

# MAINE STATE LEGISLATURE

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L.D. 271

(Filing No. S- 265)

STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 151, L.D. 271, Bill, "An Act to Require Liquor Sellers' Permits"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 28-A MRSA §2, sub-§25-A is enacted to read:

25-A. Retail employee. "Retail employee" means any person employed by a retailer or by the commission to sell liquor in a licensed establishment or state liquor store.

Sec. 2. 28-A MRSA c. 47 is enacted to read:

CHAPTER 47

LIQUOR SELLERS' PERMITS

§1231. Short title

This chapter shall be known and may be cited as the "Liquor Seller's Permit Act."

§1232. Seller's permit requirement

1. Persons required to obtain seller's permit. Except as provided in subsection 2, no retail employee may sell liquor in the original container or by the drink, for consumption on or off the premises where sold, after the deadline provided for by section 1233, subsection 5, unless that person has a temporary permit or has been issued a seller's permit by the commission.

2. Persons not required to obtain a seller's permit. The permit requirement of subsection 1 does not apply to:

A. Persons who, with or without compensation, work as retail employees for less than 5 days per calendar year; and

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B. Retail licensees.

3. Violation. A person who violates subsection 1 commits a civil violation for which a forfeiture of up to \$100 may be adjudged.

§1233. Issuance of permit

1. Criteria for issuing permit; fee schedule. The commission shall, upon written application, issue to or renew for any person a seller's permit if that person:

A. Is 17 years of age or older;

B. Has not in the past 5 years been convicted or adjudicated of a violation of section 2078, 2079 or 2081;

C. Has not had a seller's permit previously suspended or revoked;

D. Has not made any false statements on the permit application; and

E. Submits an application fee, based on the following schedule:

(1) \$10 for a person who has not completed an alcohol server training course approved by the Commissioner of Public Safety pursuant to section 2519;

(2) \$3 for a person who has completed an alcohol server training course, including a course provided by that person's employer, provided that course is approved by the Commissioner of Public Safety pursuant to section 2519;

(3) \$3 for a person who has completed an alcohol server training course in another jurisdiction if the commission determines the course completed met or exceeded the approval standards provided for by section 2519;

(4) \$3 for a retail employee who demonstrates to the commission that that employee has been employed as a retail employee for at least 5 consecutive years before the effective date of this section; or

(5) \$5 for a full-time student who is enrolled in and attends during regular sessions a secondary school, vocational-technical institute, college or university,

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1           and who does not qualify for a seller's permit under  
2           subparagraphs (2), (3) or (4).

3           2. Application form. The commission shall authorize the  
4           bureau to design an application that corresponds to the criteria  
5           listed in subsection 1.

6           3. Certification by applicant. By signing the application,  
7           the applicant certifies that:

8           A. The statements made in the application and any documents  
9           made a part of the application are true and correct;

10           B. The applicant understands that any false statement is  
11           cause for refusal to issue a permit or cause for suspension  
12           or revocation of an issued permit; and

13           C. The applicant understands that any false statement made  
14           in the application or in any document made a part of the  
15           application may result in prosecution as provided in section  
16           1234.

17           4. Term of permit. Except for the permit provided for by  
18           subsection 1, paragraph E, subparagraph (5), a seller's permit is  
19           valid for one year from the date of issuance, unless suspended or  
20           revoked for cause by the Administrative Court. The permit  
21           provided for by subsection 1, paragraph E, subparagraph (5), is  
22           valid for 6 months from the date of issuance, unless suspended or  
23           revoked for cause by the Administrative Court.

24           5. Deadline for permit acquisition. A retail employee  
25           without a valid seller's permit required by subsection 1 or a  
26           valid temporary permit may not sell liquor in a licensed  
27           establishment after:

28           A. That employee's birth date in 1990, for retail employees  
29           whose birth date is on or after July 1st; or

30           B. That employee's birth date in 1991, for retail employees  
31           whose birth date is on or before June 30th.

32           6. Temporary permit. The applicant's copy of a completed  
33           seller's permit application, which has been filed with the  
34           commission, shall be deemed a temporary seller's permit valid for  
35           120 days or until a seller's permit is issued to the applicant,  
36           whichever first occurs.

37           7. Permit in permit holder's possession. Each permit  
38           holder shall possess the permit at all times while on duty for  
39           the sale of liquor and shall display the permit on demand to any  
40           law enforcement officer or representative of the Bureau of Liquor  
41           Enforcement.

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3 8. Retailer's responsibility. Neither a retailer nor the  
5 commission may permit any employee to sell liquor for consumption  
7 on or off the premises unless that employee has a valid temporary  
9 permit or has been issued a seller's permit by the appropriate  
11 date provided for in subsection 5. In addition to any other  
13 disposition authorized by this Title, the Administrative Court  
15 may suspend or revoke the license of a retailer who violates this  
17 subsection.

11 9. Revocation or suspension; fine. The Administrative  
13 Court may revoke or suspend a seller's permit or impose a  
15 monetary penalty in lieu of or in addition to a suspension when  
17 it finds the permit holder in violation of this Title or any rule  
19 adopted by the commission. Complaints against permit holders  
21 shall be processed in the same manner as complaints against  
23 retailers. The issuance, suspension or revocation of a permit or  
25 other sanctions imposed on a holder of a seller's permit do not  
27 relieve a retailer from responsibility for any act of an employee  
29 on the retailer's premises.

21 §1234. False application; penalty

23 Any person who knowingly makes a false statement in the  
25 written application or in documents made a part of the  
27 application as required by section 1233 shall be guilty of a  
29 Class D crime.

29 §1235. Unlawful use of seller's permit

31 1. Unlawful uses. No person may:

33 A. Display or cause to be displayed any revoked, suspended,  
35 fictitious or fraudulently altered seller's permit;

37 B. Display or represent as that person's own any seller's  
39 permit not issued to that person;

41 C. Lend a seller's permit to any other person or knowingly  
43 permit the use of that permit by another; or

45 D. Permit any unlawful use of a seller's permit issued to  
47 that person.

49 2. Penalty. Any person who violates this section shall be  
51 guilty of a Class E crime.

49 §1236. Alcohol server education

51 1. Training of licensed retailers. A retailer, or a  
management-level employee designated by the retailer, shall  
successfully complete a course of study approved by the

1 Commissioner of Public Safety and designed for the training of  
3 alcohol server training instructors within 6 months of issuance  
5 or renewal of