy shall be
17 filled by appointment for a like term.

18 3. Removal. A member of the commission may be
19 removed by the Governor on the address of both
20 branches of the Legislature or by impeachment.

21 4. Meetings. The commission shall meet at the
22 call of the commission chairman and at least once a
23 month.

24 5. Public meetings. The commission may hold
25 public meetings each year at various locations within
26 the State for the purpose of outlining operations un-
27 der the liquor laws, receiving suggestions and dis-
28 seminating information to the public.

29 6. Expenses. The expenses for the administra-
30 tion of the commission in carrying out the duties as
31 set forth in this Title shall be paid from such
32 amounts as the Legislature may allocate from the rev-
33 enues derived from the operations of the commission.
34 These amounts shall become available in accordance
35 with Title 5, chapters 141 to 155.

36 7. Salaries and expenses of members. Each mem-
37 ber of the commission shall be compensated according

1 to the provisions of Title 5, chapter 379, for 50
2 meetings per year.

3 §62. Powers of the State Liquor Commission

4 The State Liquor Commission shall establish the
5 policy and rules concerning the administration and
6 enforcement of the liquor laws. The commission has
7 the following powers:

8 1. Supervision of the Bureau of Alcoholic Bever-
9 ages. To supervise and direct the Director of the
10 Bureau of Alcoholic Beverages relating to all phases
11 of the merchandising of liquor through state liquor
12 stores and agency liquor stores;

13 2. General supervision. To have general super-
14 vision of manufacturing, importing, storing, trans-
15 porting and sale of all liquor;

16 3. Rules and requirements. To adopt rules and
17 requirements, not inconsistent with this Title or
18 other laws of the State, for the administration,
19 clarification, execution and enforcement of all laws
20 concerning liquor, and to help prevent violation of
21 those laws. These rules and requirements shall have
22 the force and effect of law, unless and until set
23 aside by a court of competent jurisdiction or revoked
24 by the commission. The observance of these rules and
25 requirements are conditions precedent to the issuing
26 of any license to sell liquor;

27 4. Purchase, transportation and sale of alcohol.
28 To control and supervise the purchase, importation,
29 transportation and sale of alcohol;

30 5. Spirits for sale. To buy and have in its pos-
31 session spirits for sale to the public. The commis-
32 sion shall buy spirits directly and not through the
33 State Purchasing Agent. All spirits must be free
34 from adulteration and misbranding. In purchases of
35 liquor the commission shall give priority, wherever
36 feasible, to those products manufactured or bottled
37 in the State;

38 6. Sell at retail. To sell at retail in state
39 liquor stores in original packages, either over the

1 counter or by shipment to points within the State,
2 spirits of all kinds for consumption off the premises
3 at state liquor stores to be operated under the di-
4 rection of the commission;

5 7. Licensing. To issue and renew all licenses
6 when provided for by this Title and to hold licensing
7 hearings;

8 8. Prevent sale to minors and others. To prevent
9 the sale of liquor by licensees to minors, to
10 intoxicated persons and to interdicted persons;

11 9. Act as review board. To act as a review
12 board and on all appeals from the decisions of munic-
13 ipal officers. Except as provided by section 805,
14 the decisions of the commission shall be final. All
15 decisions of the commission acting as a review board
16 must be approved by at least 2 members;

17 10. Hearings. An individual member of the com-
18 mission may conduct hearings in any matter pending
19 before the commission. He shall, after holding the
20 hearing, file with the commission all papers con-
21 connected with the case, a transcript of all the testi-
22 mony and a report of his findings. The commission
23 shall review the evidence and examine all papers and
24 the findings of the individual member of the commis-
25 sion before rendering its decision;

26 11. Oaths; subpoenas; witnesses. Any member of
27 the commission may administer oaths and issue subpoe-
28 nas for witnesses and subpoenas duces tecum to compel
29 the production of books and papers relating to any
30 question in dispute before the commission or to any
31 matter involved in a hearing. Witness fees in all
32 proceedings shall be the same as for witnesses before
33 the Superior Court; and

34 12. Food servicing organizations. To adopt
35 rules and requirements permitting food servicing or-
36 ganizations catering to passengers on international
37 flights to purchase wine and malt liquor from whole-
38 sale outlets or distributors, provided that the wine
39 and malt liquor are resold for consumption during in-
40 ternational travel.

1 A. Food servicing organizations include ship
2 chandlers, provided the that wine and malt liquor
3 are resold to vessels of foreign registry for
4 consumption after those vessels have left port.

5 B. Food servicing organizations are not subject
6 to section 2, subsection 15.

7 §63. Duties of the State Liquor Commission

8 1. Bureau of Alcoholic Beverages; rules. The
9 commission shall establish rules and procedures for
10 the administration and operation of the Bureau of Al-
11 coholic Beverages.

12 2. Notice to delist or stop purchases. Before
13 any item listed by the commission is discontinued or
14 delisted or before the commission issues any order to
15 stop purchases of any item listed, the commission
16 shall give the vendor of the items reasonable written
17 notice of its intention to delist or stop purchase
18 of the items;

19 3. Pamphlet of rules. The commission shall pub-
20 lish at least annually on or before August 31st, or
21 90 days after becoming law, in a convenient pamphlet
22 form all rules then in force and shall furnish copies
23 of the pamphlet to every licensee.

24 4. Annual report. The commission shall make an
25 annual report to the Governor of its activities and
26 of the amount of liquor license fees collected, to-
27 gether with other information it considers advisable
28 or that the Governor requires.

29 §64. Inventory and working capital

30 1. Net profits shall be general revenue. The
31 net profits of the commission shall be general reve-
32 nue of the State.

33 2. Inventory. The commission may keep and have
34 on hand a stock of spirits for sale, the value of
35 which, when priced for resale, shall be computed on
36 less carload price quotations F.O.B. liquor warehouse
37 filed by liquor vendors. The inventory value shall
38 be based upon actual cost for which payment may be

1 due and shall not at any time exceed the amount of
2 working capital authorized. Spirits shall not be
3 considered in the inventory until payment has been
4 made for them.

5 3. Authorized working capital. The maximum
6 permanent working capital of the commission is estab-
7 lished at \$3,500,000 and permanent advances up to
8 this amount may be authorized by the Governor upon
9 recommendation of the commission with the approval of
10 the Commissioner of Finance. The permanent working
11 capital of the commission may be supplemented by tem-
12 porary loans from other state funds upon recommenda-
13 tion of the commission and by approval of the Commis-
14 sioner of Finance and the Governor.

15 SUBCHAPTER III

16 BUREAU OF ALCOHOLIC BEVERAGES

17 §71. Director of the Bureau of Alcoholic Beverages;
18 appointment

19 1. Appointment. The Commissioner of Finance,
20 with the advice and consent of a majority of the
21 State Liquor Commission, shall appoint a Director of
22 the Bureau of Alcoholic Beverages.

23 2. Term. The director's term of office is con-
24 tinuous, subject only to removal by a majority of the
25 commission and the Commissioner of Finance.

26 3. Salary. With the advice and consent of a ma-
27 jority of the commission, the Commissioner of Finance
28 shall set the salary of the director.

29 4. Qualifications and eligibility. In appoint-
30 ing a director, the Commissioner of Finance and the
31 commission shall give consideration to the following
32 qualifications: Sound judgment; practical experience
33 and ability in merchandising; executive administra-
34 tion; salesmanship; and sound business principles.
35 The director must not be a member of the commission.

36 §72. Director of the Bureau of Alcoholic Beverages;
37 powers and duties

1 1. Administration of the bureau. The Director
2 of the Bureau of Alcoholic Beverages is the chief ad-
3 ministrative officer of the bureau and shall adminis-
4 ter the policies and rules of the State Liquor Com-
5 mission. The director shall have general charge of
6 the office and records.

7 2. Direction from commission. The Director of
8 the Bureau of Alcoholic Beverages is subject to the
9 direction of the commission and shall operate the bu-
10 reau and implement the liquor laws according to the
11 procedures established by the commission.

12 3. Power to hire personnel and make expendi-
13 tures. The Director of the Bureau of Alcoholic Bev-
14 erages may employ personnel, with the approval of the
15 Commissioner of Finance and the commission and sub-
16 ject to the Civil Service Law, and may make expendi-
17 tures necessary to carry out the purposes of this Ti-
18 tle.

19 CHAPTER 5

20 LOCAL OPTION

21 §121. Local option election in a municipality

22 A local option election in a municipality shall
23 be held in the following manner.

24 1. Petition. A petition for a local option
25 election must be signed by a number of voters equal
26 to at least 15% of the number of votes cast in that
27 municipality in the last gubernatorial election. All
28 petition signatures must have been signed since the
29 last general election. The petition must be ad-
30 ressed to and received by the municipal officers at
31 least 21 days before holding any primary, special
32 statewide, general or municipal election or town
33 meeting.

34 2. Meeting. Upon receipt of a petition, the mu-
35 nicipal officers shall notify the inhabitants of
36 their respective municipalities to meet in the manner
37 prescribed by law. The meeting shall be held to vote
38 upon any or all of the questions contained in section
39 123.

1 3. Conduct of election. Except as provided in
2 this section, the petition process and the voting at
3 elections held in towns and plantations shall be held
4 and conducted in accordance with Title 30, sections
5 2061, 2062 and 2065, even if the town or plantation
6 has not accepted the provisions of section 2061.
7 The voting at elections held in cities must be held
8 and conducted in accordance with Title 21-A. No refer-
9 endum questions except those set out in section 123
10 may be printed on the ballot. The municipal clerk
11 shall make a return of the results, certify the re-
12 sults and send it to the office of the Secretary of
13 State. The Secretary of State shall forward the re-
14 sults to the commission.

15 §122. Unincorporated places

16 A local option election in an unincorporated
17 place shall be held in the following manner.

18 1. Petition. Residents of an unincorporated
19 place may request that an election be held on any of
20 the local option questions listed in section 123. A
21 petition requesting a local option election must be
22 signed by at least 15% of the voting age residents in
23 the unincorporated place.

24 2. Election. Upon receipt of the petition, the
25 Secretary of State shall:

26 A. Immediately appoint a time and place for the
27 election;

28 B. Give public notice of the election in the
29 same manner as provided for notice in section
30 653; and

31 C. Have an election held in the unincorporated
32 place on any local option questions. The elec-
33 tion shall be held under his supervision and is
34 subject to the rules he adopts.

35 3. Where local option election is not autho-
36 rized. The Secretary of State may not hold a local
37 option election in any unincorporated place in which
38 the total number of persons in the unincorporated
39 place, as shown by returns of the State Tax Assessor,

1 is less than 20, or the number of persons signing any
2 petition requesting a local option election is less
3 than 20. For these unincorporated places, the county
4 commissioners or the commission may:

5 A. Refuse approval of a liquor license applica-
6 tion on the basis that the license is not war-
7 ranted for any substantial public convenience,
8 necessity or demand;

9 B. Authorize the sale of liquor on Sunday in li-
10 icensed hotels, Class A restaurants and clubs
11 where liquor is permitted to be sold during the
12 rest of the week;

13 C. Authorize the sale on Sunday of malt liquor
14 and wine to be consumed off the premises by li-
15 cencees who are permitted to make such sales dur-
16 ing the rest of the week; and

17 D. Authorize the sale on Sunday of malt liquor
18 and wine to be consumed on the premises by li-
19 cencees who are permitted to make such sales dur-
20 ing the rest of the week.

21 4. Exception. The commission may not issue a
22 license to any person when it appears that that per-
23 son or any other person for his benefit has moved a
24 store or restaurant into an unincorporated place from
25 a municipality or unincorporated place where a local
26 option vote has resulted in his being unable to pro-
27 quire a liquor license.

28 §123. Local option questions

29 Any or all of the following questions may be
30 voted on in a local option election held under sec-
31 tion 121 or 122. Each question applies to both full-
32 time and part-time licensed establishments. A vote
33 may be held on question 9 only if a majority of the
34 votes cast in any previous vote in that municipality
35 on questions 2 and 3 were in the negative.

36 1. State liquor stores. May state liquor stores
37 be operated by permission of the State Liquor Commis-
38 sion in this municipality or unincorporated place?

1 2. Sale of spirits to be consumed on the
2 premises. May licenses be issued in this municipali-
3 ty or unincorporated place for the sale of spirits to
4 be consumed on the premises of establishments quali-
5 fied to sell spirits to be consumed on the premises?

6 3. Sale of malt liquor and wine to be consumed
7 on the premises. May licenses be issued in this mu-
8 nicipality or unincorporated place for the sale of
9 malt liquor (beer, ale and other malt liquor) and
10 wine to be consumed on the premises of establishments
11 qualified to sell malt liquor and wine to be consumed
12 on the premises?

13 4. Sale of malt liquor and wine to be consumed
14 off the premises. May licenses be issued in this mu-
15 nicipality or unincorporated place for the sale of
16 malt liquor (beer, ale and other malt liquor) and
17 wine to be consumed off the premises of establish-
18 ments qualified to sell malt liquor and wine to be
19 consumed off the premises?

20 5. Operation of state liquor stores and agency
21 liquor stores on Sunday. May state liquor stores and
22 agency liquor stores be operated by permission of the
23 State Liquor Commission in this municipality or unin-
24 corporated place on Sunday?

25 6. Sale of spirits to be consumed on the
26 premises on Sunday. Shall this municipality or unin-
27 corporated place authorize the sale of spirits on
28 Sunday for consumption on the premises of establish-
29 ments licensed to sell spirits to be consumed on the
30 premises?

31 7. Sale of malt liquor and wine to be consumed
32 on the premises on Sunday. Shall this municipality
33 or unincorporated place authorize the sale on Sunday
34 of malt liquor (beer, ale and other malt liquor) and
35 wine to be consumed on the premises of establishments
36 licensed to sell malt liquor and wine to be consumed
37 on the premises?

38 8. Sale of malt liquor and wine for consumption
39 on the premises on Sunday. Shall this municipality
40 or unincorporated place authorize the sale on Sunday
41 of malt liquor (beer, ale and other malt liquor) and

1 wine to be consumed off the premises of establish-
2 ments licensed to sell malt liquor and wine to be
3 consumed off the premises?

4 9. Operation of bottle clubs. Shall this munic-
5 ipality or unincorporated place prohibit the opera-
6 tion of bottle clubs, which are defined as any person
7 operating on a regular basis a facility for social
8 activities in which members or guests provide their
9 own liquor, where no liquor is sold on the bottle
10 club premises, which maintains suitable quarters for
11 the use of members on a regular basis or charges an
12 admission fee to members or to the general public and
13 where members, guests and others are regularly per-
14 mitted to consume liquor?

15 §124. Results of vote

16 1. Determination vote. If the results of an
17 election held under section 121 or 122 show that:

18 A. A majority of the votes cast in any munici-
19 pality or unincorporated place on any local op-
20 tion question is in the affirmative, the commis-
21 sion may issue licenses of the type authorized by
22 the affirmative vote in that municipality or un-
23 incorporated place, except that in the case of a
24 local option question under section 123, question
25 9, on bottle clubs, no license is required under
26 this Title;

27 B. A majority of the votes cast in any munici-
28 pality or unincorporated place on any local op-
29 tion question is in the negative, the commission
30 may not issue licenses of the type denied by the
31 negative vote in that municipality or unincorpor-
32 ated place; or

33 C. The vote is tied on any local option ques-
34 tion, the law shall remain as it was before the
35 voting.

36 2. Effective date. The vote is effective on the
37 first day of the month following the certification of
38 the vote to the Secretary of State.

1 3. Existing licenses. The holder of any license
2 issued and outstanding on the effective date of the
3 local option vote which denies issuance of that type
4 of license and specifically indicates that the exist-
5 ing privilege is to be voided shall immediately sur-
6 render it to the Bureau of Alcoholic Beverages. The
7 bureau shall refund that portion of the unused fee
8 paid.

9 4. Repeal or reconsideration. Where a municipi-
10 ality or unincorporated place has voted to accept or
11 reject any local option question, the vote is effec-
12 tive until repealed by a new petition and vote as re-
13 quired by section 121 or 122. No local option vote
14 may be taken on the same question more than once in
15 any 2-year period.

16 CHAPTER 7

17 BOTTLE CLUBS

18 §161. Bottle clubs

19 1. Registration. Each bottle club, as defined
20 in section 2, subsection 3, shall register annually
21 with the commission on forms provided by the commis-
22 sion. Registration consists of submission of the in-
23 formation required in paragraph A and payment of the
24 registration fee established in paragraph B.

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

27 (1) The name and address of each owner of
28 the bottle club;

29 (2) The name and address of each operator
30 of the bottle club; and

31 (3) The regular hours of operation.

32 B. The annual fee for registration of a bottle
33 club is \$50.

34 C. Any bottle club which does not register with
35 the commission commits a civil violation for
36 which a forfeiture not to exceed \$500 may be ad-
37 judged.

1 2. Charges and fees. Charges paid by the bottle
2 club's members or the general public for membership,
3 admission, food, mixers or other supplies used with
4 liquor or storage or handling of liquor belonging to
5 members or the general public are not sales, as de-
6 defined in this Title, or gifts.

7 3. Minors on the premises. The bottle club may
8 not allow any minor not employed by the bottle club
9 nor accompanied by his parent, legal guardian or cus-
10 todian, as defined in Title 22, section 4002, to re-
11 main on the bottle club premises, except on occasions
12 when liquor is prohibited on the bottle club
13 premises.

14 A. A bottle club may employ minors only if an
15 employee of legal drinking age or older is
16 present in a supervisory capacity.

17 4. Consumption on premises. No bottle club may
18 permit consumption of liquor on the bottle club
19 premises by minors or visibly intoxicated persons.

20 5. Violation of state law. No bottle club may
21 knowingly allow any violation of any state law on the
22 bottle club premises to occur or continue.

23 6. Civil violations and jurisdiction. A bottle
24 club which violates subsection 3, 4 or 5 commits a
25 civil violation for which a forfeiture may be ad-
26 judged of not less than \$100 nor more than \$300 for
27 the first offense; not less than \$200 nor more than
28 \$500 for the 2nd offense; and \$500 for the 3rd and
29 subsequent offenses. The District Court has juris-
30 isdiction over the civil violations, defined in this
31 section, under Title 17-A, section 9.

32 7. Right of access. Every bottle club shall al-
33 low liquor enforcement officers and other law en-
34 forcement officers to enter the premises at reason-
35 able times for the purpose of investigating compli-
36 ance with this Title.

37 A. Entry into the premises under this subsection
38 must be conducted in a reasonable manner so as
39 not to disrupt the operation of the bottle club.

1 B. The investigation must be limited to those
2 areas involved in the actual operation of the
3 bottle club, including storage areas.

4 CHAPTER 9

5 PUBLIC INFORMATION

6 §201. Erection of guidepost

7 In order to increase state revenues and to at-
8 tract more of the tourist trade to the state discount
9 liquor store in Kittery, the Maine Turnpike Authority
10 shall erect and maintain a guidepost no more than one
11 mile north of the York toll station on the southbound
12 side of the Maine Turnpike. The guidepost shall be
13 worded as follows:

14 DISCOUNT LIQUOR STORE -- KITTERY

15 YORK EXIT -- U.S. ROUTE 1 SOUTH

16 The Bureau of Alcoholic Beverages shall compen-
17 sate the Maine Turnpike Authority for the full cost
18 of erecting the guidepost.

19 PART 2

20 STATE AND AGENCY LIQUOR STORES

21 CHAPTER 15

22 STATE AND AGENCY LIQUOR STORES

23 §351. Proximity to churches and schools

24 1. State or agency liquor store may not be lo-
25 cated within 300 feet of school or church. The com-
26 mission may not establish a state liquor store or an
27 agency liquor store within 300 feet of any public or
28 private school, church, chapel or parish house, mea-
29 sured from the main entrance of the state store to
30 the main entrance of the school, church, chapel or
31 parish house.

32 2. Method of measurement. The distance must be
33 measured from the main entrance of the liquor store

1 to the main entrance of the school, school dormitory,
2 church, chapel or parish house by the ordinary course
3 of travel.

4 §352. Purchase of liquor in state liquor stores and
5 agency liquor stores by cash; exception

6 1. All sales must be for cash; exception. Ex-
7 cept as provided in paragraph A, all sales of liquor
8 at state liquor stores and agency liquor stores must
9 be for cash.

10 A. The holder of a major credit card which au-
11 thorizes the holder to charge goods or services
12 may pay for liquor by charging it on that card.

13 §353. Business hours

14 State liquor stores and agency liquor stores may
15 be open for the sale and delivery of liquor between
16 the hours of 6 a.m. and midnight in municipalities
17 and unincorporated places which have voted in favor
18 of the operation of state liquor stores under local
19 option provisions. The commission shall establish
20 the hours of operation of each state liquor store.

21 §354. Sales to minors or intoxicated persons

22 No state liquor store or agency liquor store may
23 sell liquor to a minor or to a visibly intoxicated
24 person.

25 §355. Closed in cases of riots; hurricanes; flood

26 The Governor or the commission may, in cases of
27 riots, hurricanes and floods, order any or all state
28 liquor stores or agency liquor stores to close.

29 CHAPTER 17

30 STATE LIQUOR STORES

31 §401. Location of facilities

32 1. Commission may lease and equip facilities;
33 location. The commission may lease and equip in the
34 name of the state stores, warehouses and other mer-

1 chandising facilities for the sale of liquor which
2 are necessary to carry out the purposes of this Ti-
3 tle. The commission shall designate where the facil-
4 ities will be located.

5 2. Attorney General must approve contract or
6 lease before effective. The Attorney General must
7 approve any contract or lease made under this section
8 before it is effective.

9 3. Seasonal occupancy. Leases may be for sea-
10 sonal occupancy.

11 §402. Notice on locating state liquor stores

12 1. Notice. At least 30 days before designating
13 the location or relocation of a state liquor store,
14 the commission shall give written notice of the des-
15 ignation to the municipal officers of:

16 A. The municipality in which the store is pres-
17 ently located; and

18 B. The municipality in which it is proposed to
19 locate or relocate the store.

20 2. Hearing. If requested by the municipal offi-
21 cers, the commission shall hold a public hearing in
22 the affected municipality at least 10 days before
23 designating that location or relocation.

24 3. Findings. The commission shall designate the
25 location of a state liquor store in writing and shall
26 include findings of fact supporting the designation.

27 4. Notice to lessor to terminate or not renew.
28 If the commission intends to terminate or not renew a
29 lease or contract for occupancy of a building for a
30 state liquor store, it shall give written notice of
31 that intention to the lessor of the building. Notice
32 must be given:

33 A. Within the time limits required by the lease
34 or contract for the lessor to notify the commis-
35 sion of his intention to terminate or not renew;
36 or

1 B. At least 30 days before the termination or
2 nonrenewal if there is no lease or contract pro-
3 vision establishing the time period for the les-
4 sor to notify the commission.

5 5. Exception for certain leases. If the commis-
6 sion's occupancy of a state liquor store location is
7 terminated under a lease or contract in a manner that
8 prevents compliance with subsection 1 or 3, the commis-
9 sion shall immediately notify the municipal offi-
10 cers of that termination. If requested by the munic-
11 ipal officers, the commission shall hold a hearing
12 within a reasonable time before designating a new lo-
13 cation.

14 6. Notice to Legislature of closure. The com-
15 mission shall not close any state liquor store unless
16 it notifies the joint standing committee of the Leg-
17 islature have jurisdiction over legal affairs at
18 least 60 days before the effective date of the clos-
19 ing. The legislative committee may hold a public
20 hearing on the proposed closing and advise the com-
21 mission of its findings.

22 §403. Discount state liquor stores

23 1. Discount store. Notwithstanding the provi-
24 sions of section 1651, the commission, with the ap-
25 proval of the Commissioner of Finance, may reduce the
26 price of liquor in 2 state liquor stores.

27 2. Location. One store must be located to be
28 convenient to the southbound lanes of the Maine Turn-
29 pike near Exit 1 of the Maine Turnpike.

30 3. Licensees may purchase liquor; price. Li-
31 cencees may purchase liquor for resale from the state
32 discount liquor stores at the same price they are
33 permitted to purchase liquor for resale from any
34 state store which does not offer a retail discount.

35 CHAPTER 19

36 AGENCY LIQUOR STORES

37 §451. Agency liquor stores

1 The commission may license and regulate persons
2 as agency liquor stores on an annual, seasonal or
3 temporary basis for the purposes of selling liquor in
4 sealed bottles, containers or original packages to be
5 consumed off the premises.

6 §452. Rules governing agency liquor stores

7 The commission shall adopt rules for the selec-
8 tion and operation of agency liquor stores. These
9 rules include, but are not limited to, the following:

10 1. Location. Location of agency stores, subject
11 to section 453;

12 2. Storage facilities. Storage facilities for
13 liquor;

14 3. Handling and sale. The handling and sale of
15 liquor;

16 4. Hours. The hours of operation;

17 5. Separation from other merchandise. The sepa-
18 ration of liquor from other merchandise in the agency
19 liquor stores;

20 6. Size and nature of facilities. The size and
21 nature of the facilities of agency liquor stores for
22 different quantities of liquor to be sold; and

23 7. Other. Any other rules necessary to carry
24 out the purposes of this chapter.

25 §453. Location of agency stores

26 1. Location requirements. The commission may
27 license an agency liquor store only when the follow-
28 ing requirements are met.

29 A. The proposed agency liquor store is located
30 in a municipality or unincorporated place which
31 has voted in favor of the operation of state li-
32 quor stores under local option provisions.

33 B. The proposed agency liquor store is located:

1 (1) In a municipality or unincorporated
2 place where there are no state liquor
3 stores; or

4 (2) On an island which is within a municipi-
5 ality or unincorporated place where there
6 are state liquor stores, but which is not
7 connected to that municipality or unincorpor-
8 ated place by bridge and which has no state
9 liquor stores on it.

10 C. The proposed agency liquor store is not with-
11 in 10 miles of an existing state liquor store or
12 agency liquor store.

13 2. Replacement of state or agency liquor stores.
14 Except as provided in paragraph A, the commission may
15 not replace a state or agency liquor store which
16 closes with an agency liquor store if there is another
17 state or agency liquor store within 10 miles.

18 A. The commission may replace an agency liquor
19 store once after December 1, 1979, if that agency
20 liquor store:

21 (1) Was licensed before December 1, 1979;
22 and

23 (2) Is within 10 miles of a state or agency
24 liquor store.

25 3. Measurement of distances. All distances de-
26 scribed in this section shall be determined by the
27 most reasonable direct route of travel.

28 4. Procedure for selection of agency liquor
29 store location. The commission shall issue a license
30 for an agency liquor store within a municipality or
31 unincorporated place by the following procedure.

32 A. The commission shall, in accordance with Ti-
33 tle 5, chapter 375, give public notice that an
34 agency liquor store may be established in a par-
35 ticular municipality or unincorporated place.
36 The commission shall request all parties in the
37 municipality or unincorporated place, interested
38 in establishing an agency liquor store there, to
39 apply to the commission.

1 B. The commission shall provide all applicants
2 with the necessary information for the establish-
3 ment of an agency liquor store.

4 C. Upon receipt of all applications for an agen-
5 cy liquor store license in a municipality, the
6 commission shall notify the municipal officers of
7 that municipality of the proposed location of
8 each applicant at least 15 days before the final
9 selection of an applicant or applicants by the
10 commission.

11 E. The commission shall conduct an investigation
12 to determine the most feasible location and type
13 of facility for the agency liquor store.

14 F. The commission shall notify any applicant de-
15 nyied a license the reasons for the denial by cer-
16 tified mail to the mailing address given by the
17 applicant in his application for an agency liquor
18 store license.

19 5. Aggrieved applicants. Any applicant ag-
20 grieved by a decision made by the commission may ap-
21 peal the decision by filing a complaint with the Ad-
22 ministrative Court and serving a copy of the com-
23 plaint upon the commission. The complaint must be
24 filed and served within 15 days of the mailing of the
25 commission's decision.

26 §454. Agency liquor store in former state liquor
27 store location.

28 Within 72 hours of opening for business, an agen-
29 cy liquor store, occupying premises previously occu-
30 pyied by a state liquor store, shall remove all signs
31 on the premises of that store which identify those
32 premises as a state liquor store.

33 §455. Liquor for agency liquor stores

34 Agency liquor stores shall buy their liquor from
35 state liquor stores under section 606.

36 §456. Special seasonal agency liquor stores

1 1. Licensing of seasonal agency liquor stores.
2 The commission may issue 6-month seasonal licenses to
3 no more than 6 special agency stores.

4 2. Locations and months of licenses. The com-
5 mission shall determine the appropriate locations for
6 the stores and the appropriate 6 consecutive months
7 based on the seasonal tourist population and the
8 sales volume at existing state and agency liquor
9 stores in the same areas. The 10-mile spacing re-
10 quirement for location of agency liquor stores re-
11 quired by section 453 does not apply to special agen-
12 cy liquor stores licensed under this section.

13 3. Sunset. This section is repealed on Septem-
14 ber 30, 1989, before which time the commission shall
15 evaluate the effectiveness of this section and make a
16 written report to the 114th Legislature.

17 PART 3

18 LICENSES FOR SALE OF LIQUOR

19 SUBPART 1

20 GENERAL PROVISIONS

21 CHAPTER 25

22 GENERAL PROVISIONS

23 §601. Eligibility

24 1. Eligibility qualifications. The commission
25 may not issue a license to an applicant unless that
26 applicant meets the following qualifications.

27 A. If the applicant is an individual, he must
28 be:

29 (1) At least 21 years of age;

30 (2) A citizen of the United States; and

31 (3) A resident of the State if applying for
32 a full-time license.

1 B. If the applicant is a partnership or associa-
2 tion, all persons having an interest in the part-
3 nership or association must be:

4 (1) At least 21 years of age;

5 (2) A citizen of the United States; and

6 (3) A resident of the State if applying for
7 a full-time license.

8 C. If the applicant is a corporation, it must be
9 incorporated under the laws of the State or au-
10 thorized to transact business in the State.

11 2. Disqualifications. The commission may not
12 issue a license to an applicant if:

13 A. Any of the principal officers of the corpora-
14 tion is not personally eligible because he has
15 had a license for sale of liquor revoked under
16 chapter 33, if the applicant is a corporation;

17 B. The applicant held a license which was re-
18 voked for a specific period under chapter 33 and
19 the applicant is applying for a license within
20 that period since revocation;

21 C. The applicant, who was not at the time of the
22 offense the holder of a liquor license, was con-
23 victed of violating any laws of the State or the
24 United States with respect to manufacture, trans-
25 portation, importation, possession or sale of li-
26 quor within 5 years of applying for the license.
27 For the purposes of this paragraph, any person
28 who sells liquor of a greater alcohol content
29 than authorized by his license is not considered
30 the holder of a license;

31 D. The applicant was convicted of selling liquor
32 illegally on Sunday while an employee or agent of
33 a licensee within 5 years of applying for the li-
34 cence;

35 E. The applicant's license expired pending an
36 appeal from conviction of illegally selling li-
37 quor on Sunday within 5 years of applying for the
38 license;

1 F. A law enforcement officer benefits financial-
2 ly either directly or indirectly;

3 G. The applicant was denied a license within the
4 6 months before the application was filed, unless
5 the commission's denial of the license is over-
6 ruled by the court under an appeal provided by
7 section 805; or

8 H. The applicant is the husband, wife, father,
9 mother, child or other close relation of a person
10 whose license or application for a license for
11 the same premises was revoked by the Administra-
12 tive Court Judge or denied by the commission
13 within the 6 months before the application was
14 filed.

15 §602. Notification of license expiration

16 1. Seven-day grace period upon license expira-
17 tion. Except as provided in subsection 3, a license
18 holder who unintentionally fails to renew any license
19 upon its expiration date and continues to make sales
20 of liquor is not chargeable with illegal sales under
21 section 2078 for a period of 7 days following the ex-
22 piration date.

23 2. Commission must notify licensee of expira-
24 tion. The commission shall notify the licensee by
25 the most expedient means available that the license
26 has expired and all sales of liquor must be suspended
27 immediately and remain suspended until the license is
28 properly renewed.

29 3. Illegal sales after expiration of grace peri-
30 od or after notice. A licensee that continues to
31 make sales of liquor after having been properly noti-
32 fied of the expired license shall be charged with il-
33 legal sales under section 2078.

34 §603. Part-time 7-month license

35 In addition to other part-time licenses under
36 this Title, the commission may issue a part-time
37 7-month license which is valid for a period of 7 cal-
38 endar months during the 12-month period following its
39 issuance. There may be only one break in the

1 consecutiveness of these months. An applicant for a
2 part-time 7-month license shall designate on the ap-
3 plication which months the license will be in use and
4 the license must indicate these months.

5 §604. Display of licenses

6 All licensees shall publicly display their li-
7 licenses on the premises to which they apply.

8 §605. Transfer of licenses; death; bankruptcy; re-
9 ceivership; guardianship; corporations

10 Except as otherwise provided in this section, no
11 license or any interest in a license may be sold,
12 transferred, assigned or otherwise subject to control
13 by any person other than the licensee. If the busi-
14 ness or any interest in the business in connection
15 with which a licensed activity is conducted, is sold,
16 transferred or assigned, the license holder shall im-
17 mediately send to the commission his license and a
18 sworn statement showing the name and address of the
19 purchaser or any other person directly or indirectly
20 interested in the enterprise.

21 1. Transfer within same municipality. Upon re-
22 ceipt of a written application, the commission may
23 transfer any retail liquor license from one place to
24 another within the same municipality. If the approv-
25 al of the municipal officers was required for the
26 original license, the transfer can be made only with
27 the approval of the municipal officers. No transfer
28 may be made to premises for which the license could
29 not have been originally legally issued.

30 2. Death, bankruptcy or receivership. In the
31 case of death, bankruptcy or receivership of any li-
32 icensee, the executor or administrator of the deceased
33 licensee or the trustee or receiver of the bankrupt
34 licensee or licensee in receivership may retain the
35 license for the remaining term of the license or
36 transfer the license without additional fee.

37 A. Personal representatives, receivers or trust-
38 ees may operate the premise themselves or through
39 a manager for a year from the date of their ap-
40 pointment for the benefit of the estate.

1 (1) The license must be renewed upon the
2 expiration date at the regular license fee.

3 (2) If the license or renewed license is
4 not transferred within one year from the
5 date of appointment, it becomes void and
6 must be returned to the commission for can-
7 cellation.

8 (3) Any suspension or revocation of the li-
9 cence by the Administrative Court Judge for
10 any violation applies against both the man-
11 ager and the personal representative, re-
12 ceiver or trustee.

13 (4) No personal representative, receiver,
14 trustee or duly appointed manager may oper-
15 ate under the license unless approved by the
16 commission.

17 B. If a licensee dies, the following persons,
18 with the written approval of the commission, may
19 continue the operation of the license for not
20 more than 60 days pending appointment of a per-
21 sonal representative of the estate:

22 (1) The surviving spouse;

23 (2) A person who has filed a petition for
24 appointment as executor or administrator for
25 the estate of the deceased licensee;

26 (3) Any sole heir of the deceased licensee;
27 or

28 (4) Any person designated by all of the
29 heirs of the deceased licensee.

30 C. When no administration of the estate of a de-
31 ceased licensee is contemplated, the surviving
32 spouse or person designated by all of the heirs
33 of the deceased licensee may take over the li-
34 cence under the same conditions as are provided
35 for operation and transfer by executors and ad-
36 ministrators.

1 3. Guardians and conservators. Duly appointed
2 and qualified guardians and conservators of the es-
3 tate of a licensee may take over, operate and renew
4 licenses of their wards during their term of office
5 if they or their managers are approved by the commis-
6 sion.

7 A. Guardians and conservators, except in the
8 case of off-premise retail licensees approved by
9 the municipal officers in their municipality, may
10 not transfer their wards' licenses and must renew
11 licenses each year.

12 B. Penalties for violations apply to both guard-
13 ians or conservators and their managers in the
14 same manner as executors or administrators and
15 their managers in subsection 2.

16 4. Sale of stock of a corporate licensee. Any
17 sale of stock of a corporate licensee which effects a
18 change of control of the licensed premises shall be
19 considered a transfer within the meaning of this sec-
20 tion, and a new license must be purchased.

21 §606. Liquor bought from commission; sale to govern-
22 ment agencies

23 1. All licensees must buy liquor from commis-
24 sion; exception. Except as provided in paragraph A,
25 all persons licensed to sell spirits shall purchase
26 all such liquor from state liquor stores.

27 A. This subsection does not apply to public ser-
28 vice corporations operating interstate.

29 2. On-premise retailers must report purchases.
30 All persons licensed to sell liquor to be consumed on
31 the premises shall report all liquor purchases to the
32 commission on forms provided by the commission.

33 3. Prospective licensees may order liquor in ad-
34 vance. Upon approval of the commission, persons who
35 have been issued a license, effective at a future
36 date, may order liquor in advance of the effective
37 date of the license and may advertise the effective
38 date.

1 which a license is sought. If the applicant is a
2 purchaser by contract, he shall also disclose the
3 terms of the contract.

4 B. Every applicant for a license for sale of li-
5 quor to be consumed on the premises where sold
6 shall include in the application a description of
7 the premises to be licensed and shall provide any
8 other material information, description or plan
9 of that part of the premises where the applicant
10 proposes to keep or sell liquor as the commission
11 requires.

12 C. The owner or the bona fide prospective pur-
13 chaser must sign the application. If the owner
14 or bona fide prospective purchaser is:

15 (1) A natural person, then that person must
16 sign;

17 (2) A partnership, then the partners of the
18 partnership must sign; or

19 (3) A corporation, then a principal officer
20 of the corporation or any person specificial-
21 ly authorized by the corporation must sign.

22 3. False answer given intentionally. Any person
23 who intentionally gives an untruthful answer in an
24 application for a liquor license commits the crime of
25 perjury.

26 §652. Application procedure

27 1. License fee. The applicant must enclose the
28 fee prescribed by chapter 41 with the application for
29 the license.

30 2. Effective date and term of license. All
31 full-year licenses are effective for one year from
32 the date of issuance. All part-time licenses are ef-
33 fective for the term of the license from the date of
34 issuance.

35 3. Renewal. Licenses may be renewed upon appli-
36 cation for renewal and payment of the annual fee,
37 subject to commission rules.

1 4. Multiple licenses. Any licensee applying for
2 a license to operate more than one premise shall pay
3 the fee prescribed for the type of license to be ex-
4 ercised at each premise.

5 5. Filing fee for malt liquor license. Except
6 as provided in paragraph A, every applicant for an
7 original or renewal malt liquor license shall pay a
8 filing fee of \$10 when filing the application.

9 A. In unincorporated places, the applicant shall
10 pay the filing fee of \$10 to the county treasurer
11 of the county in which the unincorporated place
12 is located. All applications for a license in
13 unincorporated places must be accompanied by evi-
14 dence of payment of the filing fee to the county
15 treasurer.

16 6. Public service license. One public service
17 license is sufficient to cover all steamboats, cars
18 and aircraft operated by any one public service cor-
19 poration.

20 §653. Hearings; commission review; appeal

21 1. Hearings. The municipal officers or, in the
22 case of unincorporated places, the county commis-
23 ioners of the county in which the unincorporated place
24 is located, shall hold a public hearing for the con-
25 sideration of applications for new licenses requiring
26 their approval and applications for transfer of loca-
27 tion. The municipal officers or county commissioners
28 may hold a public hearing for the consideration of
29 requests for renewal of licenses.

30 A. The commission shall prepare and supply ap-
31 plication forms.

32 B. The municipal officers or the county commis-
33 sioners, as the case may be, shall prepare public
34 notice of any hearing held under this section by
35 causing a notice, at the applicant's prepaid ex-
36 penditure, stating the name and place of hearing, to
37 be printed:

38 (1) If the municipality where the premises
39 are situated has a daily newspaper, then in

1 that newspaper for at least 6 consecutive
2 days before the date of hearing;

3 (2) If the municipality where the premises
4 are situated has a newspaper, although not a
5 daily, then in that newspaper for 2 consecu-
6 tive weeks before the date of hearing; or

7 (3) If no newspaper is printed, then for at
8 least 6 consecutive days in a daily newspa-
9 per having general circulation in the munic-
10 ipality in which the premises are situated
11 or for 2 consecutive weeks before the date
12 of hearing in any newspaper published in
13 that county.

14 2. Findings. In granting or denying an applica-
15 tion, the municipal officers or the county commis-
16 sioners shall indicate the reasons for their decision
17 and provide a copy to the applicant. A license may
18 be denied on one or more of the following grounds:

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

21 B. Noncompliance of the licensed premises or its
22 use with any local zoning ordinance or other land
23 use ordinance not directly related to liquor con-
24 trol;

25 C. Conditions of record such as waste disposal
26 violations, health or safety violations or re-
27 peated parking or traffic violations on or in the
28 vicinity of the licensed premises and caused by
29 persons patronizing or employed by the licensed
30 premises or other such conditions caused by per-
31 sons patronizing or employed by the licensed
32 premises which unreasonably disturb, interfere
33 with or affect the ability of persons or busi-
34 nesses residing or located in the vicinity of the
35 licensed premises to use their property in a rea-
36 sonable manner;

37 D. Repeated incidents of record of breaches of
38 the peace, disorderly conduct, vandalism or other
39 violations of law on or in the vicinity of the
40 licensed premises and caused by persons

1 patronizing or employed by the licensed premises;
2 and

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

4 3. Appeal to commission. Any applicant ag-
5 grieved by the decision of the municipal officers or
6 county commissioners under this section may appeal to
7 the commission. The commission shall hold a public
8 hearing in the city, town or unincorporated place
9 where the premises are situated. In acting on such
10 an appeal, the commission may consider all of the re-
11 quirements for licensure referred to in subsection 2.

12 A. If the decision appealed from was to issue
13 the license, the commission may reverse the deci-
14 sion if it was arbitrary or based on an erroneous
15 finding.

16 B. If the decision appealed from was to deny the
17 application, the commission may issue the license
18 only if it finds by clear and convincing evidence
19 that the decision was without justifiable cause.

20 4. No license to person who moved to obtain a
21 license. The commission may not issue a license to
22 any person who has moved an off-premise retail li-
23 censee or restaurant into or opened a new off-premise
24 retail licensee or restaurant in an unincorporated
25 place contiguous to any organized or unincorporated
26 place where a local option vote has resulted in his
27 being unable to procure a license in the place of his
28 previous location of business for a period of one
29 year after the local option vote.

30 5. Appeal to Superior Court. Any person or gov-
31 ernmental entity aggrieved by a commission decision
32 under this section may appeal the decision to the Su-
33 perior Court.

34 §654. Additional considerations for licensure

35 1. Character; location; operation of business.
36 In issuing or renewing licenses, the commission, the
37 municipal officers or the county commissioners, as
38 the case may be, shall give consideration to:

- 1 A. The character of any applicant;
2 B. The location of the place of business;
3 C. The manner in which it has been operated; and
4 D. Whether the operation has endangered the
5 safety of persons in or on areas surrounding the
6 place of business.

7 2. Qualifications of corporations. The commis-
8 sion, the municipal officers or the county commis-
9 sioners, as the case may be, may refuse to issue li-
10 licenses to corporations when any of its officers, di-
11 rectors or stockholders do not possess the qualifica-
12 tions required of unincorporated persons under this
13 section.

14 3. Areas primarily for minors. Without limita-
15 tion of its other powers, the commission may not ap-
16 prove as a proper place for the exercise of the li-
17 cence privilege amusement areas primarily for minors,
18 beaches or any other area designed primarily for use
19 by minors.

20 CHAPTER 29

21 LICENSE RESTRICTIONS

22 §701. Proximity to churches and schools; exception

23 1. Location within 300 feet of churches and
24 schools. Except as provided in paragraphs A and B,
25 the commission may not issue a new license for the
26 the sale of liquor to be consumed on the premises to
27 new premises within 300 feet of a public or private
28 school, school dormitory, church, chapel or parish
29 house in existence as such at the time the applica-
30 tion for the new license is made.

31 A. The 300 feet restriction does not apply to
32 premises used as hotels or clubs on July 24,
33 1937.

34 B. The commission may issue licenses to premises
35 which are either in or within 300 feet of a
36 church, chapel, parish house or post-secondary

1 school when the application has the unanimous ap-
2 proval of the members of the commission.

3 2. Method of measurement. The distance must be
4 measured from the main entrance of the premises to
5 the main entrance of the school, school dormitory,
6 church, chapel or parish house by the ordinary course
7 of travel.

8 §702. Certain clubs ineligible

9 1. Clubs operated illegally or for illegitimate
10 purposes. The commission may not issue a license for
11 the sale of spirits to a club organized or operated
12 illegally or for gambling or other illegitimate pur-
13 poses.

14 2. Clubs operated for another's profit. The
15 commission may not issue a license for the sale of
16 spirits to a club the profits from which accrue to an
17 individual or corporation other than the license ap-
18 plicant.

19 §703. Employment of violators prohibited

20 No licensee may employ as a manager or leave in
21 charge of the licensed premises any person who, by
22 reason of conviction of violation of any liquor laws
23 within the last 5 years or because of having had his
24 license for sale of liquor revoked within the last 5
25 years, is not eligible for a liquor license.

26 §704. Employment of minors

27 1. Licensee may not hire employee under 17; em-
28 ployees who are 17. No licensee for the sale of li-
29 quor to be consumed on licensed premises, except in
30 Class A restaurants, Class A taverns, clubs and hotel
31 dining rooms, may employ any person under the age of
32 17 years in the direct handling or selling of liquor
33 on the premises where the liquor is sold. The li-
34 cencee may employ a person who is 17 years of age in
35 the direct handling or selling of liquor on the
36 premises where the liquor is sold only if an employee
37 who is at least 18 years of age is present in a su-
38 pervisory capacity.

1 2. Penalty. Whoever violates this section com-
2 mits a Class E crime.

3 \$705. Sales for cash; sales to certain persons re-
4 stricted

5 1. Sales for cash. Except as provided in para-
6 graph A, no licensee or licensee's employee or agent
7 may sell or offer to sell any liquor except for cash.

8 A. Credit may be extended:

9 (1) By a hotel or club to bona fide regis-
10 tered guests or members; and

11 (2) By a hotel or Class A restaurant to the
12 holder of a credit card which authorizes the
13 holder to charge goods or credits.

14 B. A right of action does not exist to collect
15 claims for credits extended contrary to this sec-
16 tion.

17 C. This section does not prohibit a licensee
18 from giving credit to a purchaser for the actual
19 price charged for the beverage container deposit
20 on the packages or original containers, as de-
21 finied in Title 32, chapter 28, as a credit on any
22 sale, or from paying the amount actually charged
23 for such deposit on the packages or original con-
24 tainers.

25 D. Except as provided in subparagraph (1), no
26 licensee or licensee's employee or agent may
27 sell, offer to sell or furnish any liquor to any
28 person on a passbook or store order, or receive
29 from any person any goods, wares, merchandise or
30 other articles in exchange for liquor.

31 (1) This paragraph does not apply to bever-
32 age container deposits on packages or origi-
33 nal containers that were originally pur-
34 chased from that licensee by the person re-
35 turning the packages or original containers.

36 2. Prohibited sales of liquor to be consumed off
37 the premises. No licensee or licensee's employee or

1 agent may sell, furnish, give or deliver malt liquor
2 or wine to be consumed off the premises to:

3 A. A person who is visibly intoxicated;

4 B. A mentally ill person;

5 C. A known habitual drunkard;

6 D. A person of known intemperate habits; or

7 E. A minor. Any licensee who accepts an order
8 or receives payment for liquor from a minor vio-
9 lates this paragraph.

10 3. Prohibited sales of liquor to be consumed on
11 the premises. No licensee or licensee's employee or
12 agent may sell, furnish, give, serve or permit to be
13 served any liquor to be consumed on the premises
14 where sold to:

15 A. A person who is visibly intoxicated;

16 B. A mentally ill person;

17 C. A known habitual drunkard;

18 D. A person of known intemperate habits; or

19 E. A minor. Any licensee who accepts an order
20 or receives payment for liquor from a minor vio-
21 lates this paragraph.

22 §706. Identification cards

23 1. Acceptable identification. A licensee may
24 refuse to serve liquor to any person who fails to
25 display upon request an identification card issued
26 under Title 5, section 88-A, or a motor vehicle
27 operator's license bearing the photograph of the op-
28 erator and issued under Title 29, chapter 7.

29 §707. Licensee not to be indebted, obligated or in-
30 involved

31 1. Licensee must not be indebted. Except as
32 provided by section 1363, the commission may not is-

1 sue any license to or renew the license of a person
2 who is indebted in any manner, directly or indirect-
3 ly:

4 A. To any other person for liquor;

5 B. To the State for any tax, other than property
6 tax, assessed and considered final under Title 36
7 which the State Tax Assessor certifies, in ac-
8 cordance with Title 36, section 172, as remaining
9 unpaid in an amount exceeding \$1,000 for a period
10 greater than 60 days after the applicant or li-
11 censee has received notice of the finality of
12 that tax; or

13 C. For any contributions assessed and considered
14 final under Title 26, section 1225, when the Di-
15 rector of Unemployment Compensation certifies
16 that the amount remains unpaid for a period
17 greater than 60 days, after the applicant or li-
18 censee has received notice of the finality of
19 that tax.

20 2. Licensee must not receive anything of value.
21 No licensee or applicant for a license may receive,
22 directly or indirectly, any money, credit, thing of
23 value, indorsement of commercial paper, guarantee of
24 credit or financial assistance of any sort from any
25 person within or without the State, if the person is:

26 A. Engaged, directly or indirectly, in the manu-
27 facture, distribution, sale, storage or transpor-
28 tation of liquor; or

29 B. Engaged in the manufacture, distribution,
30 sale or transportation of any commodity, equip-
31 ment, material or advertisement used in connec-
32 tion with the manufacture, distribution, sale,
33 storage or transportation of liquor.

34 3. Interest in wholesaler or certificate of ap-
35 proval. No retail licensee may have any interest, di-
36 rect or indirect, in any:

37 A. Maine manufacturer's or wholesaler's license;
38 or

1 B. Certificate of approval issued to an out-
2 of-state manufacturer or foreign wholesaler of
3 malt liquor or wine.

4 4. Interest in license. No out-of-state manu-
5 facturer, foreign wholesaler having a state certifi-
6 cate of approval, or any state wholesale licensee or
7 manufacturing licensee, may have any interest, direct
8 or indirect, in any retail liquor license.

9 A. Minor investment in securities of a corpora-
10 tion engaged in liquor business not amounting to
11 more than 1% shall not be held to be an interest
12 forbidden by this subsection.

13 5. Application. This section does not prohibit
14 a wholesale licensee from receiving normal credits
15 for the purchase of malt liquor or wine from the man-
16 ufacturer located within or without the State.

17 §708. Premiums and rebates

18 1. Gifts made by licensees. Except as provided
19 by sections 1355 and 1363, no licensee may, directly
20 or indirectly, offer or give any liquor, any price
21 premium, gift or inducement of any sort to other
22 trade or consumer buyers, except advertising novel-
23 ties of nominal value approved by the commission.

24 2. Gifts made to licensees. No licensee may of-
25 fer to pay, make or allow, and no licensee may solici-
26 it or receive any allowance, rebate, refund or con-
27 cession, whether in the form of money or otherwise,
28 in connection with the purchase of liquor bought and
29 sold by the licensee.

30 3. Activities by licensed clubs. Licensed clubs
31 may offer prizes, gratuities or other inducements,
32 otherwise legal, as a means of promoting attendance
33 on licensed premises.

34 4. Special package plans or price premiums.
35 This section does not prohibit licensees licensed to
36 sell liquor to be consumed on the premises from of-
37 fering special package plans or price premiums. Li-
38 icensees may advertise their special package plans or
39 price premiums.

1 §709. Prohibition of certain practices

2 1. Certain practices prohibited. The following
3 practices are prohibited.

4 A. No licensee or employee or agent of a licens-
5 ee may:

6 (1) Offer or deliver any free drinks to any
7 person or group of persons;

8 (2) Deliver more than 2 drinks to one per-
9 son at one time;

10 (3) Sell, offer to sell or deliver to any
11 person or group of persons an unlimited num-
12 ber of drinks for a fixed price, except at
13 private functions not open to the public;

14 (4) Encourage or permit, on the licensed
15 premises, any game or contest which involves
16 drinking or the awarding of drinks as
17 prizes; or

18 (5) Any other practice the specific purpose
19 of which is to encourage customers of the
20 licensee to drink to excess; and

21 B. No licensee may advertise or promote in any
22 way, whether within or without the licensed
23 premises, any of the practices prohibited under
24 paragraph A.

25 2. Exceptions. Subsection 1 does not prohibit
26 the following practices:

27 A. Licensees offering free food or entertainment
28 either with or without the purchase of one drink;

29 B. Licensees increasing the prices for drinks
30 when entertainment is provided;

31 C. Licensees including a drink as part of a meal
32 package;

33 D. The sale or delivery of wine by the bottle or
34 carafe when sold with meals or to more than one
35 person;

- 1 E. Those licensed under section 1402 offering
2 free wine tastings;
- 3 F. Those licensed as bona fide hotels offering
4 room services to registered guests;
- 5 G. Licensees offering reduced prices for prear-
6 ranged private parties on the premises of the li-
7 icensee; or
- 8 H. Licensees whose licensed premises include
9 more than one room charging different prices for
10 the same drink served in the different rooms.

11 §710. Advertising signs

12 1. Advertising outside of licensed premises. No
13 person, except wholesale licensees and certificate of
14 approval holders, may advertise or permit to be ad-
15 vertised, by more than one sign, on the outside of
16 any licensed premises, or on any building, ground or
17 premises under his control and contiguous or adjacent
18 to the licensed premises:

19 A. The fact that the licensee has liquor or any
20 brand of liquor for sale;

21 B. The price at which liquor is sold by the li-
22 icensee; or

23 C. Any other advertisement which indicates any
24 reference to liquor.

25 2. Advertising inside of licensed premises. A
26 licensee may display no more than one electrically
27 lighted sign inside the licensed premises, where it
28 may be seen from the outside, advertising the fact
29 that the licensee has liquor for sale. The sign may
30 not be more than 750 square inches in total area.

31 §711. Advertising strength of malt liquor

32 1. Illegal to advertise or label. No licensee
33 may:

34 A. Issue, publish, post or cause to be issued,
35 published or posted any advertisement of a malt

1 liquor, including a label which refers in any
2 manner to the alcohol content of the malt liquor
3 manufactured, sold or distributed by the licens-
4 ee;

5 B. Use in any advertisement or label the words
6 "full strength," "extra strength," "high test,"
7 "high proof," "prewar strength" or similar words
8 or phrases which would indicate or suggest level
9 of alcohol content; or

10 C. Use in any advertisement or label any numer-
11 als unless adequately explained in type of the
12 same size, prominence and color.

13 2. Illegal to purchase, transport, sell or dis-
14 tribute. No licensee may purchase, transport, sell
15 or distribute any malt liquor advertised or labeled
16 contrary to this section.

17 §712. Advertising or sale of malt liquor or wine by
18 trade name

19 1. Advertise or announce for sale by trade name.
20 No licensee may advertise or offer for sale any malt
21 liquor or wine by trade name or other designation
22 which would indicate the manufacturer or place of
23 manufacture of malt liquor or wine, unless the li-
24 censee actually has on hand and for sale a sufficient
25 quantity of the particular malt liquor or wine adver-
26 tised to meet requirements to be normally expected as
27 the result of the advertisement or announcement.

28 2. Serve from faucet, spigot, dispensing appara-
29 tus by trade name. No licensee may furnish or serve
30 any malt liquor from any faucet, spigot or other dis-
31 persing apparatus, unless the trade name or brand of
32 the malt liquor served appears in full sight of the
33 customer in legible lettering upon the faucet, spigot
34 or dispensing apparatus.

35 §713. Selling malt liquor or wine from truck

36 1. Selling malt liquor or wine from truck pro-
37 hibited. Except as provided in subsections 2 and 3,
38 no wholesale or retail licensee may, either directly
39 or indirectly, by any agent or employee, travel from

1 town to town, or from place to place in the same
2 town, selling, bartering or carrying for sale or ex-
3 posing for sale any malt liquor or wine from any ve-
4 hicle.

5 2. Delivery of orders received. The wholesale
6 licensee may make sales of malt liquor or wine where
7 transportation and delivery are required only upon
8 orders actually received at the principal place of
9 business or warehouse or distributing center, if li-
10 icensed, of the wholesale licensee before shipment of
11 the malt liquor or wine. The driver or any other em-
12 ployee of the wholesale licensee shall carry an in-
13 voice stating the names of the purchaser and the
14 wholesale licensee and the kind and quantity of malt
15 liquor or wine ordered by the sale, together with the
16 date of the sale.

17 3. Sale from truck by wholesale licensee. A
18 wholesale licensee, his agent or employee, may travel
19 from town to town or from place to place in the same
20 town selling, or carrying for sale or exposing for
21 sale, malt liquor or wine from its vehicle only if
22 the wholesale licensee, his agent or employee has in
23 his possession on the vehicle a manifest bearing a
24 detailed description of the total amount of malt li-
25 quor or wine on the vehicle and invoices, as re-
26 quired, as well as invoices drawn up at the time of
27 delivery.

28 4. Sales or deliveries only to licensees. Sales
29 or deliveries must be made only to licensees of the
30 commission.

31 5. Violation. Whoever violates this section
32 commits a Class E crime.

33 §714. Malt liquor sales in kegs

34 The commission may not deny the wholesale or re-
35 tail sale of malt liquor in kegs or any fractions of
36 a keg to any purchaser entitled to purchase malt li-
37 quor.

38 CHAPTER 31

39 RECORDS

1 §751. Retail licensee to keep records

2 1. Records to be kept. Every retail licensee
3 shall keep for 2 years complete records:

4 A. The date of all purchases;

5 B. The actual prices paid;

6 C. The fact that the licensee paid cash for all
7 liquor bought by him at the time of or before de-
8 livery of the liquor; and

9 D. The name and address of every person from
10 whom the liquor was purchased.

11 2. Retail licensee must keep separate records.
12 Except as provided in paragraph A, a retail licensee
13 shall keep the records required by subsection 1 sepa-
14 rate and apart from records relating to any other
15 transactions in which he engages.

16 A. Malt liquor, wine and soft drinks may be
17 listed on the same wholesale licensee's invoice
18 if each product is separately listed.

19 §752. Wholesale licensee to keep records

20 1. Records to be kept. Every wholesale licensee
21 shall keep records for 2 years:

22 A. Showing that all sales and purchases are in
23 accordance with the law relating to cash sales;
24 and

25 B. Including detailed accounts of all its trans-
26 actions with brewers, wineries, other wholesalers
27 and retailers.

28 2. Manner in which records to be kept. The
29 wholesale licensee shall keep the records in its
30 principal licensed establishment.

31 §753. Certificate of approval holder to keep records

32 1. Records to be kept. Every certificate of ap-
33 proval holder operating special warehouse storage fa-

1 cilities within the State shall keep complete records
2 concerning all transactions conducted at the special
3 warehouse storage facility. The records must show:

4 A. The date and amounts of all liquor received
5 and from whom they were received; and

6 B. The dates and amounts of all liquor shipped
7 or withdrawn and the name of the person for whom
8 the liquor was shipped or withdrawn.

9 2. Manner in which records to be kept. The cer-
10 tificate of approval holder shall maintain the
11 records upon the premises.

12 §754. Records open for inspection

13 1. Records open for inspection. All records re-
14 quired to be kept under this chapter are open for in-
15 spection to the commission, its representatives or
16 representatives of the Bureau of Liquor Enforcement
17 at any time. The commission, its representatives or
18 representatives of the Bureau of Liquor Enforcement
19 may make copies of records which may be used as evi-
20 dence of violation of this chapter.

21 2. Refusal of access. No licensee may refuse to
22 allow the commission, its representatives or repre-
23 sentatives of the Bureau of Liquor Enforcement to au-
24 dit the books and records of the licensee.

25 §755. Records confidential

26 All business and financial records of licensees
27 are confidential.

28 CHAPTER 33

29 REVOCATION

30 §801. Jurisdiction of Administrative Court Judge

31 1. Jurisdiction. The Administrative Court
32 Judge, as designated in Title 5, chapter 375, shall
33 conduct hearings on all matters concerning violations
34 by licensees of any federal or state law or regula-
35 tion relating to liquor or violations of any rule is-

1 sued by the commission. The Administrative Court
2 Judge has exclusive jurisdiction over all violations
3 of this Title by licensees and their agents when no
4 criminal penalty is provided.

5 2. Powers. The Administrative Court Judge may
6 suspend or revoke licenses.

7 §802. Causes for revocation and suspension of li-
8 ceses

9 The Administrative Court Judge may revoke or sus-
10 pend licenses for the following causes:

11 1. Violation of law or infraction of rule.
12 Violation of any federal or state law, rule or regu-
13 lation relating to liquor or substantial infraction
14 of any rule issued by the commission.

15 A. This subsection does not require the Adminis-
16 trative Court Judge to hold licensees who sold
17 liquor to minors who furnished fraudulent proof
18 of age liable administratively;

19 2. False material statement. Knowingly making a
20 false material statement of fact in the application
21 for the license; and

22 3. Failure to maintain requirements. Failure to
23 have and maintain throughout the entire license peri-
24 od all of the requirements of definitions, laws and
25 rules necessary to qualify for a license.

26 A. For this offense the Administrative Court
27 Judge may suspend licenses for an indefinite pe-
28 riod of time until he is satisfied that the li-
29 cesee has conformed to all qualifications re-
30 quired for licensing.

31 §803. Revocation or suspension procedure

32 1. Violation of law or rule. Upon discovering a
33 violation of federal or state law, rule or regulation
34 relating to liquor, or an infraction of a rule issued
35 by the commission, an enforcement officer of the De-
36 partment of Public Safety shall:

1 A. Report the violation to the Administrative
2 Court Judge in a signed complaint; or

3 B. Issue warnings to the licensees involved.

4 2. Notice and hearing. Except as provided under
5 subsection 6, upon receipt of a signed complaint pre-
6 pared under subsection 1, paragraph A, the Adminis-
7 trative Court Judge shall notify the licensee and
8 hold a hearing according to the following procedures.

9 A. The Administrative Court Judge shall notify
10 the licensee by serving on him a copy of the com-
11 plaint and a notice stating the time and place of
12 the hearing and that he may appear in person or
13 by counsel at the hearing. Service of the com-
14 plaint and hearing notice is sufficient if sent
15 by registered or certified mail at least 7 days
16 before the date of the hearing to the address
17 given by the licensee at the time of his applica-
18 tion for a license.

19 B. The Administrative Court Judge shall conduct
20 a hearing limited to the facts, the law and rules
21 of the commission, as specified in the complaint.

22 C. The Administrative Court Judge shall conduct
23 the hearing in the following manner.

24 (1) The Administrative Court Judge may sub-
25 poena and examine witnesses, administer
26 oaths and subpoena and compel the attendance
27 of parents and legal guardians of unemanci-
28 pated minors.

29 (2) Hearsay testimony is not admissable
30 during the hearing. The licensees named in
31 the complaint have the right to have all
32 witnesses testify in person at the hearing.

33 (3) The Administrative Court Judge shall
34 conduct hearings in one or more designated
35 places which are the most convenient and ec-
36 onomical for all parties concerned in the
37 hearing.

1 D. The Administrative Court Judge shall state in
2 writing his findings and decision in each case,
3 based upon the facts, the law and the rules of
4 the commission. The findings shall specify the
5 facts found and the law or rules found to be vio-
6 lated.

7 3. Suspension of penalty; place case on file.
8 After hearing, the Administrative Court Judge may:

9 A. Suspend a penalty; or

10 B. Place a case on file instead of imposing any
11 penalty.

12 4. Application of suspension or revocation. A
13 suspension or revocation applies to premises and per-
14 sons in the following manner.

15 A. If a licensee is directly or indirectly in-
16 terested in more than one license, suspensions
17 apply only to the premise where the violation oc-
18 cur.

19 B. If a licensee is interested directly or indi-
20 rectly in more than one license, the Administra-
21 tive Court Judge may order that a revocation ap-
22 ply to any of those premises.

23 C. If the licensee is a corporation, the Admin-
24 istrative Court Judge shall treat the officers,
25 directors and substantial stockholders as indi-
26 viduals.

27 5. Term of suspension or revocation. Except as
28 provided by section 802, subsection 3, suspensions
29 must be for a definite period of time. If the Admin-
30 istrative Court Judge revokes a license, he shall
31 specify that the commission may not issue a license
32 to the person whose license is revoked for a period
33 of not less than one nor more than 5 years from the
34 date of such revocation.

35 6. Warnings. Upon the written recommendation of
36 the enforcement officer of the Department of Public
37 Safety, the Administrative Court Judge, instead of
38 notifying a licensee against whom a complaint is

1 pending to appear for hearing, may send the licensee
2 a warning. Warnings must be sent by registered or
3 certified mail and contain a copy of the complaint.
4 A licensee to whom a warning is sent may demand a
5 hearing by notifying the Administrative Court Judge
6 by registered or certified mail within 10 days from
7 the date the warning was mailed.

8 7. License subsequent to violation. If viola-
9 tions by licensees occur in one year's license period
10 and remain undiscovered or carry over into the next
11 license year, pending investigation or final disposi-
12 tion either in criminal courts or before the Adminis-
13 trative Court Judge, any license issued for a new li-
14 cence year subsequent to the violation may be sus-
15 sended or revoked by the Administrative Court Judge.

16 8. Fines. Notwithstanding any other provisions
17 of this Title, an Administrative Court Judge may im-
18 pose a fine of a specific sum, of not less than \$50
19 nor more than \$1,500, for any one offense. Such a
20 fine may be imposed instead of or in addition to any
21 suspension or revocation of a license by the court.

22 A. The Administrative Court Judge shall maintain
23 a record of all fines received by the court and
24 shall pay the fines into the General Fund by the
25 15th day of each month.

26 9. Offer in compromise. Notwithstanding any
27 other provisions of this Title, the Administrative
28 Court Judge may accept from any wholesale licensee or
29 certificate of approval holder under this Title an
30 offer in compromise in lieu of suspension of any
31 wholesale license or certificate of approval sus-
32 pended by the Administrative Court Judge.

33 A. A wholesale licensee or certificate of ap-
34 proval holder may petition the Administrative
35 Court Judge to accept an offer in compromise
36 within 10 days following receipt of notice of the
37 suspension.

38 B. The fine in lieu of suspension, when an offer
39 in compromise is accepted by the Administrative
40 Court Judge, shall be calculated in accordance
41 with the following formula:

1 (1) Fifty percent of the daily gross profit
2 multiplied by the number of license suspen-
3 sion days. Daily gross profit shall be de-
4 termined to be 1/30 of the total gross re-
5 ceipts from the sale of liquor during the 30
6 business days immediately before the date of
7 receipt of the notice of the license suspen-
8 sion, less the invoice cost of the liquor
9 which was sold by the wholesale licensee or
10 certificate of approval holder during those
11 30 business days;

12 (2) No such fine, in any event, shall be
13 less than \$75 for each day of license sus-
14 pension; and

15 (3) The fine must not exceed \$1,500 for any
16 one offense.

17 C. The wholesale licensee or certificate of ap-
18 proval holder shall pay the fine to the Adminis-
19 trative Court within 5 days from the date of the
20 acceptance of the offer in compromise. The Ad-
21 ministrative Court Judge shall then pay the fine
22 into the General Fund.

23 D. If a wholesale licensee or certificate of ap-
24 proval holder fails to pay the fine in full with-
25 in the time period allowed in this subsection,
26 the suspension of license or certificate of ap-
27 proval begins on the following day.

28 E. Any wholesale licensee who has been found to
29 have violated the rules of the commission more
30 than once in a one-year period is not eligible
31 for a fine in lieu of a license suspension.

32 §804. Record of proceedings and transcript

33 The Administrative Court Judge shall keep a full
34 and complete record of all proceedings before him on
35 the revocation and suspension of any license issued
36 by the commission. The Administrative Court Judge is
37 not required to have a transcript of the testimony
38 prepared unless required for rehearing or appeal.

39 §805. Appeal from decision of Administrative Court
40 Judge or commission

1 1. Aggrieved person may appeal within 30 days.
2 Any person aggrieved by the decision of the Adminis-
3 trative Court Judge in revoking or suspending any li-
4 cence issued by the commission or by refusal of the
5 commission to issue any license applied for may,
6 within 30 days of the decision or refusal, appeal to
7 the Superior Court by filing a complaint.

8 A. The 30-day period for appeal begins on:

9 (1) In the case of license revocation or
10 suspension, the effective date of the sus-
11 pension or revocation; or

12 (2) In the case of refusal by the commis-
13 sion to issue a license, on the day when the
14 commission sends by registered or certified
15 mail notice to the applicant at the address
16 of his business given in his application for
17 a license.

18 B. Filing the complaint in the Superior Court
19 stops the running of the limitation period.

20 2. Suspension or revocation suspended pending
21 appeal. The operation of a suspension or revocation
22 of a license imposed by the Administrative Court
23 shall be suspended, pending judgment of the Superior
24 Court, if the licensee files an appeal in the Superi-
25 or Court and notifies the Administrative Court that
26 the appeal has been filed, within 7 days of the mail-
27 ing of the decision of the Administrative Court by
28 certified mail to the address given by the licensee
29 at the time of the application for a license.

30 3. Superior Court hearing. The Superior Court
31 shall fix a time and place for an immediate hearing
32 and notify the Administrative Court Judge of the
33 hearing.

34 4. Superior Court decision. After the hearing,
35 the Superior Court may affirm, modify or reverse the
36 decision of the Administrative Court Judge.

37 5. Further appeal. An aggrieved person may ap-
38 peal the Superior Court decision to the Supreme Judi-
39 cial Court. Upon appeal, the Supreme Judicial Court

1 may, after consideration, reverse or modify any de-
2 creed made by the Superior Court based upon an erro-
3 neous ruling or finding of law.

4 §806. Records

5 1. Limitation on maintenance of records. Except
6 as provided in subsection 2, the commission shall
7 maintain a record of each violation, revocation or
8 suspension for not more than 5 years.

9 2. Records of Class A, B and C convictions. The
10 commission shall maintain records of convictions for
11 Class A, B and C crimes for at least 5 years, and may
12 maintain them longer according to the policy of the
13 commission.

14 SUBPART 2

15 RETAIL LICENSES

16 CHAPTER 41

17 FEES AND ELIGIBLE PREMISES

18 §1001. Class I licenses

19 1. Types of liquor which may be sold. A Class
20 I licensee may sell spirits, wine and malt liquor to
21 be consumed on the premises where sold.

22 2. Fees. The license fees for a Class I license
23 are:

- 24 A. Full-time (one year).....\$ 750;
25 B. Part-time (6 months).....\$ 375;
26 C. Part-time (7 months).....\$ 437.50; and
27 D. Extension (2 months) for part-time licenses
28 only.....\$ 140.

29 3. Eligible premises. The following premises
30 are eligible to obtain a Class I license:

- 31 A. Airlines;

- 1 B. Auditoriums;
- 2 C. Civic auditoriums;
- 3 D. Class A restaurants;
- 4 E. Clubs with catering privileges;
- 5 F. Dining cars;
- 6 G. Golf clubs;
- 7 H. Hotels;
- 8 I. Indoor ice skating clubs;
- 9 J. Indoor racquet clubs;
- 10 K. Performing arts centers;
- 11 L. Qualified catering services; and
- 12 M. Vessels.

13 §1002. Class I-A licenses

14 1. Types of liquor which may be sold. A Class
15 I-A licensee may sell spirits, wine and malt liquor
16 to be consumed on the premises where sold.

17 2. Fees. The fees for a Class I-A license are
18 as follows:

- 19 A. Full-time (one year).....\$1,000;
- 20 B. Part-time (6 months).....\$ 500;
- 21 C. Part-time (7 months).....\$ 583.31; and
- 22 D. Extension (2 months) for part-time licenses
23 only.....\$ 180.

24 3. Eligible premises. The following premises
25 are eligible to obtain a Class I-A license:

- 26 A. Hotels which do not serve food.

1 §1003. Class II licenses

2 1. Types of liquor which may be sold. A Class
3 II licensee may sell spirits to be consumed on the
4 premises where sold.

5 2. Fees. The fees for a Class II license are as
6 follows:

7 A. Full-time (one year).....\$ 500;

8 B. Part-time (6 months).....\$ 250;

9 C. Part-time (7 months).....\$ 291.69; and

10 D. Extension (2 months) for part-time licenses
11 only.....\$ 90.

12 3. Eligible premises. The following premises
13 are eligible to obtain a Class II license:

14 A. Airlines;

15 B. Auditoriums;

16 C. Civic auditoriums;

17 D. Class A restaurants;

18 E. Clubs with catering privileges;

19 F. Dining cars;

20 G. Golf clubs;

21 H. Hotels;

22 I. Indoor ice skating clubs;

23 J. Indoor racquet clubs;

24 K. Performing arts centers;

25 L. Qualified catering services; and

26 M. Vessels.

1 §1004. Class III licenses

2 1. Types of liquor which may be sold. A Class
3 III licensee may sell wine to be consumed on the
4 premises where sold.

5 2. Fees. The fees for a Class III license are
6 as follows:

7 A. Full-time (one year).....\$ 200;

8 B. Part-time (6 months).....\$ 100;

9 C. Part-time (7 months).....\$ 116.69; and

10 D. Extension (2 months) for part-time licenses
11 only.....\$ 40.

12 3. Eligible premises. The following premises
13 are eligible to obtain a Class III license:

14 A. Airlines;

15 B. Auditoriums;

16 C. Civic auditoriums;

17 D. Class A restaurants;

18 E. Clubs with catering privileges;

19 F. Dining cars;

20 G. Golf clubs;

21 H. Hotels;

22 I. Indoor ice skating clubs;

23 J. Indoor racquet clubs;

24 K. Outdoor stadiums;

25 L. Performing arts centers;

26 M. Qualified catering services;

1 N. Restaurants; and

2 O. Vessels.

3 §1005. Class IV licenses

4 1. Types of liquor which may be sold. A Class
5 IV licensee may sell malt liquor to be consumed on
6 the premises where sold.

7 2. Fees. The fees for a Class IV license are as
8 follows:

9 A. Full-time (one year).....\$ 200;

10 B. Part-time (6 months).....\$ 100;

11 C. Part-time (7 months).....\$ 116.69; and

12 D. Extension (2 months) for part-time licenses
13 only.....\$ 40.

14 3. Eligible premises. The following premises
15 are eligible to obtain a Class IV license:

16 A. Airlines;

17 B. Auditoriums;

18 C. Civic auditoriums;

19 D. Class A restaurants;

20 E. Clubs with catering privileges;

21 F. Dining cars;

22 G. Golf clubs;

23 H. Hotels;

24 I. Indoor ice skating clubs;

25 J. Indoor racquet clubs;

26 K. Outdoor stadiums;

- 1 L. Performing arts centers;
- 2 M. Qualified catering services;
- 3 N. Restaurants;
- 4 O. Taverns;
- 5 P. Class A taverns; and
- 6 Q. Vessels.

7 §1006. Class V licenses

8 1. Types of liquor which may be sold. A Class V
 9 licensee may sell spirits, wine and malt liquor to be
 10 consumed on the premises where sold.

11 2. Fees. The fees for a Class V license are as
 12 follows:

- 13 A. Full-time (one year).....\$ 450;
- 14 B. Part-time (6 months).....\$ 225;
- 15 C. Part-time (7 months).....\$ 262.50; and
- 16 D. Extension (2 months) for part-time licenses
 17 only.....\$ 90.

18 3. Eligible premises. The following premises
 19 are eligible to obtain a Class V license:

- 20 A. Clubs without catering privileges.

21 §1007. Class VI licenses

22 1. Types of liquor which may be sold. A Class
 23 VI licensee may sell malt liquor to be consumed off
 24 the premises where sold.

25 2. Fees. The fees for a Class VI license are as
 26 follows:

- 27 A. Full-time (one year).....\$ 125;

- 1 B. Part-time (6 months).....\$ 62.50;
- 2 C. Part-time (7 months).....\$ 72.91; and
- 3 D. Extension (2 months) for part-time licenses
- 4 only.....\$ 30.

5 3. Eligible premises. The following premises
6 are eligible to obtain a Class VI license:

- 7 A. Off-premise retailers and ship chandlers with
- 8 a stock of groceries.

9 §1008. Class VI-A licenses

10 1. Types of liquor which may be sold. A Class
11 VI-A licensee may sell malt liquor to be consumed off
12 the premises where sold.

13 2. Fees. The fees for a Class VI-A license are
14 as follows:

- 15 A. Full-time (one year).....\$ 225;
- 16 B. Part-time (6 months).....\$ 112.50;
- 17 C. Part-time (7 months).....\$ 131.25; and
- 18 D. Extension (2 months) for part-time licenses
- 19 only.....\$ 45.

20 3. Eligible premises. The following premises
21 are eligible to obtain a Class VI-A license:

- 22 A. Off-premise retailers and ship chandlers
- 23 without a stock of groceries.

24 §1009. Class VII licenses

25 1. Types of liquor which may be sold. A Class
26 VII licensee may sell wine to be consumed off the
27 premises where sold.

28 2. Fees. The fees for a Class VII license are
29 as follows:

- 30 A. Full-time (one year).....\$ 125;

- 1 B. Part-time (6 months).....\$ 62.50;
- 2 C. Part-time (7 months).....\$ 72.91; and
- 3 D. Extension (2 months) for part-time licenses
- 4 only.....\$ 30.

5 3. Eligible premises. The following premises
6 are eligible to obtain a Class VII license:

- 7 A. Off-premise retailers and ship chandlers with
- 8 a stock of groceries; and
- 9 B. Florist shops.

10 §1010. Class VII-A licenses

11 1. Types of liquor which may be sold. A Class
12 VII-A licensee may sell wine to be consumed off the
13 premises where sold.

14 2. Fees. The fees for a Class VII-A license are
15 as follows:

- 16 A. Full-time (one year).....\$ 225;
- 17 B. Part-time (6 months).....\$ 112.50;
- 18 C. Part-time (7 months).....\$ 131.25; and
- 19 D. Extension (2 months) for part-time licenses
- 20 only.....\$ 45.

21 3. Eligible premises. The following premises
22 are eligible to obtain a Class VII-A license:

- 23 A. Off-premise retailers and ship chandlers
- 24 without a stock of groceries.

25 §1011. Class X licenses

26 1. Types of liquor which may be sold. A Class X
27 licensee may sell spirits, wine and malt liquor to be
28 consumed on the premises where sold.

29 2. Fees. The fees for a Class X license are as
30 follows:

1 A. Full-time (one year) and part-time (6 months
2 or 7 months).....\$2,000.

3 3. Eligible premises. The following premises
4 are eligible for a Class X license:

5 A. Class A lounges.

6 \$1012. Other retail licenses

7 1. Incorporated civic organizations. An incor-
8 porated civic organization may obtain a license to
9 sell spirits, wine and malt liquor to be consumed on
10 the premises.

11 A. The license fee is.....\$ 50.

12 B. The license is valid for only one event per
13 year.

14 2. Auxiliary license. A Class A restaurant or a
15 hotel located at a ski area may obtain for additional
16 premises at that ski area an auxiliary license to
17 sell spirits, wine and malt liquor to be consumed on
18 the premises.

19 A. The license fee is.....\$ 100.

20 3. Off-premise catering license. A Class A res-
21 taurant, hotel or club licensed to sell spirits, wine
22 and malt liquor may obtain a license to conduct
23 off-premise catering of spirits, wine and malt liquor
24 as provided in section 1052.

25 A. The license fee per event or gathering is ...
26 \$10.

27 CHAPTER 43

28 LICENSES FOR THE SALE OF LIQUOR TO BE CONSUMED
29 ON THE LICENSED PREMISES

30 SUBCHAPTER I

31 GENERAL CONDITIONS

1 1. Licenses for sale of liquor to be consumed on
2 the premises where sold. Subject to subsection 2,
3 the commission may issue licenses for the sale of
4 spirits, wine and malt liquor to be consumed on the
5 premises where sold to qualified applicants upon pay-
6 ment of fees provided.

7 2. Local approval of application for license.
8 The initial application for the license must first be
9 approved under section 653 by the municipal officers
10 of the town or city in which the applicant's premises
11 are located or, if the premises are located in an un-
12 incorporated place, the application must be approved
13 by the county commissioners of the county within
14 which the unincorporated place is located.

15 3. Liquor not to be consumed elsewhere. Except
16 as provided in paragraphs A and B, no licensee for
17 the sale of liquor to be consumed on the premises
18 where sold may personally or by his agent or employ-
19 ee, sell, give, furnish or deliver any liquor to be
20 consumed elsewhere than upon the licensed premises.

21 A. Subject to law and the rules of the commis-
22 sion, hotel licensees may sell liquor in the
23 original packages to bona fide registered room
24 guests.

25 B. A licensee may serve liquor at locations oth-
26 er than the licensed premises under the
27 off-premise catering license issued under section
28 1052.

29 \$1052. Off-premise catering at planned events or
30 gatherings

31 1. Off-premise catering license for sale of li-
32 quor off-premise. Class A restaurants, hotels and
33 clubs licensed to sell spirits, wine and malt liquor
34 may apply for an additional license to conduct
35 off-premises catering of spirits, wine and malt li-
36 quor at planned events or gatherings to be held at
37 locations other than the licensee's premises under
38 this section.

39 2. Fee. The license fee for the off-premise ca-
40 tering license is \$10 per event or gathering.

1 3. Sponsor. The off-premise sales license au-
2 thorizes the licensee to sell liquor only at:

3 A. Public events or public gatherings sponsored
4 by a charitable, nonprofit organization or civic
5 group; and

6 B. Private events or private gatherings spon-
7 sored by an individual person, organization or
8 association of persons.

9 4. Application. The licensee must apply for an
10 off-premise catering license by notifying the commis-
11 sion before the event or gathering. The application
12 must include the following:

13 A. Title and purpose of the event;

14 B. Date, time and duration;

15 C. Location;

16 D. Approximate number of persons to be accommo-
17 dated;

18 E. Name and address of sponsoring person, orga-
19 nization or association;

20 F. If food is to be served, the name and address
21 of food caterer, if other than the licensee; and

22 G. Approval by the municipal officers, or a mu-
23 nicipal official designated by the municipal of-
24 ficers, of the municipality in which the proposed
25 additional licensed premises are located.

26 5. Ruling on application. Upon receipt of the
27 application, the commission may immediately approve
28 the application. The commission shall advise the ap-
29 plicant that the license and the off-premise sales
30 license may be revoked and suspended under chapter
31 33.

32 6. Local option questions. The commission may
33 not grant approval for the sale of liquor at events
34 to be held in areas where the voters have voted in
35 the negative concerning the pertinent local option
36 questions.

1 §1053. Lighting of premises

2 1. Required light intensity. Except as provided
3 in subsection 2, every licensee for the sale of li-
4 quor to be consumed on the premises shall keep the
5 premises adequately lighted, as determined by the use
6 of a light meter, but no less than 2-foot candle mea-
7 surement.

8 2. Exception for entertainment. The commission
9 shall issue rules to permit lower lighting levels
10 during entertainment.

11 §1054. Special permit for music, dancing or enter-
12 tainment

13 1. Activities and entertainment prohibited.
14 Without the permit described in subsection 2, no li-
15 icensee for sale of liquor to be consumed on the
16 premises may allow on the premises the following:

17 A. Any music, except radio or other mechanical
18 device;

19 B. Any dancing; or

20 C. Entertainment of any sort.

21 2. Special amusement permit required. If a li-
22 icensee for sale of liquor to be consumed on the
23 premises provides activities or entertainment listed
24 in subsection 1, the licensee must first obtain a
25 special amusement permit from the municipality in
26 which the licensed premises are located.

27 3. Term of permit. A permit is valid only for
28 the license year of the existing license.

29 4. Public hearing on permit application. Before
30 granting a permit and after reasonable notice to the
31 municipality and the applicant, the municipal offi-
32 cers shall hold a public hearing at which the municip-
33 al officers shall take testimony of the applicant
34 and any interested members of the public.

35 5. Permit requirements. The municipal officers
36 shall grant a permit unless they find that issuance

1 of the permit would be detrimental to the public
2 health, safety or welfare, or would violate municipal
3 ordinances or rules and regulations.

4 6. Issuance or denial of permit. Within 15
5 days of receiving the permit application, the municipi-
6 pal officers shall give the applicant written notice
7 of their decision.

8 A. If the municipal officers deny a licensee a
9 permit, they shall provide the licensee with the
10 reasons for the denial in writing.

11 B. The licensee may not reapply for a permit
12 within 30 days after denial of an application for
13 a permit.

14 7. Municipal suspension or revocation of a per-
15 mit. After a public hearing preceded by notice to
16 interested parties, the municipal officers may sus-
17 pend or revoke any permits which they have issued under
18 this section on the grounds that the music,
19 dancing or entertainment permitted constitutes a detri-
20 ment to the public health, safety or welfare, or
21 violates municipal ordinances or regulations.

22 8. Appeal procedure. Any licensee who has ap-
23 plied for a permit and has been denied, or whose per-
24 mit has been revoked or suspended, may appeal the de-
25 cision to the municipal board of appeals, as defined
26 in Title 30, section 2411, within 30 days of the de-
27 nial, suspension or revocation. The municipal board
28 of appeals, if the municipality has such a board, may
29 grant or reinstate the permit if it finds that:

30 A. The permitted activities would not constitute
31 a detriment to the public health, safety or wel-
32 fare, or violate municipal ordinances or regula-
33 tions; or

34 B. The denial, revocation or suspension was ar-
35 bitrary and capricious.

36 9. Admission. A licensed hotel, Class A restau-
37 rant, Class A tavern or restaurant malt liquor li-
38 censee who has been issued an amusement permit may
39 charge admission in designated areas approved by the
40 special amusement permit.

1 10. Definition of entertainment. For the pur-
2 poses of this section, "entertainment" includes any
3 amusement, performance, exhibition or diversion for
4 patrons or customers of the licensed premises, wheth-
5 er provided by professional entertainers or by full-
6 time or part-time employees of the licensee whose in-
7 cidental duties include activities with an entertain-
8 ment value.

9 11. Municipal ordinances or regulations. A mu-
10 nicipality shall adopt ordinances or authorize the
11 municipal officers to establish written regulations
12 governing the following aspects of the permits.

13 A. These ordinances or regulations shall govern:

14 (1) The issuance, suspension and revocation
15 of these permits;

16 (2) The classes of permits and fees for the
17 issuance of these permits;

18 (3) The music, dancing or entertainment
19 permitted under each class; and

20 (4) Other limitations on these activities
21 required to protect the public health, safe-
22 ty and welfare.

23 B. These ordinances or regulations may specifi-
24 cally determine:

25 (1) The location and size of premises to
26 which the permits may apply;

27 (2) The facilities that may be required for
28 the permitted activities on those premises;
29 and

30 (3) The hours during which the permitted
31 activities may take place.

32 12. Unincorporated place. If a licensed premise
33 is located in an unincorporated place, the county
34 commissioners of the county in which the unincorpo-
35 rated place is located shall grant, suspend or revoke
36 permits in the same manner and with the same authori-

1 ty as municipal officers. The county commissioners
2 shall adopt regulations in the same manner as municipi-
3 pal officers.

4 SUBCHAPTER II

5 SPECIFIC LICENSE REQUIREMENTS

6 §1061. Hotels

7 1. Issuance of licenses. The commission may is-
8 sue licenses under this section for the sale of spir-
9 its, wine and malt liquor to be consumed on the
10 premises to hotels, as defined in section 2, subsec-
11 tion 15, paragraph H.

12 2. Minors not permitted on premises. Except as
13 provided in paragraphs A and B, no hotel licensee may
14 permit any minor in any part of the hotel where the
15 license privilege is exercised.

16 A. Minors may be permitted in public dining
17 rooms and sleeping rooms.

18 B. This subsection does not apply to:

19 (1) Minors in the company of their parent,
20 legal guardian or custodian, as defined in
21 Title 22, section 4002; or

22 (2) Minors employed according to section
23 704.

24 3. Income from sale of food requirement. At
25 least 10% of annual income must be from the sale of
26 food for each hotel.

27 4. Required number of sleeping rooms. Except as
28 provided in paragraph C, each hotel must be equipped
29 with at least the required number of adequate sleep-
30 ing rooms. These rooms must be in addition to the
31 rooms used by the owner or the employees.

32 A. The number of rooms required is based on the
33 population of the municipality in which the hotel
34 is located.

1 (1) If the hotel is located in a municipal-
2 ity of 3,000 or less population, the hotel
3 must have at least 14 adequate sleeping
4 rooms.

5 (2) If the hotel is located in a municipal-
6 ity of more than 3,000, but not more than
7 7,500 population, the hotel must have at
8 least 20 adequate sleeping rooms.

9 (3) If the hotel is located in a municipal-
10 ity of 7,500 or more population, the hotel
11 must have at least 30 adequate sleeping
12 rooms.

13 B. Any increase in population as shown by a sub-
14 sequent Federal Census does not affect the eligi-
15 bility for license of premises licensed before
16 that census.

17 C. The room requirements of this subsection do
18 not apply to:

19 (1) With respect to number of rooms,
20 premises licensed on August 13, 1947; or

21 (2) With respect to the 14-room require-
22 ment, premises licensed during 1969.

23 §1062. Restaurant requirements

24 1. Issuance of licenses. The commission may is-
25 sue licenses under this section for the sale of wine
26 and malt liquor to be consumed on the premises to
27 restaurants, as defined in section 2, subsection 15,
28 paragraph Q.

29 2. Restaurant qualifications. The commission
30 may not issue a license to a new restaurant premise
31 unless:

32 A. It has been in operation as a restaurant for
33 a period of at least 3 months immediately before
34 the application is made;

35 (1) In the case of part-time premises, op-
36 eration immediately before the application

1 is made means operation during the season
2 when the part-time premise is ordinarily
3 open for business; or

4 B. The applicant proves to the satisfaction of
5 the commission that all proper standards and re-
6 quirements of laws and rules of the commission
7 have been met and the applicant has been a resi-
8 dent of the State for at least 6 months before
9 filing his application.

10 3. Income from sale of food requirement. Except
11 as provided in paragraph B, at least 10% of the total
12 income must be from the sale of food for both
13 year-round and part-time restaurants.

14 A. The commission may not renew any license for
15 the sale of wine or malt liquor unless the li-
16 censee furnishes proof to the commission that the
17 previous year's business conformed to the income
18 requirement of this subsection.

19 B. Income from the bowling business in bowling
20 alleys must not be included in the income re-
21 quirement of this section.

22 §1063. Class A restaurants

23 1. Issuance of license. The commission may is-
24 sue licenses under this section for the sale of spir-
25 its, wine and malt liquor to be consumed on the
26 premises to restaurants, as defined in section 2,
27 subsection 15, paragraph R.

28 2. Income from sale of food requirement. Except
29 as provided in section 1079, at least a minimum
30 amount of annual income must be from the sale of food
31 for each Class A restaurant. The income from sale of
32 food requirement is based on the population of the
33 municipality in which the Class A restaurant is lo-
34 cated.

35 A. In municipalities having a population of more
36 than 50,000 persons:

37 (1) Year-round Class A restaurants must
38 have a minimum income of \$50,000 per year

1 from the sale of food to the public on their
2 premises; and

3 (2) Part-time Class A restaurants must have
4 a minimum income of:

5 (a) Thirty thousand dollars from the
6 sale of food to the public on their
7 premises as a requirement for a part-
8 time license not in excess of 6 consec-
9 utive months; and

10 (b) Twenty thousand dollars from the
11 sale of food to the public on their
12 premises as a requirement for a part-
13 time license not in excess of 3 consec-
14 utive months;

15 B. In municipalities having a population of more
16 than 30,000 but not more than 50,000 persons:

17 (1) Year-round Class A restaurants must
18 have a minimum income of \$40,000 per year
19 from the sale of food to the public on their
20 premises; and

21 (2) Part-time Class A restaurants must have
22 a minimum income of:

23 (a) Twenty-five thousand dollars from
24 the sale of food to the public on their
25 premises as a requirement for a part-
26 time license not in excess of 6 consec-
27 utive months; and

28 (b) Twenty thousand dollars from the
29 sale of food to the public on their
30 premises as a requirement for a part-
31 time license not in excess of 3 consec-
32 utive months;

33 C. In municipalities having a population of more
34 than 20,000, but not more than 30,000 persons:

35 (1) Year-round Class A restaurants must
36 have a minimum income of \$30,000 per year
37 from the sale of food to the public on their
38 premises; and

1 (2) Part-time Class A restaurants must have
2 a minimum income of \$20,000 from the sale of
3 food to the public on their premises as a
4 requirement for a part-time license, not in
5 excess of 6 consecutive months; and

6 D. In municipalities having a population of not
7 more than 20,000 persons:

8 (1) Year-round Class A restaurants must
9 have a minimum income of \$20,000 per year in
10 sale of food to the public on their
11 premises; and

12 (2) Part-time Class A restaurants must have
13 a minimum income of \$15,000 from the sale of
14 food to the public on their premises as a
15 requirement for a part-time license, not in
16 excess of 6 consecutive months.

17 3. Commission determines applicant would proba-
18 bly qualify. The commission may issue the license if
19 it determines that the applicant would probably qual-
20 ify.

21 4. Licensee for renewal must show proof of meet-
22 ing income requirement. The commission may not renew
23 any license for the sale of liquor under this subsection
24 unless the licensee furnishes the commission
25 with proof that the previous year's business con-
26 formed to the income requirement of this subsection.

27 §1064. Establishment located at fairgrounds

28 Establishments located on fairgrounds operated by
29 agricultural societies or where parimutuel racing is
30 conducted, which otherwise meet the definition of a
31 hotel or a restaurant, shall be considered to be a
32 hotel or restaurant for purposes of this Title, even
33 if an admission charge must be paid to gain entrance
34 to the fairgrounds or racing grounds.

35 §1065. Licenses for Class A lounges

36 1. Issuance of licenses. The commission may is-
37 sue licenses under this section for the sale of spir-
38 its, wine and malt liquor to be consumed on the

1 premises to Class A lounges as defined in section 2,
2 subsection 15, paragraph L.

3 2. Food availability. The licensee shall offer
4 food for sale to the public at all times that liquor
5 is for sale.

6 3. Income from the sale of food requirement. At
7 least 10% of the total income must be from the sale
8 of food.

9 4. Minors not allowed on premises. Minors are
10 not permitted to remain on the premises unless accom-
11 panied by a parent, legal guardian or custodian as
12 defined in Title 22, section 4002.

13 5. Licensed by Department of Human Services.
14 All Class A lounges must be licensed by the Depart-
15 ment of Human Services.

16 6. Written evaluation. Before September 30,
17 1987, the State Liquor Commission shall evaluate the
18 effectiveness of the Class A lounge license and shall
19 make a written report to the 113th Legislature.

20 7. Sunset. The following provisions are re-
21 pealed on September 30, 1987:

22 A. Section 2, subsection 15, paragraph L;

23 B. Section 1011; and

24 C. This section.

25 §1066. Taverns

26 1. Taverns; requirements. A tavern must not
27 contain tables, chairs or other seating accommoda-
28 tions and all persons served shall remain standing at
29 the bar until their drink is consumed.

30 §1067. Class A taverns

31 1. Minors. No class A tavern licensee may per-
32 mit minors to remain on the licensed premises, unless
33 employed under section 704.

1 2. Licensed by Department of Human Services.
2 All Class A taverns must be licensed by the Depart-
3 ment of Human Services and shall comply with the
4 rules of the Department.

5 §1068. Performing arts centers

6 1. Issuance of licenses. The commission may is-
7 sue licenses under this section for the sale of spir-
8 its, wine and malt liquor to be consumed on the
9 premises to performing arts centers as defined in
10 section 2, subsection 15, paragraph N.

11 2. Requirements. The performing arts center
12 must have:

13 A. Been in existence one year before first ap-
14 plying for a license under section 653; and

15 B. Presented at least 24 public performances of
16 theater, music, dance or other performing arts in
17 the 12 months before first applying for a li-
18 cence.

19 §1069. Auditoriums

20 1. Issuance of licenses. The commission may is-
21 sue licenses under this section for the sale of spir-
22 its, wine and malt liquor to be consumed on the
23 premises to auditoriums, as defined in section 2,
24 subsection 8, paragraph B.

25 2. No sales at events for children. No liquor
26 may be sold at an auditorium at any event primarily
27 involving primary or secondary school children.

28 3. Conditions on sales. No liquor may be sold
29 or consumed in any audience seating area at an audi-
30 torium licensed under this section.

31 4. Sunset. The following sections are repealed
32 on September 30, 1988:

33 A. This section;

34 B. Section 2, subsection 15, paragraph B;

- 1 C. Section 1001, subsection 3, paragraph B;
2 D. Section 1003, subsection 3, paragraph B;
3 E. Section 1004, subsection 3, paragraph B; and
4 F. Section 1005, subsection 3, paragraph B.

5 §1070. Civic auditoriums

6 1. Issuance of licenses. The commission may is-
7 sue licenses under this section for the sale of spir-
8 its, wine and malt liquor to civic auditoriums as de-
9 defined in section 2, subsection 15, paragraph C.

10 2. Events on licensed premises only. Licenses
11 issued to civic auditoriums may be used only in con-
12 junction with a function or event held on the li-
13 icensed premises.

14 3. No sales during events for minors. Licensees
15 may not sell spirits, wine or malt liquor during any
16 school activities or events primarily attended by mi-
17 norors in the rooms where these activities are taking
18 place.

19 4. Licensee must notify Bureau of Liquor En-
20 forcement. The civic auditorium licensee shall noti-
21 fy the Bureau of Liquor Enforcement at least 24 hours
22 before a function or event.

23 §1071. Incorporated civic organizations

24 1. Issuance of licenses. The commission may is-
25 sue licenses under this section for the sale of spir-
26 its, wine and malt liquor to be consumed on the
27 premises to incorporated civic organizations, as de-
28 defined in section 2, subsection 15, paragraph I.

29 2. License for only one event per year. Not-
30 withstanding any other provision of law, the license
31 provided for by this section authorizes the licensee
32 to sell or serve liquor only at one public event or
33 public gathering per year which is sponsored by the
34 licensee.

1 3. Length of license. The license for the pub-
2 lic event or public gathering is valid for no longer
3 than 7 consecutive days and is not renewable.

4 4. Application. An incorporated civic organiza-
5 tion shall file an application for a license. The
6 application includes the following:

7 A. Title and purpose of the event;

8 B. Date, time and duration;

9 C. Location;

10 D. Approximate number of persons to be accommo-
11 dated;

12 E. Name and address of the sponsoring civic or-
13 ganization and the name and title of the officer
14 making the application;

15 F. If food is to be served, the name and address
16 of food caterer, if other than the licensee; and

17 G. Approval by the municipal officers of the mu-
18 nicipality in which the proposed licensed
19 premises are located, which, notwithstanding sec-
20 tion 653, may be granted without notice or a pub-
21 lic hearing.

22 5. Ruling on application. The commission shall
23 approve or deny the application and shall immediately
24 notify the applicant of its decision. The commis-
25 sion shall advise the applicant that the license may
26 be revoked and suspended under chapter 33.

27 §1072. Clubs

28 1. Issuance of licenses. The commission may is-
29 sue licenses under this section for the sale of spir-
30 its, wine and malt liquor to be consumed on the
31 premises to clubs, as defined in section 2, subsec-
32 tion 15, paragraph D.

33 2. Requirements. Except as provided in subsec-
34 tion 3, for at least one year immediately before fil-
35 ing the application for a license, a club must have:

- 1 A. Been in continuous operation and existence;
2 B. Regularly occupied as owner or lessee a suit-
3 able clubhouse or quarters for use of members;
4 C. Held regular meetings;
5 D. Conducted its business through officers regu-
6 larly elected; and
7 E. Charged and collected dues from elected mem-
8 bers.
- 9 3. Exception to one year existence requirement.
10 Any veterans' organization in the State having a
11 charter from a national veterans' organization is ex-
12 empt from the one-year requirement of subsection 2,
13 if it has been established for not less than 3
14 months.
- 15 4. Register of club members. Every club shall
16 keep and maintain a register of the name, identity
17 and address of each member of the club. The club
18 shall allow any liquor enforcement officer or other
19 authorized agent of the commission to inspect the
20 register at any reasonable time.
- 21 5. Sale of liquor only to members and guests;
22 exception. Except as provided in paragraph A, li-
23 censed clubs may not sell liquor to anyone except
24 members and their guests accompanying them.
- 25 A. Licensed veterans' and fraternal organiza-
26 tions and social clubs may sell liquor to members
27 of the same national or affiliated international
28 organization and to members of auxiliaries of the
29 same national or affiliated international organi-
30 zation and their guests accompanying them.
- 31 6. Sales in containers forbidden. No club may
32 sell spirits in the original container.
- 33 §1073. Indoor racquet clubs, ice skating clubs and
34 golf club facilities
- 35 1. Issuance of licenses. The commission may is-
36 sue licenses under this section for the sale of spir-

1 its, wine and malt liquor to be consumed on the
2 premises to golf clubs, indoor ice skating clubs and
3 indoor racquet clubs and indoor ice skating clubs as
4 defined in section 2, subsection 15, paragraphs G, J
5 and K respectively.

6 2. Food availability. The licensee shall offer
7 food for sale to the public at all times that liquor
8 is for sale.

9 3. Separate area for sale of food and liquor.
10 The licensee shall set aside a separate area for the
11 sale of food and liquor in accordance with the rules
12 of the commission.

13 §1074. Outdoor stadiums

14 1. Issuance of licenses. The commission may is-
15 sue licenses under this section for the sale of wine
16 and malt liquor to be consumed on the premises to
17 outdoor stadiums, as defined in section 2, subsection
18 15, paragraph M.

19 2. No sales at events for children. The li-
20 icensee may not sell any liquor at an outdoor stadium
21 at any event primarily involving primary or secondary
22 school children.

23 3. Conditions on sales. The licensee may not
24 sell liquor in the spectator stands at an outdoor
25 stadium. Liquor may be sold only by the glass in
26 plastic or paper cups.

27 §1075. Auxiliary licenses at ski areas

28 1. Licenses. The commission may issue one aux-
29 iliary license under this section for additional
30 premises to any Class A restaurant licensee located
31 at a ski area or any hotel licensee located at a ski
32 area if the following requirements are met:

33 A. The additional premises are located at the
34 same ski area where the Class A restaurant or ho-
35 tel is licensed;

36 B. Food is for sale at the additional premises,
37 although not necessarily prepared there;

1 C. The additional premises are properly
2 equipped, including tables and chairs; and

3 D. The Department of Human Services licenses the
4 additional premises.

5 §1076. Qualified catering services

6 1. Issuance of licenses. Notwithstanding any
7 other provision of law, the commission may issue li-
8 censes under this section for the sale of spirits,
9 wine and malt liquor to be consumed on the premises
10 to qualified catering services as defined in section
11 2, subsection 15, paragraph P.

12 2. Compliance with local option decisions. The
13 commission may license only those qualified catering
14 services located in municipalities and unincorporated
15 places which have previously voted affirmatively on
16 questions pertaining to Class A restaurants provided
17 in chapter 5.

18 3. Income from sale of food requirement. At
19 least a minimum amount of annual income must be from
20 the sale of food for each qualified catering service.

21 A. Qualified catering services applying for
22 year-round licenses must, in the calendar year
23 before the year in which application is made,
24 have an income of at least \$50,000 from the sale
25 and service of food to the public.

26 B. Qualified catering services applying for a
27 part-time license must, in the calendar year be-
28 fore the year in which application is made, oper-
29 ate for a minimum of 4 months and must have an
30 income of at least \$25,000 from the sale and ser-
31 vice of food to the public. The part-time li-
32 cence must not be in excess of 6 consecutive
33 months.

34 4. Commission determines applicant qualifies.
35 The commission shall issue the license if it deter-
36 mines that the applicant qualifies.

37 5. Licensee for renewal must show proof of meet-
38 ing income requirement. The commission may not renew

1 any license for the sale of liquor under this section
2 unless the licensee furnishes the commission with
3 proof that the previous year's business conformed to
4 the income requirements of this section.

5 6. Income from vending machines not included.
6 The income from the sale of food placed in vending
7 machines must not be included in the minimum dollar
8 requirements of this section.

9 7. Provision of liquor at places other than
10 principal place of business. Licensed qualified ca-
11 tering services which would like to provide the ser-
12 vice of liquor at locations other than their princi-
13 pal places of business shall file an application with
14 the commission at least 24 hours in advance of any
15 function or event at which liquor is to be sold or
16 served. Application must be made on a form provided
17 by the commission and must contain the following:

18 A. Date, time and approximate duration;

19 B. Location;

20 C. Name and address of the person or persons,
21 firm or corporation making arrangements;

22 D. Approval by the municipal officers or a mu-
23 nicipal official designated by the municipal of-
24 ficers of the municipality in which the catered
25 function or event is to be held, which, notwith-
26 standing the provisions of section 653, may be
27 granted without public notice; and

28 E. Any other information the commission consid-
29 ers necessary.

30 8. Ruling on application. The commission shall
31 approve or deny the application to provide service of
32 liquor at a location other than the principal place
33 of business, and shall immediately notify the appli-
34 cant of its decision.

35 9. No additional fee. The commission may not
36 charge a fee for provision of the service of liquor
37 at locations other than the principal place of busi-
38 ness in addition to the license fee paid by the qual-
39 ified catering service.

1 §1077. Public service corporations: Vessel, rail-
2 road and airline corporations

3 1. Licenses. The commission may issue licenses
4 under this section for the sale of spirits, wine and
5 malt liquor by vessel, railroad and airline corpora-
6 tions in their boats, cars and aircraft.

7 2. Vessels. The requirements and conditions for
8 licenses for vessels are as follows.

9 A. The commission may not require that the ves-
10 sels be equipped to supply food or provide food
11 service.

12 B. Except as provided in sub-paragraph (1), li-
13 censes issued under this section to vessel compa-
14 nies operating boats within the State authorize
15 the licensees to sell liquor in the boats after
16 leaving and before reaching ports within the
17 State.

18 (1) A licensee may sell liquor for consump-
19 tion on board a vessel which is in port, on-
20 ly if prior approval for the sale is ob-
21 tained from the commission under the license
22 application procedure in section 653. A
23 separate approval must be obtained for each
24 port location from which on-board sales of
25 liquor are to be made.

26 C. A vessel licensed to sell liquor under this
27 section may sell liquor on Sundays only between
28 the hours of 12 noon and midnight when operated
29 within the 3-mile limit.

30 3. Railroad corporations. The requirements and
31 conditions for licenses for railroad corporations are
32 as follows.

33 A. The license issued to a railroad corporation
34 operating dining cars within the State authorizes
35 the licensee to sell liquor in the cars to be
36 consumed in the cars only after leaving and be-
37 fore reaching the terminal stops.

38 4. Airlines. The requirements and conditions
39 for licenses for airlines are as follows.

1 A. The license issued to an airline operating
2 aircraft within the State authorizes the licensee
3 to sell liquor in the aircraft to be consumed in
4 the aircraft only after leaving and before reach-
5 ing airports within the State.

6 5. License sufficient throughout the State. One
7 license issued under this section is sufficient to
8 cover all aircraft, passenger cars or vessels oper-
9 ated by the licensed public service corporation.

10 §1078. Vessel corporations owned by certificate of
11 approval holders

12 1. License for cruise vessel owned by certifi-
13 cate of approval holder. Notwithstanding any other
14 provision of this Title, the commission may issue li-
15 censes to sell spirits, wine and malt liquor at re-
16 tail under section 1077 to vessel corporations owned
17 by certificate of approval holders and operating in
18 international and interstate commerce. Local approv-
19 al granted under section 1077 for the sale of liquor
20 at retail to persons other than passengers is limited
21 to no more than 72 consecutive hours that the cruise
22 vessel is in port in that municipality.

23 2. Sunset. This section is repealed on Septem-
24 ber 30, 1988.

25 §1079. International passengers in transit

26 1. Issuance of license to operators of air ter-
27 minals. The commission may issue licenses under this
28 section for the sale of spirits, wine and malt liquor
29 to be consumed on the premises to operators of inter-
30 national air terminals or their agent or concession-
31 aire on payment of the fee as provided for a Class A
32 restaurant in chapter 41.

33 2. International passengers in transit. The li-
34 cence issued under this section authorizes the li-
35 cence to sell liquor to passengers of any airline if
36 the passenger is in transit and the passengers' point
37 either of origin or destination is a foreign country.

38 3. Application of other laws. Any license is-
39 sued under this section is not subject to the hours

1 of sale in section 4, nor is it subject to the food
2 requirements for a Class A restaurant contained in
3 section 1063.

4 CHAPTER 45

5 LICENSES FOR THE SALE OF LIQUOR TO BE
6 CONSUMED OFF THE LICENSED PREMISES

7 §1201. Issuance of licenses; stock of merchandise

8 1. Licenses for sale of malt liquor and table
9 wine. The commission may issue licenses under this
10 section for the sale and distribution of malt liquor
11 or wine to off-premise retail licensees, as defined
12 in section 2, subsection 27, paragraph A.

13 2. Ineligible as licensee. The commission may
14 not issue a license for the sale of malt liquor or
15 wine to any person who is not engaged in a bona fide
16 retail business other than the sale of malt liquor or
17 wine at retail.

18 3. Cannot sell liquor to be consumed on the
19 premises. No person licensed under this section may
20 sell malt liquor or wine to be consumed on the
21 premises.

22 4. Licenses in unincorporated places where no
23 local option vote is taken. Licenses in an unincor-
24 porated place, where no local option vote is taken
25 under chapter 5, must be approved by the county com-
26 missioners of the county.

27 5. Qualifications. The commission may not issue
28 any licenses for new premises unless:

29 A. The premise has been in operation for a peri-
30 od of at least 3 months immediately before the
31 date of the application; or

32 B. The applicant proves to the satisfaction of
33 the commission that all proper standards and re-
34 quirements of laws and rules of the commission
35 have been met and the applicant has been a resi-
36 dent of the State for at least 6 months before
37 filing his application.

1 6. Stock of groceries required. All off-premise
2 retail licensees must have and maintain:

3 A. An adequate stock of groceries, at least
4 \$1,000 wholesale value;

5 B. A stock of merchandise reasonably compatible
6 with a stock of malt liquor or wine, at least
7 \$1,000 wholesale value; or

8 C. A combination of both groceries and compati-
9 ble merchandise, at least \$1,000 wholesale value.

10 7. Compatible merchandise. Each licensee shall
11 display compatible merchandise in the general sales
12 area of the licensed premises, except that foodstuffs
13 and other consumable products used in the preparation
14 of food are not required to be displayed if they are
15 stored elsewhere on the premises. Compatible mer-
16 chandise:

17 A. Consists exclusively of:

18 (1) Tobacco products;

19 (2) Newspapers;

20 (3) Greeting cards;

21 (4) Paper products; and

22 (5) A stock of foodstuffs and other consum-
23 able products used on the premises in the
24 preparation of food for consumption on or
25 off the premises; and

26 B. Does not include:

27 (1) Gasoline and oil;

28 (2) Used or new cars, parts or accessories;
29 or

30 (3) Other items of stock that may be equal-
31 ly incompatible in nature.

32 §1202. Payment for sales in off-premise retailers

1 1. Employees under 17. No employee under 17
2 years of age may accept payment for the sale of malt
3 liquor or wine at the check-out counter of an
4 off-premise retail licensee.

5 2. Employees who are 17. An employee who is 17
6 years of age may accept payment only if an employee
7 who is at least 18 years old is present in the
8 off-premise retail licensee in a supervisory capaci-
9 ty.

10 §1203. License for florists and florist shops

11 1. Licenses. The commission may issue licenses
12 under this section for the sale and distribution of
13 wine by florist shops as defined in section 2, sub-
14 section 15, paragraph F.

15 2. Bona fide florist business. The commission
16 may not issue a license to any person who is not en-
17 gaged in a bona fide florist shop business.

18 3. Not for consumption on the premises. No per-
19 son licensed under this section may sell wine to be
20 consumed on the premises.

21 4. Licenses in unincorporated places. If the
22 premises to be licensed are located in an unincorpo-
23 rated place where no local option vote has been taken
24 under chapter 5, the county commissioners of that
25 county must approve the license.

26 5. New premise qualifications. The commission
27 may not issue a license under this section to any new
28 premise unless:

29 A. It has been in operation as a new premise for
30 a period of at least 3 months immediately before
31 the date of the application; or

32 B. The applicant proves to the satisfaction of
33 the commission that all proper standards and re-
34 quirements of laws and rules of the commission
35 have been met and the applicant has been a resi-
36 dent of the State for at least 6 months before
37 filing the application.

1 6. Stock requirement. All persons licensed un-
2 der this section shall have and maintain an adequate
3 stock of flowers, cut flowers and supplies used in
4 the florist business, not including liquor, at least
5 \$1,000 wholesale value.

6 7. Sale only when incorporated into floral ar-
7 rangement. No licensee under this section may sell
8 wine, except when incorporated into a floral arrange-
9 ment the retail price of which is at least \$10 with-
10 out the wine, not including delivery charges.

11 SUBPART 3

12 NON-RETAIL SALES

13 CHAPTER 51

14 CERTIFICATE OF APPROVAL HOLDERS

15 SUBCHAPTER 1

16 GENERAL PROVISIONS

17 §1351. Certificate of approval

18 1. Certificate of approval required. All
19 in-state manufacturers, out-of-state manufacturers
20 and out-of-state wholesalers must obtain a certifi-
21 cate of approval from the Bureau of Alcoholic Bever-
22 ages.

23 SUBCHAPTER II

24 MANUFACTURERS

25 §1355. Manufacturer licenses; sales; transportation;
26 fees

27 The commission may issue manufacturer certifi-
28 cates of approval to distill, rectify, brew or bottle
29 alcohol, or spirits, wine or fermented liquor to dis-
30 tillers, rectifiers, brewers, bottlers and wineries
31 operating under federal law and federal supervision.
32 The commission shall charge the following license
33 fees:

1 1. Distillers and brewers. Distillers and brew-
2 ers using exclusively the agricultural products of
3 the State as raw material for the production of alco-
4 hol.....\$ 100.

5 Distillers and brewers using exclusively the agricul-
6 tural products of other states as raw material\$3,000.

7 Distillers and brewers using in part agricultural
8 products of the State and in part those of other
9 states as raw material shall pay the fee determined
10 by the commission, to be directly proportioned as to
11 the source and quantity of the raw material and based
12 upon the instate to out-of-state differential. If
13 Maine agricultural products are not available for use
14 as raw material by distillers and brewers in any par-
15 ticular year, the commission may adjust the fees as
16 it considers just and equitable, resulting in a final
17 computation of not less than \$1,500.

18 All licensees to whom manufacturers' licenses are as-
19 signed for distilling and brewing shall pay with
20 their application a base fee of \$100 and make monthly
21 reports to the commission of the kind, quantity and
22 source of raw material used by them. The commission
23 shall make a final computation of the license fee for
24 each license year on the basis of the monthly re-
25 ports. The licensees shall pay the the final fees,
26 as computed by the commission, on December 31st of
27 each license year.

28 2. Small Maine breweries. Small Maine breweries
29\$50.

30 A. If an inadequate amount of agricultural
31 products used for raw materials exists within the
32 State, a holder of a small Maine brewery license
33 may file an affidavit and application with the
34 Bureau of Alcoholic Beverages setting forth the
35 unavailability of raw materials within the State
36 and requesting permission to import those agri-
37 cultural products from out-of-state. If the bu-
38 reau finds that there is in fact an inadequate
39 supply of raw materials within the State, it may
40 authorize that importation.

1 B. A holder of a small Maine brewery license may
2 produce malt liquor containing 25% or less alco-
3 hol by volume in an amount not to exceed 50,000
4 gallons per year.

5 C. A holder of a small Maine brewery license may
6 sell, on the premises during regular business
7 hours, malt liquor produced at the brewery by the
8 bottle, by the case or in bulk.

9 D. A holder of a small Maine brewery license may
10 sell or deliver his product to licensed retailers
11 and wholesalers. In addition, he may sell, on
12 the premises to be consumed off the premises,
13 malt liquor produced at the brewery by the bot-
14 tle, by the case or in bulk to licensed retail-
15 ers, including, but not limited to, off-premise
16 retail licensees, restaurants and clubs.

17 E. A holder of a small Maine brewery license may
18 apply for one license for the sale of liquor to
19 be consumed on the premises for a location other
20 than the brewery.

21 F. A holder of a small Maine brewery license may
22 list on product labels and in its advertising the
23 list of the ingredients and the product's average
24 percentage of the recommended daily allowances of
25 nutritional requirements.

26 3. Rectifiers. Rectifiers' fee.....\$500.

27 4. Bottlers. Bottlers' fee.....\$500.

28 5. Maine farm wineries. Maine farm wineries...\$
2950.

30 A. If an inadequate amount of agricultural
31 products used for raw materials exists within the
32 State, a holder of a Maine farm winery license
33 may file an affidavit and application with the
34 Bureau of Alcoholic Beverages setting forth the
35 unavailability of raw materials within the State
36 and requesting permission to import those agri-
37 cultural products from out-of-state. If the bu-
38 reau finds that there is an inadequate supply of
39 raw materials within the State, it may authorize

1 the importation. If out-of-state raw materials
2 contribute to more than 50% of the yearly wine
3 production of a winery, then an excise tax shall
4 be levied on that out-of-state raw material at a
5 rate of 4¢ per gallon, or its metric equivalent,
6 on liquid raw materials and 2¢ per pound on solid
7 or semisolid raw materials. The commission shall
8 promulgate rules for the collection of the excise
9 tax.

10 B. A holder of a Maine farm winery license may
11 produce wines and sparkling wines in an amount
12 not to exceed 50,000 gallons per year.

13 C. A holder of a Maine farm winery license may
14 serve complimentary samples of wine and sell,
15 during regular business hours, wine produced at
16 the winery by the bottle, by the case or in bulk
17 on the premises of the winery to persons who are
18 not minors. A holder of a Maine farm winery li-
19 cence may serve complimentary samples of wine on
20 Sunday after the hour of 12 noon and may sell
21 wine on Sunday after the hour of 12 noon if the
22 municipality in which the winery is located has
23 authorized the sale of wine on Sunday for con-
24 sumption off the premises under chapter 5.

25 D. A holder of a Maine farm winery license may,
26 upon application to and approval of the commis-
27 sion and payment of the license fee set out in
28 this subsection, obtain a license for one addi-
29 tional location other than the winery licensed
30 under this subsection. The holder of the license
31 is not required to conduct any bottling or pro-
32 duction of wine at the 2nd licensed location, but
33 may conduct all activities which are permitted at
34 the winery by this section.

35 E. A holder of a Maine farm winery license may
36 sell or deliver his product to licensed retailers
37 and wholesalers. In addition, he may sell, on
38 the premises, wine produced at the winery by the
39 bottle, by the case or in bulk to licensed re-
40 tailers, including, but not limited to,
41 off-premise retail licensees, restaurants and
42 clubs.

1 F. This subsection is repealed on July 1, 1989.

2 6. Other wineries. Wineries using exclusively
3 the agricultural products of other states or foreign
4 countries.....\$50.

5 A. In addition to the license fee of \$50, an ex-
6 cise tax shall be imposed in the amount of 4¢ per
7 gallon on liquid raw materials and 2¢ per pound
8 on solid or semisolid raw materials, under the
9 supervision of the commission, which shall make
10 the necessary rules for their collection.

11 B. This subsection is repealed on July 1, 1989.

12 7. Wineries. Beginning on July 1, 1989, win-
13 eries using exclusively the agricultural products of
14 the State as raw material.....\$50.

15 Wineries using in part the agricultural products of
16 other states or foreign countries shall pay, in addi-
17 tion to the license fee of \$50, an excise tax of 4¢
18 per gallon on liquid raw materials and 2¢ per pound
19 on solid or semisolid raw materials; the same being
20 under the supervision of the commission, which shall
21 make the necessary rules and regulations for their
22 collection.

23 §1356. Illegal manufacture

24 1. Illegal manufacture; penalty. Any person not
25 licensed by the commission who manufactures for sale
26 any liquor, and any person who sells any liquor manu-
27 factured by him without a license in the State, com-
28 mits a Class E crime.

29 2. Seizure and libeling of equipment and materi-
30 als. The officers seizing the liquor shall also
31 seize all equipment and materials of every kind used
32 in the illegal manufacturing. The officers shall li-
33 bel the equipment and materials as is provided for
34 the libeling of liquor and the receptacles in which
35 they are contained.

36 SUBCHAPTER III

37 MALT LIQUOR AND WINE

1 §1361. Certificate of approval

2 1. Certificate of approval required. No manu-
3 facturer or foreign wholesaler of malt liquor or wine
4 may hold for sale, sell or offer for sale in intra-
5 state commerce, or transport or cause to be trans-
6 ported into the State for resale, any malt liquor or
7 wine unless the manufacturer or foreign wholesaler
8 has obtained from the commission a certificate of ap-
9 proval.

10 2. Fee for certificate of approval. The fee for
11 a certificate of approval is \$600 per year for malt
12 liquor only and \$600 for wine only. Payment of the
13 fee must accompany the application for the certifi-
14 cate.

15 3. Conditions on certificate of approval. The
16 certificate of approval is subject to the laws of the
17 State and the rules of the commission.

18 A. Any violation of the rules of the commission
19 is ground for suspension or revocation of the
20 certificate at the discretion of the Administra-
21 tive Court Judge.

22 4. No sales of malt liquor to person without
23 wholesale license. No certificate of approval holder
24 may sell or cause to be transported into the State
25 any malt liquor or wine to any person to whom a Maine
26 wholesale license has not been issued by the commis-
27 sion.

28 5. No exclusivity agreement. No certificate of
29 approval holder may make it a condition in selling
30 malt liquor or wine to any wholesale licensee that
31 the wholesale licensee may not sell malt liquor or
32 wine manufactured or sold by other manufacturers or
33 foreign wholesalers.

34 §1362. Disposal of fees

35 The commission shall deposit the fees collected
36 under section 1361 to the credit of the General Fund.

37 §1363. Manufacture of malt liquor or table wine;
38 credit; furnishing materials and equipment

1 1. Certificate of approval holder not interested
2 in wholesale license. No officer, director or stock-
3 holder of a corporation which is the holder of a man-
4 ufacturer's certificate of approval may be inter-
5 ested, either directly or indirectly, as a director,
6 officer or stockholder in any other corporation which
7 holds a wholesale license.

8 2. Loans by certificate of approval holder. Ex-
9 cept as provided in paragraphs A and B, no manufac-
10 turer or certificate of approval holder may, either
11 directly or indirectly, loan any money, credit or
12 their equivalent to any wholesale licensee for equip-
13 ping, fitting out, maintaining or conducting, either
14 in whole or in part, a business establishment where
15 malt liquor or wine is sold.

16 A. A certificate of approval holder may extend
17 the usual and customary commercial credit for
18 malt liquor or table wine sold.

19 B. A manufacturer or holder of a certificate of
20 approval may furnish a wholesale licensee materi-
21 als and equipment for the use of the wholesale
22 licensee or his employees, such as:

23 (1) Painting the wholesale licensee's vehi-
24 cles;

25 (2) Supplying legal advertising signs used
26 by the wholesale licensee in the course of
27 his business; and

28 (3) Supplying uniforms for the employees of
29 the wholesale licensee.

30 §1364. Invoices and reports

31 1. Furnish invoices. All certificate of approv-
32 al holders shall promptly file with the commission a
33 copy of every invoice sent to wholesale licensees and
34 the original copy of the Maine purchase order. The
35 invoice must include the licensee's name and the pur-
36 chase number.

37 2. File monthly reports. All certificate of ap-
38 proval holders shall furnish a monthly report on or

1 before the 10th day of each calendar month in the
2 form prescribed by the commission.

3 3. Certification that excise tax paid. No cer-
4 tificate of approval holder may ship or cause to be
5 transported into the State any malt liquor or wine
6 until the commission has certified that:

7 A. The excise tax has been paid; or

8 B. The Maine wholesale licensee, to whom ship-
9 ment is to be made, has filed a bond to guarantee
10 payment of the excise tax as provided in section
11 1405.

12 SUBCHAPTER IV

13 WAREHOUSES SPECIAL

14 §1371. Special warehouse storage facilities con-
15 trolled by certificate of approval holder

16 1. Certificate of approval for special storage
17 facilities. Notwithstanding the importation restric-
18 tions of sections 2073 and 2077, the commission may
19 issue certificates of approval authorizing the direct
20 importation of malt liquor, wine or spirits from sup-
21 pliers located in foreign countries or other states
22 into special warehouse storage facilities located
23 within the State that are under the direct supervi-
24 sion and control of the certificate of approval hold-
25 er.

26 2. Fee. The fee for a certificate of approval
27 under this subsection is \$600 a year for malt liquor
28 only, \$600 a year for wine only and \$600 a year for
29 spirits only.

30 3. Stored liquor not subject to state liquor tax
31 until withdrawn. Liquor stored in special warehouse
32 storage facilities is not subject to state liquor
33 taxes until it is withdrawn from the special ware-
34 house storage facilities.

35 A. Malt liquor and wine withdrawn from the spe-
36 cial warehouse storage facilities by Maine whole-
37 sale licensees immediately become subject to the

1 same tax and premiums as malt liquor and wine im-
2 ported into the State from out-of-state certifi-
3 cate of approval holders. The wholesale licensee
4 shall withdraw the malt liquor and wine to be
5 distributed in the State by the procedure estab-
6 lished in section 1404 and 1405.

7 B. The State Liquor Commission may withdraw
8 spirits from special warehouse storage facili-
9 ties.

10 C. Out-of-state purchasers authorized by the
11 commission may withdraw spirits, wine and malt
12 liquor from special warehouse storage facilities.
13 The authorization allows the out-of-state pur-
14 chasers to directly transport the spirits, wine
15 and malt liquor to the state border for delivery
16 out-of-state. Products withdrawn by authorized
17 out-of-state purchasers for delivery outside of
18 the State are not subject to the state excise tax
19 or premium.

20 CHAPTER 55

21 MALT LIQUOR AND WINE WHOLESALE LICENSEES

22 §1401. Wholesale licenses

23 1. Issuance of licenses. The commission may is-
24 sue licenses under this section for the sale and dis-
25 tribution of malt liquor or wine at wholesale.

26 2. Fees. Except as provided in subsection 4,
27 the fee for a wholesale license is:

28 A. Six hundred dollars for the principal place
29 of business; and

30 B. Six hundred dollars for each additional ware-
31 house maintained by the wholesale licensee.

32 3. Term of wholesale license. Except as pro-
33 vided in subsection 4, a wholesale license is effec-
34 tive for one year from the date of issuance.

35 4. Temporary permits. The commission may issue
36 special permits, upon application in writing, for the

1 temporary storage of malt liquor or wine under terms
2 and upon conditions prescribed by the commission.

3 5. Qualifications. The commission may not issue
4 a wholesale license to an applicant unless:

5 A. If the applicant is a person, the applicant
6 has been a resident of the State for at least 6
7 months; or

8 B. If the applicant is a corporation, the appli-
9 cant has conducted business in this State for at
10 least 6 months.

11 6. License transferrable to other premises. A
12 wholesale license may be transferred from the
13 premises in the town originally specified to premises
14 in another town.

15 7. Warehouses and sales representatives. A
16 wholesale licensee shall maintain a warehouse or
17 warehouses within the State and employ one or more
18 sales representatives, licensed under chapter 59, for
19 the purpose of soliciting orders.

20 8. Franchise or agreement with certificate of
21 approval holder. A wholesale licensee shall operate
22 under a franchise or agreement for the resale of malt
23 liquor or wine within an allocated territory by a
24 certificate of approval holder.

25 §1402. Taste testing of new wine and malt liquor
26 products

27 1. Taste testing on wholesale licensee's
28 premises. With the commission's written permission,
29 a wholesale licensee may designate a special area or
30 room on the wholesale licensee's premises for the
31 specific purpose of taste testing new wine or malt
32 liquor products.

33 2. Taste testing on retail licensee's premises.
34 With the commission's written permission, a wholesale
35 licensee may rent or lease an area or room from an
36 on-premise retail licensee for the purpose of invit-
37 ing retail licensees to taste test new wine or malt
38 liquor products.

1 3. Conditions on taste-testing activity. The
2 following conditions apply to all taste testings.

3 A. The wholesale licensee or a certificate of
4 approval holder may provide the products for
5 taste testing only if all taxes and premiums re-
6 quired by this Title have been paid.

7 B. Taste-testing activity must be conducted only
8 within the special designated area or room.

9 C. Taste-testing activity must be open only to
10 invited retail licensees or their authorized
11 agents and not to their family members, guests or
12 the general public.

13 D. After the taste-testing activity is con-
14 cluded, the wholesale licensee shall remove all
15 products supplied for the taste-testing activity
16 from the retail licensee's premises.

17 §1403. Interstate purchase or transportation

18 1. No purchases other than from certificate of
19 approval holder. No wholesale licensee may purchase
20 or cause to be transported into the State any malt
21 liquor or wine from any person to whom the commission
22 has not issued a certificate of approval.

23 2. Sale of malt liquor or wine not purchased
24 from a certificate of approval holder prohibited. No
25 wholesale licensee may sell to another wholesale li-
26 censee any malt liquor or wine which has not been
27 purchased from a brewery, winery or foreign wholesal-
28 er holding a certificate of approval.

29 3. License revoked if it requires wholesale li-
30 cence to not sell other brands. The Administrative
31 Court Judge shall revoke the license of any wholesale
32 licensee, who requires as a condition of selling malt
33 liquor or wine to another wholesale licensee, that
34 the purchasing wholesale licensee may not sell other
35 brand names of malt liquor or wine.

36 4. Monthly report. By the 10th day of each cal-
37 endar month, each wholesale licensee shall furnish to
38 the commission, in the form prescribed by the commis-

1 sion, a monthly report of all malt liquor or wine
2 purchased and sold during the preceding month.

3 §1404. Unbonded wholesale licensees

4 1. Procedure for unbonded wholesale licensees.
5 Unbonded wholesale licensees shall order and purchase
6 malt liquor and wine under the following procedures.

7 A. The commission shall furnish all purchase or-
8 der forms.

9 B. The unbonded wholesale licensee shall com-
10 plete the forms in quintuplet.

11 C. The unbonded wholesale licensee ordering malt
12 liquor or wine shall mail 3 copies of the form to
13 the commission with a check for the amount of ex-
14 cise taxes required to cover the amount of the
15 order.

16 D. The unbonded wholesale licensee may mail the
17 original copy of the order to the brewery or win-
18 ery or wholesaler with whom he wishes to place
19 the order.

20 E. On receipt of the 3 copies and a check for
21 excise taxes, the commission shall promptly pro-
22 cess the copies and return one copy to the whole-
23 sale licensee and send one to the brewery, winery
24 or foreign wholesaler designated to receive the
25 order. The commission shall keep the 3rd copy on
26 file.

27 F. No brewery, winery or foreign wholesaler may
28 ship or release malt liquor or wine for delivery
29 in Maine until notified by the commission that
30 the excise tax has been paid in accordance with
31 this section.

32 §1405. Bonded wholesale licensees

33 1. Procedures for bonded wholesale licensees.
34 Bonded wholesale licensees shall order and purchase
35 malt liquor and wine under the following procedures.

36 A. The commission shall furnish all purchase or-
37 der forms.

1 B. The bonded wholesale licensee shall complete
2 the forms in triplicate.

3 C. The bonded wholesale licensee shall submit
4 the original copy to the brewery, winery or for-
5 foreign wholesaler with whom he wishes to place the
6 order.

7 D. The bonded wholesale licensee shall then mail
8 to the commission one copy of the form and retain
9 one copy for his files.

10 2. Corporate security bond. To secure payment
11 of the excise tax and premium, each wholesale licens-
12 ee shall file with the commission a corporate surety
13 bond guaranteeing payment of the proper excise tax
14 and premium due the State from him.

15 A. The commission shall fix the amount and terms
16 of the bond, subject to the following
17 retrictions.

18 (1) The bond must be equal to the highest
19 monthly excise tax and premium paid by the
20 wholesale licensee during the period of his
21 prior year license, plus 10% of the highest
22 month.

23 (2) New licensees desiring to furnish bond
24 under this section shall furnish a corporate
25 surety bond in an amount to be determined by
26 the commission.

27 (3) All bonds shall be provided and effec-
28 tive only for each licensed year.

29 B. Failure to pay the excise tax and premium
30 when due is grounds for suspension of the license
31 of the wholesale licensee.

32 3. Payment of excise tax and premium. By filing
33 the bond required in subsection 1, a wholesale li-
34 cencee may pay monthly the excise tax imposed by sec-
35 tion 1652 and the premium imposed by section 1703 on
36 all malt liquor or wine shipped into the State as
37 shown by invoice of the shipment by the out-of-state
38 wholesaler or certificate of approval holder.

1 A. The wholesale licensee shall pay the excise
2 tax and premium by the 10th day of the calendar
3 month following the month in which shipment oc-
4 currs.

5 B. At the time of payment of the excise tax and
6 premium, each Maine wholesale licensee shall file
7 with the commission in the form prescribed by the
8 commission:

9 (1) A verified monthly report of all malt
10 liquor or wine purchased or imported based
11 on the date of shipment invoice during the
12 preceding calendar month; and

13 (2) Any additional information the commis-
14 sion requires to compute and ensure the ac-
15 curacy of the excise tax and premium payment
16 accompanying the report.

17 §1406. Report of changes in wholesale licensees and
18 certificate of approval holders to commission

19 1. Certificate of approval holders must list
20 wholesale licensees with commission; changes. Each
21 certificate of approval holder shall:

22 A. File with the commission a list of the whole-
23 sale licensees who distribute their products in
24 the State.

25 B. Certificate of approval holders shall give
26 written notice to the commission and the whole-
27 sale licensee affected at least 90 days before
28 any change in:

29 (1) Its wholesale licensees; or

30 (2) The territory of its wholesale licensee
31 in the State.

32 2. Wholesale licensees must list certificate of
33 approval holders with commission; changes. Each
34 wholesale licensee shall:

35 A. File with the commission:

1 (1) A list of the certificate of approval
2 holders for whom it distributes malt liquor
3 or wine in the State; and

4 (2) A statement of the boundaries of its
5 territories.

6 B. Wholesale licensees shall give written notice
7 to the commission and the certificate of approval
8 holder affected at least 90 days before any
9 change in:

10 (1) Its territory; or

11 (2) The distribution of its products.

12 3. Shortened waiting period before change. The
13 commission may shorten the waiting period before a
14 change is made in the following situations.

15 A. A certificate of approval holder or a whole-
16 sale licensee may request a hearing before the
17 commission to shorten the waiting period before a
18 change is made. The commission may, for cause,
19 shorten the waiting period before approving a
20 change in either the wholesale licensee or the
21 wholesale licensee's territory.

22 B. If both the certificate of approval holder
23 and the wholesale licensee affected waive the
24 90-day waiting period by giving the commission
25 written notice, then the commission may immedi-
26 ately approve a change in either the wholesale
27 licensee or the wholesale licensee's territory.

28 §1407. Exclusive distributors of certificate of ap-
29 proval holders' products

30 1. Exclusive distributors. The wholesale li-
31 icensee appointed by the certificate of approval hold-
32 er to be the exclusive distributor for specific
33 brands of liquor cannot be terminated as exclusive
34 distributor of those specific brands upon the volun-
35 tary termination or transfer of the same brands of
36 liquor by the certificate of approval holder who reg-
37 istered the specific labels and established prices
38 with the bureau. The certificate of approval holder

1 acquiring these brands shall take the place of the
2 certificate of approval holder who appointed the dis-
3 tributors and shall comply with section 1406.

4 2. Unfair trade practice. A violation of this
5 section shall be considered a violation of the Unfair
6 Trade Practices Act and all remedies provided by that
7 Act are available for a violation of this section.

8 §1408. Posting of prices

9 1. Posting by certificate of approval holders
10 and bottlers. Certificate of approval holders and
11 all licensed bottlers must post with the bureau the
12 F.O.B. shipping point prices for which they are sell-
13 ing malt liquor or wine to wholesale licensees.

14 2. Posting by wholesale licensees. Wholesale
15 licensees must post with the bureau the delivered
16 prices for which they are selling malt liquor or wine
17 to licensees and all other entities or instrumentali-
18 ties.

19 3. Posted prices must include deposits. All
20 prices posted must include deposits required on re-
21 turnable items, including kegs.

22 4. Price changes. Certificate of approval hold-
23 ers and bottlers shall give written notice of price
24 changes to the bureau and their respective wholesale
25 licensees at least 30 days before the effective date.
26 Wholesale licensees shall give written notice of
27 their price changes to the bureau at least 15 days
28 before the effective date. All price changes are ef-
29 fective on the first day of the month.

30 CHAPTER 57

31 CERTIFICATE OF APPROVAL HOLDER AND
32 MAINE WHOLESALE LICENSEE AGREEMENT ACT

33 §1451. Definitions

34 As used in this chapter, unless the context indi-
35 icates otherwise, the following terms have the follow-
36 ing meanings.

1 1. Agreement. "Agreement" means a commercial
2 relationship, not required to be evidenced in writ-
3 ing, of definite or indefinite duration, between a
4 certificate of approval holder and a wholesale li-
5 icensee, under which the wholesale licensee is autho-
6 rized to distribute one or more of the certificate of
7 approval holder's brands of malt liquor, wine or bev-
8 erages. The performance or accomplishment of any of
9 the following acts shall constitute prima facie evi-
10 dence of an "agreement" within the meaning of this
11 definition:

12 A. The shipment, preparation for shipment or ac-
13 ceptance of any order by any certificate of ap-
14 proval holder or its agents for any malt liquor,
15 wine or beverages to a wholesale licensee within
16 the State; and

17 B. The payment by a wholesale licensee and the
18 acceptance of payment by any certificate of ap-
19 proval holder or its agent or the shipment of an
20 order for malt liquor or beverages intended for
21 sale in Maine.

22 2. Person. Notwithstanding section 2, subsec-
23 tion 23, "person" means a natural person, corpora-
24 tion, partnership, trust, agency or other entity as
25 well as the individual officer, directors or persons
26 in active control of the activities of that entity.
27 "Person" also includes heirs, assigns, personal rep-
28 resentatives and guardians.

29 3. Primary source of supply. "Primary source of
30 supply" means the distiller, the bottler, the brewer,
31 the winery, the brand owner or the designated agent
32 of any distiller, brewer, winery or brand owner.

33 4. Territory or sale territory. "Territory" or
34 "sale territory" means the area of primary sales re-
35 sponsibility expressly or implicitly designated by
36 any agreement between a wholesale licensee and a cer-
37 tificate of approval holder for the brand or label of
38 a certificate of approval holder.

39 5. Wholesale licensee. Notwithstanding section
40 2, subsection 34, "wholesale licensee" means any per-
41 son holding a wholesale malt liquor or wine license

1 within the State, offering malt liquor or wine for
2 sale or resale to retailers, without regard to wheth-
3 er the business of the person is conducted under the
4 terms of an agreement with a certificate of approval
5 holder.

6 §1452. No inducement or coercion

7 1. Certificate of approval holder. No certifi-
8 cate of approval holder may:

9 A. Induce or coerce, or attempt to induce or co-
10 erce, any wholesale licensee to accept delivery
11 of any liquor or any other commodity which has
12 not been ordered by the wholesale licensee;

13 B. Induce or coerce, or attempt to induce or co-
14 erce, any wholesale licensee to do any illegal
15 act or thing by threatening to amend, cancel,
16 terminate or refuse to renew any agreement exist-
17 ing between a certificate of approval holder and
18 a wholesale licensee; or

19 C. Require a wholesale licensee to assent to any
20 condition, stipulation or provision limiting the
21 wholesale licensee in his right to sell the
22 product of any other certificate of approval
23 holder anywhere in the State if the acquisition
24 of the product of another certificate of approval
25 holder does not materially impair the quality of
26 service or quantity of sales of the existing
27 brand or brands of the certificate of approval
28 holder seeking to impose the condition, stipula-
29 tion or provision.

30 §1453. No dual distributorship

31 1. Dual distributorship prohibited. No certifi-
32 cate of approval holder who designates a sales terri-
33 tory for which a wholesale licensee is primarily re-
34 sponsible may enter into any agreement with any other
35 wholesale licensee for the purpose of establishing an
36 additional agreement for its brand or label in the
37 same territory.

38 2. Certificate of approval holder to file list.
39 Each certificate of approval holder shall file with

1 his application for certificate of approval a list
2 giving the name and address of each bottler and
3 wholesale licensee authorized to distribute products
4 of that certificate of approval holder and designat-
5 ing the exclusive territory assigned to each whole-
6 sale licensee within the State. Unless authorized by
7 the bureau, wholesale licensees may not sell those
8 products to licensees outside of the exclusive terri-
9 tory allocated and designated.

10 A. Sales of wine to retail licensees at the
11 wholesale licensee's warehouse shall be consid-
12 ered a sale within the wholesale licensee's ex-
13 clusive territory.

14 3. Primary source of supply. No wholesale li-
15 icensee may purchase liquor from anyone other than the
16 primary source of supply within the United States.

17 §1454. Cancellation

18 1. Good cause. Notwithstanding the terms, pro-
19 visions or conditions of any agreement, no certifi-
20 cate of approval holder may amend, cancel, terminate
21 or refuse to continue or renew any agreement, or
22 cause a wholesale licensee to resign from an agree-
23 ment, unless good cause can be established or proven
24 for amendment, termination, cancellation, nonrenewal,
25 noncontinuation or causing a resignation. "Good
26 cause" does not include the sale or purchase of a
27 certificate of approval holder. "Good cause" in-
28 cludes, but is not limited to, the following:

29 A. Revocation of the wholesale licensee's li-
30 icense to do business in the State;

31 B. Bankruptcy or insolvency of the wholesale li-
32 icensee;

33 C. Assignment for the benefit of creditors or
34 similar disposition of the assets of the whole-
35 sale licensee; and

36 D. Failure by the wholesale licensee to substan-
37 tially comply, without reasonable excuse or jus-
38 tification, with any reasonable and material re-

1 quirement imposed upon him by the certificate of
2 approval holder.

3 §1455. Notice of intent to terminate

4 1. Written notice. Before any termination pro-
5 cedure initiated by the certificate of approval hold-
6 er, the certificate of approval holder shall give the
7 wholesale licensee written notice of any claimed de-
8 ficiency existing in his territory and shall give the
9 wholesale licensee reasonable time to correct the
10 claimed deficiency or deficiencies. After this rea-
11 sonable time has elapsed, the certificate of approval
12 holder shall provide the wholesale licensee at least
13 90 days prior written notice of any intent to amend,
14 terminate, cancel or not renew any agreement. The
15 notice must state all the reasons for the intended
16 amendment, termination, cancellation or nonrenewal.
17 The notice provisions of this section do not apply if
18 the reason for the amendment, termination, cancella-
19 tion or nonrenewal is:

20 A. The bankruptcy or insolvency of the wholesale
21 licensee;

22 B. An assignment for the benefit of creditors or
23 similar disposition of the assets of the whole-
24 sale licensee's business;

25 C. Revocation of the wholesale licensee's li-
26 cence; or

27 D. Conviction or a plea of guilty or no contest
28 to a charge of violating a law relating to the
29 business that materially affects the wholesale
30 licensee's ability to remain in business.

31 §1456. Assignment, transfer or sale of business

32 No certificate of approval holder may unreason-
33 ably withhold consent to any assignment, transfer or
34 sale of the wholesale licensee's business whenever
35 the wholesale licensee to be substituted meets the
36 material and reasonable qualifications and standards
37 required of its wholesale licensees.

38 §1457. Compensation

1 1. Reasonable compensation. Any certificate of
2 approval holder which amends, cancels, terminates or
3 refuses to continue or renew any agreement, or causes
4 a wholesale licensee to resign, unless for good cause
5 shown, as defined in section 1454, from an agreement
6 or unreasonably withholds consent to any assignment,
7 transfer or sale of a wholesale licensee's business,
8 shall pay the wholesale licensee reasonable compensa-
9 tion for the value of the wholesale licensee's busi-
10 ness related to the terminated brand or brands. The
11 value of the wholesale licensee's business includes
12 inventory and other tangible assets and its good
13 will.

14 2. Neutral arbitrator. If the certificate of
15 approval holder and the wholesale licensee are unable
16 to agree on the reasonable compensation to be paid
17 for the value of the wholesale licensee's business,
18 as defined in subsection 1, they shall submit the
19 matter to a neutral arbitrator selected by the par-
20 ties, or, if they cannot agree, by the Chief Justice
21 of the Supreme Judicial Court. The costs of the ar-
22 bitration shall be paid 1/2 by the wholesale licensee
23 and 1/2 by the certificate of approval holder or oth-
24 erwise the arbitration proceeding shall be governed
25 by the Maine Uniform Arbitration Act.

26 §1458. Judicial remedies

27 1. Suit against certificate of approval holder.
28 If a certificate of approval holder engages in con-
29 duct prohibited under this chapter, a wholesale li-
30 cencee may maintain a suit against the certificate of
31 approval holder.

32 2. Equitable relief. The court may grant equi-
33 table relief necessary to remedy the effects of con-
34 duct which it finds to exist and which is prohibited
35 under this chapter, including, but not limited to,
36 declaratory judgment and injunctive relief.

37 3. Punitive damages, costs and fees. If the
38 court finds that the certificate of approval holder
39 has acted in bad faith in invoking the amendment,
40 termination, cancellation or nonrenewal provisions of
41 this chapter or has unreasonably withheld its consent
42 to any assignment, transfer or sale of the wholesale

1 licensee's agreement, the court may award punitive
2 damages, as well as actual damages, costs and attor-
3 neys fees.

4 §1459. Price of product

5 No certificate of approval holder, whether by
6 means of a term or condition of an agreement or oth-
7 erwise, may fix or maintain the price at which the
8 wholesale licensee sells any product.

9 §1460. Retaliatory action prohibited

10 1. Retaliatory action prohibited. A certificate
11 of approval holder may not take retaliatory action
12 against a wholesale licensee who files or indicates
13 an intention to file a complaint of alleged violation
14 of state or federal law or regulation by the certifi-
15 cate of approval holder with the appropriate state or
16 federal regulatory authority.

17 2. Retaliatory action described. Retaliatory
18 action includes, but is not limited to:

19 A. Refusal without good cause to continue the
20 agreement; or

21 B. A material reduction in the quality of ser-
22 vice or quantity of products available to the
23 wholesale licensee under the agreement.

24 §1461. Management and personnel of wholesale licens-
25 ee

26 No certificate of approval holder may require or
27 prohibit any change in management or personnel of any
28 wholesale licensee unless the current or potential
29 management or personnel fails to meet reasonable
30 qualifications and standards required by the certifi-
31 cate of approval holder.

32 §1462. No waiver; good faith settlements

33 No certificate of approval holder may require any
34 wholesale licensee to waive compliance with any pro-
35 visions of this chapter. Nothing in this chapter
36 limits or prohibits good faith settlements of dis-

1 puts voluntarily entered into between the parties.

2 §1463. Sale of certificate of approval holder

3 1. Purchaser obligated. The purchaser of a cer-
4 tificate of approval holder is obligated to all of
5 the terms and conditions of the agreement in effect
6 on the date of purchase.

7 2. Purchase defined. "Purchase," as defined for
8 the purposes of this chapter, includes, but is not
9 limited to:

10 A. Sale of stock;

11 B. Sale of assets;

12 C. Merger;

13 D. Lease;

14 E. Transfer; or

15 F. Consolidation.

16 §1464. Coverage

17 The provisions of this chapter apply to agree-
18 ments between certificate of approval holders and
19 wholesale licensees in existence on September 16,
20 1979, and those entered into after that date.

21 §1465. Right of free association

22 No certificate of approval holder or wholesale
23 licensee may restrict or inhibit, directly or indi-
24 rectly, the right of free association of certificate
25 of approval holders or wholesale licensees for any
26 lawful purpose.

27 CHAPTER 59

28 SALES REPRESENTATIVES

29 §1501. Lists of officers, partners and sales repre-
30 sentatives

1 All persons selling liquor - to the State shall
2 furnish to the commission a list of all officers and
3 directors, if a corporation, or a list of all part-
4 ners, if a partnership, and the name of the sales
5 representatives of the person within the State.

6 §1502. License; fee; renewals

7 The sales representatives shall apply to the com-
8 mission for a license disclosing the person, firm or
9 corporation represented.

10 1. Fee. The annual license fee is \$10.

11 2. Term of license. The license expires on the
12 last day of December of the year in which it is ob-
13 tained. It may be renewed annually on payment of the
14 fee.

15 §1503. Revocation of license

16 Licenses issued by the commission under this
17 chapter shall be revoked for the violation of the li-
18 quor laws or any rule adopted by the commission.

19 PART 4

20 TAXES AND ALCOHOL PREMIUM

21 CHAPTER 65

22 TAXES

23 §1651. Consumers' tax

24 1. State liquor tax. Except as provided in sub-
25 section 2, the commission shall determine and set the
26 price at which to sell all spirits which will produce
27 a state liquor tax of not less than 75% based on the
28 less carload cost F.O.B. commission warehouse.

29 A. In all cases the commission may round off
30 costs to the next highest 5¢.

31 B. Any increased federal taxes levied on or af-
32 ter November 1, 1941, shall be added to the es-
33 tablished price without markup.

1 2. Special pricing situations. The commission
2 may set prices at different levels in the following
3 special situations.

4 A. In addition to the tax imposed under subsection
5 1, there shall be levied and imposed an excise
6 tax of 75¢ per gallon on fortified wines.

7 B. The commission shall base the prices for
8 spirits bought by the commission from Maine li-
9 censees to manufacture liquor under section 1355
10 on minimum truck load delivery prices F.O.B.
11 warehouse.

12 C. Notwithstanding the other provisions of this
13 section, with approval of the Commissioner of Fi-
14 nance, the commission may reduce the price of
15 discontinued items of liquor. The reduced price
16 must not be less than the actual cost of the dis-
17 continued liquor items and the commission may not
18 discontinue an item for a period of at least 6
19 months after that item has been listed and on
20 sale in state liquor stores.

21 D. The commission shall price special orders by
22 the commission for unstocked merchandise at not
23 less than 75% over actual cost delivered F.O.B.
24 warehouse.

25 E. Notwithstanding the other provisions of this
26 section, the commission may establish special
27 prices on certain listed liquor items to be made
28 available to the consumer at all state stores.
29 These special prices must not be lower than the
30 price established for the same listed item at the
31 2 discount state liquor stores authorized under
32 section 403.

33 F. Spirits sold under section 606 may be sold at
34 prices established under section 606.

35 3. Applicability of tax. Taxes on spirits im-
36 posed by the State do not apply to sales of spirits
37 by manufacturers, bottlers and rectifiers holding li-
38 censes from the commission:

39 A. To any instrumentality of the United States;

- 1 B. To any vessel of foreign registry;
2 C. To industrial establishments for use as an
3 ingredient in the manufacture of food products;
4 or
5 D. For use as an ingredient in the manufacture
6 of commodities which by reason of their nature
7 cannot be used for beverage purposes.

8 4. Net revenue deposited to General Fund. The
9 commission shall deposit all net revenue derived from
10 the tax under this section to the credit of the Gen-
11 eral Fund.

12 §1652. Excise tax on malt liquor and wine; deficien-
13 cy account; credits; refunds

14 1. Excise tax on malt liquor. An excise tax is
15 imposed on the privilege of manufacturing and selling
16 malt liquor in the State. A manufacturer shall pay
17 an excise tax of 5 1/3¢ per gallon of malt liquor
18 manufactured in the State. A wholesale licensee who
19 imports malt liquor shall pay an excise tax of 25¢
20 per gallon.

21 2. Excise tax on wine. An excise tax is imposed
22 on the privilege of manufacturing and selling wine in
23 the State. A wholesale licensee who imports wine
24 shall pay an excise tax of 30¢ per gallon on all wine
25 other than sparkling wine imported into the State and
26 \$1 per gallon on all sparkling wine imported into the
27 State. Except as provided in paragraph A, the manu-
28 facturer or bottler shall pay an excise tax of 20¢
29 per gallon on all wine other than sparkling wine man-
30 ufactured or bottled in the State and \$1 per gallon
31 on all sparkling wine manufactured or bottled in the
32 State.

33 A. Until July 1, 1989, the excise tax imposed on
34 wine produced by a licensed Maine farm winery, is
35 5¢ per gallon on the first 10,000 gallons of wine
36 produced in one year; 10¢ per gallon on all wine
37 produced in excess of 10,000 gallons, but not in
38 excess of 25,000 gallons; and 20¢ per gallon on
39 all wine produced in excess of 25,000 gallons.

1 3. General Fund. The commission shall immedi-
2 ately deposit all money received under this section
3 to be credited to the General Fund.

4 4. Excise tax accounts and adjustments. The
5 commission shall open an excise tax account with all
6 manufacturers, wholesale licensees and certificate of
7 approval holders and make the following adjustments
8 when appropriate.

9 A. The commission may grant credits and make tax
10 adjustments that it determines the wholesale li-
11 icensee or certificate of approval holder is enti-
12 tled to upon the filing of affidavits in the form
13 prescribed by the commission.

14 B. The commission shall refund all excise tax
15 and premium paid by the wholesale licensee or
16 certificate of approval holder on all malt liquor
17 or wine caused to be destroyed by a supplier as
18 long as the quantity and size are verified by the
19 bureau and the destruction is witnessed by an au-
20 thorized representative of the bureau.

21 C. If a wholesale licensee's inventories are de-
22 stroyed by fire, flood or other natural disaster,
23 the commission may refund the excise tax and pre-
24 mium on the wholesale licensee's inventories.

25 D. Any wholesale licensee selling to an instru-
26 mentality, training site or ship chandler shall
27 present proof of that sale to the commission.
28 The commission shall grant to the wholesale li-
29 icensee a credit of all state excise tax and pre-
30 mium paid in connection with that sale under the
31 following conditions.

32 (1) The commission shall grant a credit for
33 the excise tax and premium on malt liquor or
34 wine sold by wholesale licensees to any in-
35 strumentality of the United States or any
36 Maine National Guard state training site ex-
37 empted by the commission.

38 (2) The commission shall grant a credit for
39 the excise tax and premium on malt liquor or
40 wine sold to any ship chandler, provided

1 that the malt liquor and wine are resold to
2 vessels of foreign registry for consumption
3 after that vessel has left port or are re-
4 sold for consumption on board vessels of
5 United States registry which are destined
6 for a foreign port.

7 CHAPTER 67

8 ALCOHOLISM PREVENTION, EDUCATION, TREATMENT AND RESEARCH

9 §1701. Findings and intent

10 1. Findings. The Legislature finds that:

11 A. Alcoholism is an increasingly costly burden
12 on the personal lives and pocketbooks of Maine
13 citizens;

14 B. A small minority of the population consumes
15 the vast majority of liquor sold;

16 C. The public is unfairly burdened with the ex-
17 penditure of preventing alcoholism and of caring for
18 alcoholics; and

19 D. The growing cost of prevention and treatment
20 should be borne by those persons who deliberately
21 incur the risk of contracting this disease.

22 2. Intent. Accordingly, the intent of this
23 chapter is to ensure that programs for alcoholism
24 prevention, education, treatment and research are ad-
25 equately supported by shifting the financial burden
26 of preventing and treating alcoholism to those who
27 choose to drink.

28 §1702. Alcoholism Prevention, Education, Treatment
29 and Research Fund

30 1. Establishment. There is established a non-
31 lapsing fund known as the Alcoholism Prevention, Edu-
32 cation, Treatment and Research Fund, which shall be
33 used to carry out the purposes of this chapter.

34 2. Revenues. All premiums collected under sec-
35 tion 1703 and money received from any other source
36 shall be deposited in this fund.

1 3. Expenditures. Expenditures shall be made
2 from the fund in accordance with the allocation pro-
3 cedure of section 1704.

4 4. Reports. The State Controller shall maintain
5 records and prepare reports in accordance with the
6 provisions of Title 5, chapter 143.

7 §1703. Premiums; collection

8 1. Spirits. The commission shall sell all spir-
9 its, at a price which will produce, in addition to
10 any other tax or charge imposed under state or feder-
11 al law, a premium in the amount specified in subsec-
12 tion 3.

13 2. Malt liquor and wine. In addition to any
14 other tax or charge imposed under state or federal
15 law, a premium shall be imposed on all malt liquor
16 and wine sold in the State. The premium shall be in
17 the amount specified in subsection 3.

18 A. The commission shall open a premium account
19 with all manufacturers and importing wholesalers.

20 B. Premiums shall be collected in the same man-
21 ner provided for the collection of excise taxes
22 under sections 1404 and 1405.

23 C. Premiums shall be paid to the commission by
24 the Maine manufacturer or importing wholesaler.

25 D. The duties, prohibitions and liabilities un-
26 der this subsection of licensees and certificate
27 of approval holders are the same as those under
28 sections 1361, 1364, 1404 and 1405.

29 E. The commission shall grant credits and make
30 adjustments under this subsection on the same
31 terms and conditions as provided in section 1652.

32 3. Amount of premium. The premium imposed by
33 subsections 1 and 2 is:

34 A. Ten cents per gallon on all malt beverages
35 sold in the State;

1 B. Thirty cents per gallon on all wine, other
2 than sparkling wine, sold in the State;

3 C. Twenty-four cents per gallon on all sparkling
4 wine sold in the State; and

5 D. One dollar and twenty-five cents per proof
6 gallon as the term proof gallon is defined in the
7 United States Code, Title 26, Section 5002, on
8 all spirits sold in the State.

9 4. Payment to fund. The commission shall imme-
10 diately pay all premiums it collects under this sec-
11 tion to the Treasurer of State to be credited to the
12 fund under section 1702.

13 §1704. Allocations procedure

14 1. Purposes and objects. The Legislature may
15 make allocations from the fund to any public or pri-
16 ate agency or person to carry out the purposes of
17 this chapter. Beginning in 1987, legislation relat-
18 ing to allocations from the fund shall be reviewed by
19 the joint standing committee of the Legislature hav-
20 ing jurisdiction over appropriations and financial
21 affairs. This legislation shall be submitted in the
22 same line category format, including position count,
23 as that required of legislation affecting the General
24 Fund. Other legislation relating to the alcoholism
25 programs shall be reviewed by the appropriate commit-
26 tee.

27 2. Commissioners' reports. The Commissioner of
28 Corrections, the Commissioner of Educational and Cul-
29 tural Services, the Commissioner of Human Services
30 and the Commissioner of Mental Health and Mental Re-
31 tardation, through the Alcohol and Drug Abuse Plan-
32 ning Committee established in Title 22, chapter 1601,
33 subchapter V, shall prepare and submit the reports
34 specified in that subchapter. Other governmental de-
35 partments and nongovernmental organizations may be
36 consulted in the preparation of these reports. The
37 planning committee may hold hearings, solicit and re-
38 ceive proposals or take any other action it considers
39 necessary and appropriate in order to prepare its re-
40 ports.

1 3. Additional information. In addition to the
2 information required by subsection 2, the commission-
3 ers shall compile information concerning payments for
4 health care of alcoholism and drug dependency treat-
5 ment paid by any nonprofit hospital or medical ser-
6 vice organization or insurer to recipients of alloca-
7 tions from the fund, under a group contract or policy
8 of health care coverage. The commissioners shall
9 compile this information, which the agencies or other
10 persons receiving these allocations shall provide,
11 showing the amount of group health care coverage mon-
12 ey received by each agency or other person in the ap-
13 propriate fiscal year. The commissioners shall sub-
14 mit this information together with the report re-
15 quired by subsection 2, and may include any specific
16 recommendations concerning possible adjustments to
17 allocations, based upon receipts of money under group
18 health care policies or contracts.

19 4. Other recommendations. The public shall be
20 afforded appropriate opportunity to make recommenda-
21 tions directly to the Legislature concerning alloca-
22 tions from the fund.

23 5. Legislative prerogative. Nothing in this
24 chapter or in Title 22, chapter 1601, may be con-
25 strued to:

26 A. Authorize any agency or person to disburse,
27 administer, coordinate or otherwise act with re-
28 spect to allocations from the fund, unless so au-
29 thorized by the allocation;

30 B. Require the Legislature to make an allocation
31 from the fund or to allocate a specific amount to
32 any particular agency or person; or

33 C. Preclude the Legislature from making any al-
34 location of any amount from the fund irrespective
35 of any recommendation, provided that the alloca-
36 tion carries out the purposes of this chapter.

37 PART 5

38 NONBEVERAGE USE OF LIQUOR

39 CHAPTER 75

1 SALE OF FOOD PRODUCTS WITH A HIGH ALCOHOL CONTENT

2 §1901. Restrictions on sale of food containing li-
3 quor

4 1. Sales of food containing liquor restricted.
5 No person other than a licensee may sell food
6 products with an alcohol content greater than 1/2 of
7 1% by volume.

8 2. Minors as purchasers or consumers. No person
9 may sell to minors food products with an alcohol con-
10 tent greater than 1/2 of 1% by volume. No minor may
11 consume such food products except in the presence of
12 a parent, legal guardian or custodian, as defined in
13 Title 22, section 4002.

14 3. Food flavorings with high alcohol content.
15 This section does not apply to the sale of food fla-
16 vorings, such as vanilla extract or lemon extract, or
17 other similar articles commonly used for cooking or
18 flavoring which contain alcohol, but are not intended
19 to be consumed as beverages.

20 §1902. Penalties

21 Any person who violates a provision of this chap-
22 ter is guilty of a Class E crime.

23 PART 6

24 PROHIBITED ACTS AND PENALTIES

25 CHAPTER 81

26 PROHIBITED ACTS BY MINORS

27 §2051. Prohibited acts by minors

28 1. Prohibited acts. A minor may not:

29 A. Purchase any liquor;

30 B. Consume any liquor, except in his own home in
31 the presence of his parent, legal guardian or
32 custodian, as defined in Title 22, section 4002;

1 C. Have on his person any liquor in any premises
2 licensed for the sale of liquor to be consumed on
3 the premises;

4 D. Present or offer to any licensee, the
5 licensee's agent or employee any written or oral
6 evidence of age which is false, fraudulent or not
7 actually his own, for the purpose of:

8 (1) Ordering, purchasing, attempting to
9 purchase or otherwise procuring or attempt-
10 ing to procure, the serving of any liquor;
11 or

12 (2) To gain access to a licensed premise
13 when minors are not allowed; or

14 E. Have any liquor in his possession except:

15 (1) In the scope of his employment; or

16 (2) In his own home in the presence of his
17 parent, legal guardian or custodian, as de-
18 fined in Title 22, section 4002.

19 2. Violation. Any minor who violates this sec-
20 tion commits a civil violation for which a forfeiture
21 shall be adjudged of not less than \$100 or more than
22 \$300 for the first offense; not less than \$200 or
23 more than \$500 for the 2nd offense, none of which may
24 be suspended; and \$500 for the 3rd and subsequent of-
25 enses, none of which may be suspended.

26 A. When a person is adjudged to have committed
27 his first offense under this section, the judge
28 shall inform that person that the forfeitures for
29 the 2nd and subsequent offenses are mandatory and
30 cannot be suspended. Failure to inform the first
31 offender that subsequent forfeitures are mandato-
32 ry is not a ground for suspension of any subse-
33 quent forfeiture.

34 3. Minor cannot be charged with more than one
35 offense. No minor may be charged with more than one
36 offense under this section in any given instance in
37 which the same set of facts is involved.

1 4. Illegal possession and illegal transportation.
2 If a minor is charged with illegal possession
3 under this section, he may not be charged with illegal
4 transportation under section 2052.

5 §2052. Illegal transportation by minors

6 1. Minor may not transport liquor; exception.
7 Except as provided in paragraph A, no minor may knowingly
8 transport or knowingly permit to be transported
9 any liquor in a motor vehicle under his control.

10 A. A minor may transport liquor or permit liquor
11 to be transported in a motor vehicle if in the
12 scope of his employment, or at the request of his
13 parent, legal guardian or custodian, as defined
14 in Title 22, section 4002.

15 2. No conviction if liquor not within minor's
16 section. No minor may be found in violation of any
17 offense under this section if liquor is found outside
18 the passenger or driver's section of a motor vehicle
19 under his control, unless the minor has actual knowl-
20 edge of the presence of the liquor. The trunk or
21 locked glove compartment of any vehicle shall not be
22 construed under this section to be within the passen-
23 ger or driver's section of the motor vehicle.

24 3. Violation. Any minor who violates this sec-
25 tion commits a traffic infraction.

26 4. Minor cannot be charged with both illegal
27 transportation and illegal possession. If a minor is
28 charged with illegal transportation under this sec-
29 tion, he may not be charged with illegal possession
30 under section 2051.

31 §2053. Suspension of minor's operator's license for
32 illegal transportation

33 1. Court shall suspend license. The court shall
34 suspend the operator's license or right to operate,
35 or right to obtain a license, of a minor found in vi-
36 olation of section 1001 for a period of 20 days. The
37 court shall immediately forward the license to the
38 Secretary of State together with the record of adju-
39 dications on the form furnished for reporting convic-

1 tions and adjudications for violations of Title 29.

2 2. Additional suspension by court. The court
3 may recommend a further suspension of the license for
4 an additional period not to exceed a total of 60
5 days, in which case the recommendation must be noted
6 on the abstract of adjudication sent to the Secretary
7 of State.

8 3. Secretary of State shall suspend license.
9 Immediately upon receipt of the record, the Secretary
10 of State shall suspend the license, or right to oper-
11 ate, or right to obtain a license, of the minor for
12 the recommended period not to exceed 60 days, includ-
13 ing the 20-day suspension imposed by the court, with-
14 out further hearing. The Secretary of State shall
15 also assign demerit points according to Title 29,
16 section 2241, subsection 2.

17 4. Exclusive penalty. The penalty provided in
18 this section is the exclusive penalty for violating
19 section 2052, and is not in conflict with Title 15,
20 Part 6, but is additional to the criminal offense de-
21 finied in section 2051.

22 §2054. Execution of suspension stayed during appeal

23 If any person adjudicated to be in violation of
24 section 2052 appeals from the judgment of the trial
25 court, the execution of any suspension imposed on his
26 license, right to obtain a license, and right to op-
27 erate a motor vehicle in the State shall be stayed
28 pending appeal and shall begin when and if the judg-
29 ment is upheld or the appeal is withdrawn.

30 CHAPTER 83

31 PROHIBITED ACTS IN GENERAL

32 §2071. Failure to appear before the commission

33 1. Failure to appear when summoned. It is illegal
34 for a person who is summoned as a witness by a
35 member of the commission to appear before the commis-
36 sion, to fail to appear without reasonable cause at
37 the time and place designated in the subpoena or sum-
38 mons.

1 2. Penalties. A person who violates this sec-
2 tion commits a Class E crime.

3 §2072. Illegal deposit or possession with intent to
4 sell

5 1. Illegal deposit or possession. No person may
6 deposit or have in his possession any liquor:

7 A. With intent to sell the liquor in the State
8 in violation of law;

9 B. With intent that the liquor shall be sold in
10 the State in violation of law by any person; or

11 C. With intent to aid or assist any person in an
12 illegal sale.

13 2. Penalties. A person who violates this sec-
14 tion commits a Class E crime.

15 §2073. Importation and transportation of liquor
16 within the State

17 1. Illegal transportation of liquor within the
18 State. No person may knowingly transport within the
19 State any liquor:

20 A. With intent to sell the liquor in the State
21 in violation of law;

22 B. With intent that the liquor be illegally sold
23 by any person; or

24 C. With intent to aid any person in illegal sale
25 of liquor.

26 2. Penalties. A person who knowingly violates
27 this section commits a Class E crime.

28 3. Legal importation into and transportation of
29 liquor within the State. Liquor may be legally im-
30 ported into and transported within the State in the
31 following situations.

32 A. Upon application, the commission may grant to
33 an individual a permit to transport liquor pur-
34 chased for his own personal use.

1 B. For-hire carriers and contract carriers, au-
2 thorized by the Department of Public Safety, may
3 transport liquor to state liquor stores, to li-
4 quor warehouses, to licensees, to purchasers of
5 liquor at state liquor stores and from manufac-
6 turers to liquor warehouses, state liquor stores
7 and to the state line for transportation outside
8 the State.

9 C. Licensees may transport liquor from state li-
10 quor stores to their places of business.

11 D. Manufacturers may transport liquor within the
12 State to liquor warehouses and state liquor
13 stores, to persons authorized under paragraph E
14 and to the state line for transportation outside
15 the State.

16 E. The commission may permit in writing the im-
17 portation of liquor into the State and the trans-
18 portation of liquor from place to place within
19 the State to the following destinations for the
20 specified purposes:

21 (1) To hospitals and state institutions,
22 for medicinal purposes only, liquor made
23 available to them from stocks of liquor
24 seized by the Federal Government.

25 (2) To schools, colleges and state institu-
26 tions for laboratory use only;

27 (3) To any licensed pharmacist in the State
28 for use in the compounding of prescriptions
29 and other medicinal use, but not for sale by
30 pharmacists unless compounded with or mixed
31 with other substances; or

32 (4) To any physician, surgeon, osteopath,
33 chiropractor, optometrist, dentist or veter-
34 inarian for medicinal use only.

35 F. The commission may authorize hospitals and
36 state institutions to purchase liquor, for medic-
37 inal purposes only, from wholesale licensees and
38 state liquor stores. Such authorization must be
39 in writing.

1 §2074. Illegal transportation of liquor on or off
2 licensed premises

3 1. Transportation on-premises or off-premises.
4 Any person who transports liquor onto or off of the
5 premises of an on-premise retail licensee is guilty
6 of a Class E crime.

7 2. Defense. It is a defense to a prosecution
8 under this section that the transportation was autho-
9 rized or permitted by the licensee, the licensee's
10 agent or the licensee's employee.

11 §2075. Importation and transportation of spirits

12 1. Only the commission may import spirits; ex-
13 ception. Except as provided in this section, no per-
14 son other than the commission may import spirits into
15 the State.

16 A. An individual may transport into the State
17 and may transport from place to place within the
18 State spirits for his personal use in a quantity
19 not greater than 4 quarts.

20 2. Transportation of spirits within the State.
21 No person may transport or cause to be transported
22 any spirits within the State in a quantity greater
23 than 4 quarts unless the spirits were purchased from
24 a state liquor store.

25 3. Importation and transportation of spirits for
26 special purposes. The commission may, in writing,
27 permit and authorize the importation of spirits into
28 the State and the transportation of spirits from
29 place to place within the State to the following des-
30 tinations for the specified purposes:

31 A. To industrial establishments for use as an
32 ingredient in the manufacture of food products,
33 or for use as an ingredient in the manufacture of
34 commodities which by reason of their nature can-
35 not be used for beverage purposes, or for use in
36 the manufacture of commodities unfit for beverage
37 purposes;

1 B. To licensed distillers and manufacturers of
2 spirits in the State for use as an ingredient in
3 distilling or manufacturing spirits and other
4 spirituous products which are authorized by Fed-
5 eral Regulations 27, Code of Federal Regulations;
6 and

7 C. To churches or to the pastor of any church
8 for sacramental purposes or similar religious
9 rites.

10 4. Penalties. Any person who illegally imports
11 spirits, or causes spirits to be shipped into the
12 State commits a Class E crime.

13 §2076. Illegal delivery of liquor

14 1. Delivery of liquor. Except with the commis-
15 sion's written permission, no person may knowingly
16 transport to or cause to be delivered to any person
17 other than the commission any spirits not purchased
18 from a state liquor store or the commission.

19 2. Penalties. Any person who violates this sec-
20 tion commits a Class E crime.

21 §2077. Importation and transportation of malt liquor
22 and wine

23 1. Importation of malt liquor or wine into the
24 State. No person other than a wholesale licensee may
25 transport or cause to be transported malt liquor or
26 wine into the State in a quantity greater than one
27 case for malt liquor and 4 quarts for wine, unless it
28 was legally purchased in the State.

29 A. All shipments of malt liquor or wine trans-
30 ported or caused to be transported by wholesale
31 licensees into the State must be accompanied by
32 an invoice, including the wholesale licensee's
33 name and purchase number.

34 2. Transportation of malt liquor and wine within
35 the State. No person other than a licensee may
36 transport malt liquor, in a quantity greater than one
37 case, or wine, in a quantity greater than 4 quarts,
38 within the State unless it was purchased from an
39 off-premise retail licensee.

1 3. For-hire carriers and contract carriers may
2 import and transport within the State. For-hire car-
3 riers and contract carriers, authorized by the De-
4 partment of Public Safety, may transport malt liquor
5 or wine into and within the State to licensees, to
6 purchasers of malt liquor or wine from licensees and
7 to the state line for transportation outside the
8 State.

9 4. Penalties. Any person who illegally trans-
10 ports malt liquor or wine into or within the State
11 commits a Class E crime.

12 §2078. Illegal sale of liquor

13 1. Sale of liquor without a valid license. Any
14 person who, or any person whose employee or agent,
15 sells liquor within the State without a valid license
16 commits a Class E crime and, notwithstanding Title
17 17-A, section 4-A, shall be punished:

18 A. For the first offense, by a fine of not less
19 than \$300 plus costs nor more than \$500 plus
20 costs, which fine and costs may not be suspended,
21 and an additional penalty of not more than 30
22 days imprisonment at the discretion of the court;

23 B. For a 2nd offense, by a fine of not less than
24 \$500 plus costs nor more than \$1,000 plus costs,
25 which fine and costs may not be suspended, and an
26 additional penalty of not more than 60 days im-
27 prisonment at the discretion of the court; and

28 C. For all subsequent offenses, by a fine of not
29 less than \$1,000 plus costs and 60 days imprison-
30 ment, which fine and costs and sentence may not
31 be suspended, and an additional penalty of 4
32 months imprisonment at the discretion of the
33 court.

34 2. Employee or agent equally guilty. Any agent
35 or other person in the employment of or on the
36 premises of another, who violates or in any manner
37 assists in violating any law relating to liquor, is
38 equally guilty with the principal and is subject to
39 the same penalties.

1 §2079. Aiding children in illegal possession or sale

2 Any person who personally or by his employee or
3 agent, directly or indirectly, employs or permits any
4 child under the age of 16 years to assist him in the
5 illegal possession or the illegal sale of liquor
6 shall be punished, in addition to the penalties oth-
7 erwise provided against the illegal possession for
8 sale or illegal sale of liquor, by a fine of not less
9 than \$100 or by imprisonment for not less than 60
10 days.

11 §2080. Common sellers

12 1. Common seller. No person may be a common
13 seller of liquor.

14 2. Penalties. Any person who violates this sec-
15 tion commits a Class E crime.

16 §2081. Furnishing or allowing consumption of liquor
17 by certain persons prohibited

18 1. Offense. Except as provided in subsection 2,
19 no person may knowingly:

20 A. Procure, or in any way aid or assist in pro-
21 curring, furnish, give or deliver liquor for or to
22 a minor or an intoxicated person; or

23 B. Allow any minor under his control, or on
24 premises under his control, to consume liquor.

25 2. Exceptions. This section does not apply to a
26 person who serves liquor to a minor in a home in the
27 presence of the minor's parent, legal guardian or
28 custodian, as defined in Title 22, section 4002.

29 3. Penalty. Any person who violates this sec-
30 tion commits a Class E crime.

31 4. Application. This section does not apply to
32 licensees or agents of licensees in the scope of
33 their employment.

34 §2082. Sale of imitation liquor

1 1. Sale of imitation liquor to minor prohibited.
2 No person may sell or offer for sale or exchange to
3 any minor any imitation liquor.

4 2. Applicability. This section does not apply
5 to the following products:

6 A. Products commonly known as "root beer," "gin-
7 ger ale," "cider" and all soft drinks; and

8 B. Beverages containing more than 1/2 of 1% al-
9 cohol by volume.

10 3. Violation. Any person who violates this sec-
11 tion is guilty of a Class E crime.

12 §2083. Sale or delivery of liquor to prisoners

13 1. Offense. No person may:

14 A. Give or deliver any liquor to a person con-
15 finied in any jail, house of correction or other
16 place of confinement, or to a person in custody
17 of any officer qualified to serve criminal pro-
18 cess; or

19 B. Have in his possession, within the precincts
20 of any jail, house of correction or other place
21 of confinement, any liquor, with intent to convey
22 or deliver the liquor to any person confined
23 there.

24 2. Exception. This section does not apply to
25 any person who provides liquor to a prisoner, or pos-
26 sesses liquor to provide it to a prisoner:

27 A. Under the direction of the physician ap-
28 pointed to attend the prisoner; or

29 B. Under the direction of the officer in charge
30 of the place of confinement.

31 3. Penalties. Any person who violates this sec-
32 tion commits a Class E crime.

33 PART 7

1 ENFORCEMENT

2 CHAPTER 81

3 ENFORCEMENT AND JURISDICTION

4 SUBCHAPTER I

5 GENERAL

6 §2201. Jurisdiction of courts

7 In prosecutions under this Title, except when
8 otherwise expressly provided, the District Court
9 shall have, by complaint, jurisdiction concurrent
10 with the Superior Court.

11 §2202. Bail after failure to comply with terms of
12 bond

13 In any prosecution for violation of the laws re-
14 lating to manufacture or sale of liquor, a defendant
15 who has failed to comply with the term of any bond
16 entered into by him in that case may not again be ad-
17 mitted to bail in that case or upon arrest on any
18 warrant issued in that case, except by a justice of
19 the court in which that prosecution is pending.

20 §2203. Evidence; parties liable; prosecution; prior
21 convictions; amendment of process

22 1. Evidence of illegal sale. Whenever an ille-
23 gal sale is alleged and a delivery proved, the deliv-
24 ery is sufficient evidence of sale and it is not nec-
25 essary to prove a payment.

26 2. Parties liable. A partner in business is li-
27 able for the illegal keeping or selling by his part-
28 ner, done in the partnership business, or by any oth-
29 er person in any shop, store or other place of busi-
30 ness of the partnership with his knowledge or assent.
31 A principal and his agent and employee may all be in-
32 cluded in the same complaint and process.

33 3. Prosecution of bond when municipality inter-
34 ested. The mayor or municipal officers of cities or
35 selectmen of towns or assessors of plantations may

1 cause a civil action to be commenced on any bond or
2 recognizance given under this Title in which the mu-
3 nicipality is interested. The civil action shall be
4 prosecuted to final judgment unless paid in full with
5 costs.

6 4. Enforcement by municipality. The municipal
7 officers or law enforcement officers in each munici-
8 pality shall file the complaint and prosecute all vi-
9 olations and shall promptly enforce this Title.

10 A. Any municipal officer or law enforcement of-
11 ficer who willfully or corruptly neglects or re-
12 fuses to enforce this Title shall be punished by
13 a fine of not more than \$1,000 or by imprisonment
14 for not more than 11 months.

15 B. If, after being furnished with a written no-
16 tice of a violation of this Title, signed by 2
17 persons competent to be witnesses in civil ac-
18 tions, and containing the names and residences of
19 the witnesses to prove the offense, a municipal
20 officer willfully neglects or refuses to insti-
21 tute proceedings on the violation, he shall be
22 punished by a fine of not less than \$20 nor more
23 than \$50, to be recovered by indictment.

24 C. The oath required of any municipal officer to
25 the complaint may be, in substance, that from a
26 written notice signed by 2 persons competent to
27 be witnesses in civil actions, he believes the
28 complaint signed by him to be true.

29 D. If an execution or other final process, is-
30 sued in any civil or criminal action instituted
31 under this Title, is placed in the hands of any
32 proper officer to be by him executed and that of-
33 ficer unreasonably neglects or refuses to do so,
34 any voter in the county may commence an action
35 against him and prosecute the action to final
36 judgment.

37 (1) The action shall be for the full amount
38 of the judgment and interest on the execu-
39 tion.

1 (2) If the process requires the officer to
2 take and commit an offender to prison, the
3 damages must not be less than \$50 nor more
4 than \$500.

5 5. Former conviction. In actions, complaints,
6 indictments or other proceedings for a violation of
7 any provision of this Title, other than for a first
8 offense, it is not necessary to set forth particular-
9 ly the record of a former conviction, but it is suf-
10 ficient to allege briefly that the person has been
11 convicted of a violation of a particular provision or
12 as a common seller, as the case may be.

13 6. Amendment of allegation and process. The al-
14 legation in any criminal process, legally amendable
15 in any stage of the proceedings before final judg-
16 ment, may be amended without terms and as a matter of
17 right. Any process civil or criminal, legally amend-
18 able, may, in any stage of the proceedings, be
19 amended in any matter of form, without costs, on
20 motion at any time before final judgment.

21 §2204. Persons in illegal liquor traffic disquali-
22 fied from jury

23 1. Ineligible to sit on jury. No person engaged
24 in the illegal traffic in liquor is competent to sit
25 as a juror in any case arising under this Title.

26 2. Juror believed to be involved in illegal
27 traffic in liquor. When information is communicated
28 to the court that a member of any panel is engaged in
29 illegal traffic in liquor, or that he is believed to
30 be so engaged, the court shall inquire of the panel
31 member of whom the claim is made.

32 A. No answer which the questioned panel member
33 makes may be used against him in any case arising
34 under this Title.

35 B. If the questioned panel member answers false-
36 ly, he is not eligible to serve on any jury.

37 C. The questioned panel member may decline to
38 answer, in which case the court shall discharge
39 him from all further attendance as a juror.

1 §2205. Appeals; discharge of sureties

2 1. Procedure for appeals. In appeals, the pro-
3 ceedings shall be the same in the appellate court as
4 they would be in the court below, and shall be con-
5 ducted by the attorney for the State.

6 A. The jury shall find specially under the di-
7 rection of the court on all facts necessary to
8 adjudicate the case.

9 2. Claimant or respondent fails to appear. If a
10 claimant or other respondent fails to appear for tri-
11 al in the appellate court, the judgment of the court
12 below, if against him, shall be affirmed.

13 3. Recognizance or surety retained. No portion
14 of the penalty of any recognizance taken under this
15 Title shall be remitted by any court in any suit. No
16 surety in any such recognizance may be discharged
17 from his liability by a surrender of his principal in
18 court after he has been defaulted upon his recogni-
19 zance, unless the principal has been sentenced upon
20 the indictment or complaint on which the recognizance
21 was taken.

22 4. Appeals provided for under section 2224. The
23 appeals of claimants provided for in section 2224
24 shall be entered as all other appeals in criminal
25 cases and be subject to the requirements of law per-
26 taining to them.

27 §2206. Continuance for sentence

28 When a person is convicted in the Superior Court
29 of a violation of any of the provisions of this Ti-
30 tle, the county attorney shall move for sentence at
31 the same term, unless for reasons satisfactory to the
32 court the case is continued for sentence for at most
33 one term.

34 SUBCHAPTER II

35 OFFICIALS AND THEIR DUTIES

36 §2211. Power of law enforcement officers to stop ve-
37 hicles; restrictions

1 If a law enforcement officer has probable cause
2 to believe that a violation of the liquor laws has
3 taken or is taking place, the officer may, at any
4 time, stop any motor vehicle or other conveyance to
5 arrest or question its operator or occupant or to
6 search the motor vehicle or conveyance.

7 §2212. State liquor enforcement officers vehicles

8 Notwithstanding the provisions of Title 29, sec-
9 tions 1362 and 1368, motor vehicles operated by state
10 liquor enforcement officers may be equipped with
11 sirens and with lights which emit a blue beam of
12 light. The equipment permitted by this section may
13 be used only to discharge law enforcement responsi-
14 bilities in connection with this Title and Title 29,
15 sections 1312 and 1312-B.

16 SUBCHAPTER III

17 SEARCH AND SEIZURE

18 §2221. Seizure and forfeiture of vehicles containing
19 liquor

20 1. Seizure of vehicles. Any law enforcement of-
21 ficer seizing liquor intended for illegal sale shall
22 also seize the automobile, truck, wagon, aircraft,
23 boat, vessel or vehicle of any kind, other than
24 for-hire carriers, containing the liquor. The offi-
25 cer shall libel the liquor as provided in section
26 2224.

27 2. Seizure within 30 days; libeling of vehicle.
28 In all cases where an officer may seize liquor which
29 is transported for illegal sale, he may seize within
30 a period of 30 days of the transportation, with a
31 warrant upon a sworn complaint issued by the proper
32 officer of the District Court upon complaint, the au-
33 tomobile, truck, wagon, aircraft, boat, vessel or ve-
34 hicle of any kind, other than a common carrier, which
35 was used to transport liquor intended for illegal
36 sale.

37 A. The officer shall libel and dispose of the
38 automobile, truck, wagon, aircraft, boat, vessel
39 or vehicle in the same manner as liquor as pro-
40 vided in section 2224.

1 3. Rights of bona fide purchaser or lienholder.
2 This section shall not interfere with the rights of a
3 bona fide purchaser or holder of a bona fide lien who
4 has acquired such status between the time of the il-
5 legal transportation and the seizure under the terms
6 of this section.

7 4. Rights of persons not in possession or con-
8 trol. This section is subject to the rights of per-
9 sons not in possession or control of the automobile,
10 truck, wagon, aircraft, boat, vessel or vehicle of
11 any kind as provided by section 2222.

12 §2222. Claim of owner that illegal use of vehicle or
13 boat was without knowledge or consent

14 1. Interest in vehicle forfeited. Any right,
15 title or interest of any person other than the person
16 or persons in possession or control of any automo-
17 bile, truck, wagon, boat, vessel or vehicle seized
18 under section 2221 shall be forfeited unless the use
19 of the vehicle for the transportation of liquor was
20 without his knowledge or consent.

21 2. Allege and prove lack of knowledge or con-
22 sent. Any claimant of any right, title or interest
23 in an automobile, truck, wagon, boat, vessel or vehi-
24 cle seized under section 2221 must allege and prove
25 that its use for the transportation of liquor was
26 without his knowledge or consent. The court may de-
27 termine in the proceeding on such claim the right,
28 title or interest, if any, of the claimant.

29 §2223. Dumping of evidence; prima facie evidence of
30 common sellers

31 1. Seizure of liquor illegally kept or depos-
32 ited. A law enforcement officer shall seize liquor
33 illegally kept or deposited, with the receptacles
34 containing the liquor. The liquor must be safely
35 kept until final action on the liquor.

36 2. Arrest of person illegally keeping liquor.
37 The person who is found to be illegally keeping li-
38 quor shall be arrested and held to answer for keeping
39 the liquor intended for illegal sale.

1 3. Destruction of liquor is prima facie evidence
2 that liquor was intended for illegal sale. The pour-
3 ing out or other destruction of fluids by any person
4 on or about the premises which are about to be or are
5 being searched, for the purpose of preventing the
6 seizure of those fluids by officers authorized to
7 make such search and seizure, is prima facie evidence
8 that the fluids poured out or destroyed were liquor
9 intended for illegal sale.

10 4. Penalties. Any person who violates this sec-
11 tion commits a Class E crime.

12 5. Notice is prima facie evidence that person is
13 a common seller and premises are a common nuisance.
14 Notice of any kind in any place, indicating that li-
15 quor is illegally kept, sold or given away is prima
16 facie evidence that the person or persons displaying
17 the notice are common sellers of liquor and that the
18 premises kept by them are common nuisances.

19 §2224. Duty of officer on seizure; proceedings

20 1. Officer's duty. When an officer seizes li-
21 quor and receptacles containing the liquor under sec-
22 tion 2223, the officer shall immediately file with
23 the court before whom the warrant is returnable, a
24 libel against the liquor and receptacles, and shall
25 pray for a decree of forfeiture of the liquor and re-
26 ceptacles. The libel must:

27 A. Set forth the seizure of the liquor and re-
28 ceptacles by the officer;

29 B. Describe the liquor and the place of seizure;
30 and

31 C. Set forth that the liquor was deposited, kept
32 and intended for sale in violation of law.

33 2. Court action. The court shall set a time for
34 the hearing on the libel and shall issue his monition
35 and notice of the hearing to all persons interested.

36 A. At least 10 days before the day to which the
37 libel is returnable, the court shall cause a true
38 and attested copy of the libel and monition to be

1 posted in 2 public and conspicuous places in the
2 town or place where the liquor was seized. The
3 monition must cite all interested parties to ap-
4 pear at the time and place appointed and show
5 cause why the liquor and the receptacles in which
6 it is contained should not be declared forfeited.

7 3. Forfeiture if no claimant appears. If no
8 claimant appears, the court shall, on proof of no-
9 tice, declare the liquor and the receptacles in which
10 it is contained forfeited to the county in which they
11 were seized.

12 4. Claimant who appears must file claim in writ-
13 ing; admitted as party. Any person who appears and
14 claims all or any part of the liquor as having a
15 right to possession at the time when they were seized
16 shall file with the court his claim in writing. He
17 must sign the claim and swear to its truth before the
18 court.

19 A. The claim must state:

20 (1) Specifically the right claimed and the
21 foundation of that right;

22 (2) The items claimed;

23 (3) The time and place of the seizure;

24 (4) The name of the officer by whom they
25 were seized;

26 (5) That they were not kept or deposited
27 for illegal sale as alleged in the libel and
28 monition; and

29 (6) The claimant's business and place of
30 residence.

31 B. Any person who files a claim under this sub-
32 section shall be admitted as a party to the pro-
33 cess.

34 5. Hearing on the libel and claim. The court
35 shall hold a hearing to determine the truth of the
36 allegations in the libel and claim and may hear any

1 pertinent evidence offered by the libellant or claim-
2 ant.

3 6. Liquor not kept for illegal sale. If the
4 court is satisfied that the liquor was not kept or
5 deposited for illegal sale and that the claimant is
6 entitled to the custody of all or part of the liquor,
7 the court shall give the claimant a written order.
8 The order must direct the officer having the liquor
9 in custody to deliver to the claimant within 48 hours
10 of demand, the liquor to which the court has deter-
11 mined the claimant is entitled.

12 7. Liquor kept for illegal sale. If the court
13 finds that the claimant is entitled to no part of the
14 liquor, he shall:

15 A. Render judgment against the claimant and for
16 the libellant for costs, to be taxed as in civil
17 cases before the court; and

18 B. Issue execution and shall declare such liquor
19 forfeited to the county where seized.

20 8. Claimant may appeal. The claimant may appeal
21 and shall recognize with sureties as on appeals in
22 civil cases.

23 §2225. Warrant for claimant

24 1. Warrant issued for claimant. The court shall
25 issue a warrant for a claimant against whom a sworn
26 complaint has been filed alleging that:

27 A. The liquor claimed by the claimant was, be-
28 fore and at the time when it was seized, kept or
29 deposited by the claimant or by a person under
30 the claimant's authority; and

31 B. The liquor was intended for illegal sale in
32 the State either by the claimant or by a person
33 under the claimant's authority.

34 2. Claimant arrested and tried. The claimant
35 shall be arrested under the warrant and be tried be-
36 fore the court.

1 3. Penalties. A claimant who is convicted shall
2 be punished as is provided in section 2223.

3 §2226. Destruction to prevent seizure; arrest of
4 owner; appliances and evidences seized

5 1. Destruction of liquor to prevent seizure. If
6 a law enforcement officer, who has a warrant direct-
7 ing him to seize any liquor and to arrest the owner
8 or keeper of that liquor, is prevented from seizing
9 the liquor because it was poured out or otherwise de-
10 stroyed, he shall arrest the alleged owner or keeper
11 named in the warrant and bring him before the court.

12 2. Return upon warrant when liquor destroyed.
13 The officer shall make return upon the warrant that
14 he was prevented from seizing the liquor because it
15 was poured out or otherwise destroyed.

16 A. The officer shall state in the return the
17 quantity of liquor poured out or destroyed, as
18 nearly as possible

19 3. Penalties. If it is proved that the liquor
20 described in the warrant was poured out or destroyed,
21 and that the liquor was kept or deposited and in-
22 tended for illegal sale, and that the person arrested
23 was the owner or keeper of the liquor, he shall be
24 punished in the same manner as if the liquor de-
25 scribed in the warrant and in the return had been
26 seized on the warrant and brought before the court by
27 the officer.

28 4. Dumps or appliances used to conceal or de-
29 stroy liquor to be seized. The officer making the
30 search or seizure shall also seize, as far as may be
31 practicable:

32 A. All dumps or appliances for concealing, dis-
33 guising or destroying liquors to prevent the li-
34 quor from being seized or identified, found in
35 the possession or under the control of any person
36 or persons; and

37 B. All bottles and drinking glasses or recepta-
38 cles found in the possession or under the control
39 of the person or persons.

1 5. Dumps, appliances, other equipment and evi-
2 dence presented to grand jury; subject to order of
3 court. All items seized under subsection 4, together
4 with all evidences of the dumps or appliances for
5 concealing, disguising or destroying liquors, shall
6 be presented to the next grand jury sitting in the
7 county where the search and seizure is made for their
8 consideration. The items shall then be subject to
9 the order of the court issuing the warrant for the
10 search and seizure.

11 §2227. Replevy pending proceeding prohibited

12 Liquor seized and the receptacles containing it
13 shall not be taken from the custody of the officer by
14 a writ of replevin or other process while the pro-
15 ceedings under this chapter are pending.

16 §2228. Recovery of liquor and damages upon final
17 judgment

18 Final judgment in proceedings under this chapter
19 shall be in all cases a bar to any civil action for
20 the recovery of any liquors seized or of their value,
21 or for damages alleged to have been sustained by rea-
22 son of the seizure and detention.

23 §2229. Disposal of forfeited liquors

24 1. Court or judge to order forfeited liquor to
25 be turned over to the commission. All liquors de-
26 clared forfeited by a court under this Title shall,
27 by order of the court rendering the final judgment,
28 be turned over to the commission.

29 2. Sale of forfeited liquor by commission. Ex-
30 cept as provided in paragraph A, the commission shall
31 sell forfeited liquor in the state liquor stores
32 throughout the State.

33 A. If any liquor is determined by the court to
34 be unfit or unsatisfactory for consumption or re-
35 tail sale, the court may order the liquor to be
36 destroyed by any officer competent to serve the
37 process on which it was forfeited. The officer
38 shall make the return accordingly to the court.

1 (1) The liquor shall be destroyed by pour-
2 ing it upon the ground or into a public sew-
3 er.

4 PART 8

5 LIQUOR LIABILITY

6 CHAPTER 100

7 MAINE LIQUOR LIABILITY ACT

8 §2501. Short title

9 This Act shall be known and may be cited as the
10 "Maine Liquor Liability Act."

11 §2502. Purposes

12 1. Primary legislative purpose. The primary
13 legislative purpose of this Act is to prevent
14 intoxication-related injuries, deaths and other dam-
15 ages among the State's population.

16 2. Secondary purposes. The secondary legisla-
17 tive purposes are to:

18 A. Establish a legal basis for obtaining compen-
19 sation for those suffering damages as a result of
20 intoxication-related incidents in accordance with
21 this Act;

22 B. Allocate the liability for payment of damages
23 fairly among those responsible for the damages,
24 which will encourage liquor liability insurance
25 availability; and

26 C. Encourage all servers of alcohol to exercise
27 responsible serving practices.

28 §2503. Definitions

29 As used in this chapter, unless the context indi-
30 cates otherwise, the following terms have the follow-
31 ing meanings.

1 1. Intoxicated individual. "Intoxicated indi-
2 vidual" means an individual who is in a state of in-
3 toxication as defined by this Act.

4 2. Intoxication. "Intoxication" means a sub-
5 stantial impairment of an individual's mental or
6 physical faculties as a result of drug or liquor use.

7 3. Licensee. Notwithstanding section 2, subsec-
8 tion 14, "licensee" means any person to whom a li-
9 cence of any kind is issued by the commission and any
10 person who is required to be licensed to serve li-
11 quor.

12 4. Nonlicensee. "Nonlicensee" means any person
13 who is neither a licensee nor an employee or agent of
14 a licensee and is not required to be licensed under
15 this Title.

16 5. Server. "Server" means a person who sells,
17 gives or otherwise provides liquor to an individual.

18 6. Service of liquor. "Service of liquor" means
19 any sale, gift or other furnishing of liquor.

20 7. Visibly intoxicated. "Visibly intoxicated"
21 means a state of intoxication accompanied by a per-
22 ceptible act, a series of acts or the appearance of
23 an individual which clearly demonstrates a state of
24 intoxication.

25 §2504. Plaintiffs

26 1. Persons who may bring suit. Except as pro-
27 vided in subsection 2, any person who suffers damage,
28 as provided in section 2508, may bring an action un-
29 der this Act, against a server for negligently or
30 recklessly serving liquor to an individual.

31 2. Persons who may not bring suit. The follow-
32 ing may not bring an action under this Act against a
33 server for negligently serving liquor to an individu-
34 al:

35 A. The intoxicated individual if he is at least
36 18 years of age when served by the server;

1 B. The estate of the intoxicated individual if
2 the intoxicated individual was at least 18 years
3 of age when served by the server; and

4 C. Any person asserting claims arising out of
5 the personal injury or death of the intoxicated
6 individual if the intoxicated individual was at
7 least 18 years of age when served by the server.

8 §2505. Defendants

9 1. Licensee as a defendant. Any server who is a
10 licensee or employee or agent of a licensee who com-
11 mits an act giving rise to liability, as provided in
12 sections 2506 and 2507, may be made a defendant to a
13 claim under this Act.

14 2. Nonlicensee as a defendant. Any server who
15 is a nonlicensee who commits an act giving rise to
16 liability, as provided in section 2506, subsection 1,
17 and section 2507, may be made a defendant to a claim
18 under this Act.

19 §2506. Negligent service of liquor; liability

20 1. Negligent service to a minor. A server who
21 negligently serves liquor to a minor is liable for
22 damages proximately caused by that minor's consump-
23 tion of the liquor.

24 2. Negligent service to a visibly intoxicated
25 individual. A server who negligently serves liquor
26 to a visibly intoxicated individual is liable for
27 damages proximately caused by that individual's con-
28 sumption of the liquor.

29 3. Negligent conduct. Service of liquor to a
30 minor or to an intoxicated individual is negligent if
31 the server knows or if a reasonable and prudent per-
32 son in similar circumstances would know that the in-
33 dividual being served is a minor or is visibly intox-
34 icated.

35 4. Server's knowledge of individual's consump-
36 tion. A server is not chargeable with knowledge of
37 an individual's consumption of liquor or other drugs
38 off the server's premises, unless the individual's

1 appearance and behavior, or other facts known to the
2 server, would put a reasonable and prudent person on
3 notice of such consumption.

4 §2507. Reckless service of liquor; liability

5 1. Reckless service to a minor. A server who
6 recklessly provides liquor to a minor is liable for
7 damages proximately caused by that minor's consump-
8 tion of the liquor.

9 2. Reckless service to a visibly intoxicated in-
10 dividual. A server who recklessly serves liquor to a
11 visibly intoxicated individual is liable for damages
12 proximately caused by that individual's consumption
13 of the liquor.

14 3. Reckless conduct. Service of liquor is reck-
15 less if a server intentionally serves liquor to an
16 individual when the server knows that the individual
17 being served is a minor or is visibly intoxicated and
18 the server consciously disregards an obvious and sub-
19 stantial risk that serving liquor to that individual
20 will cause physical harm to the drinker or to others.

21 For purposes of this Act, the disregard of the risk,
22 when viewed in light of the nature and purpose of the
23 server's conduct and the circumstances known to him,
24 must involve a gross deviation from the standard of
25 conduct that a reasonable and prudent person would
26 observe in the same situation.

27 4. Evidence of reckless conduct. Specific
28 serving practices that are admissible as evidence of
29 reckless conduct include, but are not limited to, the
30 following:

31 A. Active encouragement of intoxicated individu-
32 als to consume substantial amounts of liquor;

33 B. Service of liquor to an individual who is un-
34 der 18 years of age when the server has actual or
35 constructive knowledge of the individual's age;
36 and

37 C. Service of liquor to an individual that is so
38 continuous and excessive that it creates a sub-
39 stantial risk of death by alcohol poisoning.

1 §2508. Damages

2 1. Damages. Damages may be awarded for property
3 damage, bodily injury or death proximately caused by
4 the consumption of the liquor served by the server.

5 2. Damages under wrongful death and survival
6 laws. Except as otherwise provided in this Act, dam-
7 ages may be recovered under Title 18-A, sections
8 2-804 and 3-817, as in other tort actions, subject to
9 the damage limit of section 2509.

10 §2509. Limit on awards

11 1. Limitation on damages for losses other than
12 expenses for medical care and treatment. In actions
13 for damages permitted by this Act, the claim for and
14 award of damages for all losses, except expenses for
15 medical care and treatment, including devices or
16 aids, against both a server and the server's employ-
17 ees and agents, may not exceed \$250,000 for any and
18 all claims arising out of a single accident or occur-
19 rence.

20 2. Multiple claimants. When the amount for all
21 losses, except expenses for medical care and treat-
22 ment, including devices and aids, awarded to or set-
23 tled for multiple claimants, exceeds the limit im-
24 posed by this section, any party may apply to the Su-
25 perior Court for the county where the server is lo-
26 cated to allocate each claimant his equitable share
27 of the total, limited as required by this section.

28 A. Any award by the court in excess of the maxi-
29 mum liability limit specified by subsection 1
30 shall be automatically abated by operation of
31 this section to the maximum limit of liability.

32 §2510. Common law defenses

33 Defenses applicable to tort actions based on neg-
34 ligence and recklessness in this State may be as-
35 serted in defending actions brought under this Act.

36 §2511. Exclusive remedy

1 This Act is the exclusive remedy against servers
2 who may be made defendants under section 2505, for
3 claims by those suffering damages based on the
4 servers' service of liquor.

5 §2512. Named and retained; several liability

6 1. Named and retained. No action against a
7 server may be maintained unless the minor, the intox-
8 icated individual or the estate of the minor or in-
9 toxicated individual is named as a defendant in the
10 action and is retained in the action until the liti-
11 gation is concluded by trial or settlement.

12 2. Several but not joint liability. The intox-
13 icated individual and any server, as described in sec-
14 tion 2505, are each severally liable and not jointly
15 liable for that percentage of the plaintiff's damages
16 which corresponds to each defendant's percentage of
17 fault as determined by the court or a jury.

18 §2513. Notice required

19 Every plaintiff seeking damages under this Act
20 must give written notice to all defendants within 180
21 days of the date of the server's conduct creating li-
22 ability under this Act. The notice must specify the
23 time, place and circumstances of the server's conduct
24 creating liability under this Act and the time, place
25 and circumstances of any resulting damages. No error
26 or omission in the notice voids the effect of the no-
27 tice, if otherwise valid, unless the error or omis-
28 sion is substantially material. Failure to give
29 written notice within the time specified is grounds
30 for dismissal of a claim, unless the plaintiff pro-
31 vides written notice within the limits of section
32 2514 and shows good cause why notice could not have
33 reasonably been filed within the 180-day limit.

34 §2514. Statute of limitations

35 Any action under this Act against a server alleg-
36 ing negligent or reckless conduct must be brought
37 within 2 years after the cause of action accrues.

38 §2515. Evidence of responsible serving practices

1 1. Responsible practices. Proof of the server's
2 responsible serving practices is admissible as evi-
3 dence that the server was not negligent or reckless.
4 Responsible serving practices include; but are not
5 limited to:

6 A. The server's and server's employees attend-
7 ance at a server education training course; and

8 B. The server's implementation, at the time of
9 service, of responsible management policies, pro-
10 cedures and actions.

11 2. Neither proof nor disproof of negligence or
12 recklessness. Proof or disproof that the server was
13 adhering to responsible serving practices is not by
14 itself proof or disproof of negligence or reckless-
15 ness.

16 §2516. Privileges

17 1. Refusal to serve. No licensee is liable for
18 damages resulting from a good faith refusal to serve
19 liquor to any individual who:

20 A. Fails to show proper identification of age;

21 B. Reasonably appears to be a minor; or

22 C. Is refused service in a good faith effort to
23 prevent him from becoming visibly intoxicated.

24 2. Holding identification documents. No licens-
25 ee is liable for retaining identification documents
26 presented to the licensee as proof of the
27 individual's age for the purpose of receiving liquor
28 provided that:

29 A. Retention is for a reasonable length of time
30 in a good faith effort to determine whether the
31 individual is of legal age; and

32 B. The licensee informs the individual why he is
33 retaining the identification documents.

34 3. Other defenses not limited. This section
35 does not limit a licensee's right to assert any other
36 defense provided by law.

1 4. Failure to exercise privileges. A licensee
2 may not be held liable under this Act for failing to
3 exercise any privilege provided in this section.
4 This section does not provide immunity from liability
5 under sections 2506 and 2507.

6 §2517. Insurance records

7 1. Superintendent shall keep records. The Su-
8 perintendent of Insurance shall collect and maintain
9 records on the following statistics concerning liquor
10 liability insurance in this State:

11 A. The number and names of companies writing li-
12 quor liability insurance, either as a separate
13 line or in a large policy;

14 B. The number and dollar amount of premiums col-
15 lected for liquor liability insurance policies;
16 and

17 C. The number and dollar amount of claims in-
18 curring under liquor liability insurance.

19 2. Superintendent shall make records available.
20 The Superintendent of Insurance shall make available
21 to the Legislature the information collected and
22 maintained under subsection 1.

23 §2518. Informal evaluation

24 The joint standing committee of the Legislature
25 having jurisdiction over legal affairs shall conduct
26 an informal evaluation of this Act, to be completed
27 within 2 years of its effective date. The evaluation
28 shall address the effectiveness of the Act in achiev-
29 ing its stated purposes.

30 §2519. Approval of alcohol server education courses

31 1. Approval of alcohol server education courses.
32 The Commissioner of Public Safety shall approve alco-
33 hol server education courses which meet the criteria
34 developed under this section.

35 2. Advisory committee; appointment. The commis-
36 sioner shall appoint the Server Education Advisory
37 Committee consisting of 7 members, to include:

- 1 A. A representative of the faculty at the Maine
2 Criminal Justice Academy;
- 3 B. A representative of the Bureau of Liquor En-
4 forcement;
- 5 C. A representative of the Department of the At-
6 torney General;
- 7 D. A representative of the Department of Human
8 Services;
- 9 E. A representative of the Department of Educa-
10 tional and Cultural Services;
- 11 F. A representative of a statewide liquor li-
12 censee organization; and
- 13 G. A representative of a statewide trial lawyers
14 organization.
- 15 3. Advisory committee; course criteria. The ad-
16 visory committee shall determine specific criteria
17 which an alcohol server education course must contain
18 to receive approval. The specific criteria shall be
19 based on and include the following.
- 20 A. The instructors of the program possess the
21 relevant skills to provide instruction.
- 22 B. The course provides instruction and the de-
23 velopment of skills in the following subject mat-
24 ters:
- 25 (1) Identification of intoxicated individu-
26 als and minors;
- 27 (2) Intervention to prevent excessive con-
28 sumption of alcohol by such methods as
29 serving food and encouraging the consumption
30 of nonalcoholic beverages;
- 31 (3) Making consumers aware of their condi-
32 tion and their responsibility for driving in
33 an intoxicated condition and providing al-
34 ternate transportation when available;

1 (4) Knowledge of state laws relating to the
2 sale and distribution of alcohol and the le-
3 gal responsibilities of servers and consum-
4 ers;

5 (5) Knowledge of the effect of alcohol by
6 volume and timing of intake in relation to
7 an individual's weight;

8 (6) Examination of proof of age identifica-
9 tion and methods of detecting false or al-
10 tered age identification documents;

11 (7) Policies and practices to prevent the
12 sale or service of alcohol to minors and
13 visibly intoxicated individuals; and

14 (8) The effects of alcohol on the human
15 body, including the disease concept of alco-
16 holism.

17 C. Participants are evaluated before taking the
18 course and after completion of the course.

19 D. Participants who successfully complete the
20 course and the final evaluation are awarded cer-
21 tificates recognizing that they have successfully
22 completed an approved alcohol server education
23 course.

24 4. Advisory committee; review and recommenda-
25 tion. The advisory committee shall review each alco-
26 hol server education course submitted to the commis-
27 sioner and recommend that the commissioner either ap-
28 prove or not approve the course based on whether the
29 course meets the criteria the advisory committee de-
30 veloped under subsection 3.

31 Sec. 5. Transition. The following provisions
32 apply to the transition from the Maine Revised Stat-
33 utes, Title 28 to Title 28-A.

34 1. Personnel. This Act shall have no effect on
35 the terms or appointment of the commission members or
36 employees of the commission, the bureau or the Bureau
37 of Liquor Enforcement.

1 2. Funds and equipment. Notwithstanding the
2 provisions of the Maine Revised Statutes, Title 5,
3 all accrued expenditures, assets, liabilities, bal-
4 ances of appropriations, transfers, revenues or other
5 available funds in an account or subdivision of an
6 account created by or administered under Title 28
7 shall be transferred to the proper place under this
8 Act by the State Controller on the request of the
9 commission and the State Budget Officer, and with the
10 approval of the Governor.

11 3. Agreements, leases, contracts, authorizations
12 or licenses. All agreements, leases, contracts, au-
13 thorizations or licenses issued under the Maine Re-
14 vised Statutes, Title 28, prior to the effective date
15 of this Act shall continue to be valid under the
16 terms of issuance until they expire or are rescinded,
17 amended or revoked.

18 4. Rules. All current rules of the commission
19 shall remain in force and effect until rescinded,
20 amended or otherwise changed by the commission.

21 Sec. 6. Legislative intent. It is the intent of
22 the Legislature that this Act shall be considered a
23 revision of the State Liquor Commission and the Bu-
24 reau of Alcoholic Beverages governing laws.

25 PART B

26 Sec. 1. 5 MRSA §12004, sub-§6, ¶A, sub-¶(2) is
27 amended to read:

28 (2) State Liquor Legislative 28 28-A MRSA §51
29 Commission Per Diem

30 Sec. 2. 15 MRSA §1702, as amended by PL 1975, c.
31 499, §3, is further amended to read:

32 §1702. No punishment until conviction; costs; con-
33 current or consecutive sentences

34 No person shall be punished for an offense until
35 convicted thereof in a court having jurisdiction of
36 the person and case. In all cases where a fine is
37 imposed he may be sentenced to pay the costs of pros-
38 ecution, except before the District Court in which

1 court he may be sentenced to pay a fine sufficient to
2 cover said costs as provided in Title 4, section 173;
3 and except before a District Court for violations of
4 Title 28 28-A, sections ~~1055~~, ~~1057~~, ~~1203~~ and ~~1207~~
5 2078, 2080, 2223 and 2225, and Title 30, chapter 215,
6 subchapter IV, he shall be sentenced to pay such
7 costs.

8 Sec. 3. 15 MRSA §3103, sub-§1, ¶C, as amended by
9 PL 1977, c. 664, §11, is further amended to read:

10 C. Offenses involving intoxicating liquor, as
11 provided in Title 28 28-A, section ~~303~~ 2051;

12 Sec. 4. 17 MRSA §1301-A, 2nd ¶, as amended by PL
13 1973, c. 567, §20, is further amended to read:

14 The inspectors and agents of licensing authori-
15 ties issuing licenses under this section shall have
16 the authority to investigate and prosecute complaints
17 against its licensees for violation of this section,
18 and to institute proceedings before the Administra-
19 tive Court Judge who shall be empowered to proceed
20 under Title 5, chapters 301 to 307, and not under Ti-
21 tle 28 28-A, ~~section 401~~ chapter 33.

22 Sec. 5. 30 MRSA §2411, sub-§4, as amended by PL
23 1977, c. 501, §2, is further amended to read:

24 4. Jurisdiction. Any municipality establishing a
25 board of appeals under this section may vest the
26 board with the power to hear any appeal by any per-
27 son, affected directly or indirectly, from any deci-
28 sion, order, rule or failure to act of any officer,
29 board, agency or other body where such appeal is nec-
30 essary, proper or required. No board created under
31 this section may assert jurisdiction over any matter
32 unless the municipality has by ordinance specified
33 the precise subject matter that may be appealed to
34 the board and the official or officials whose action
35 or nonaction may be appealed to the board. Any board
36 of appeals operating under this section shall hear
37 any appeal submitted to the board in accordance with
38 Title 28 28-A, section ~~702~~ 1054.

39 Sec. 6. 36 MRSA §172, sub-§1, as enacted by PL
40 1981, c. 364, §11, is amended to read:

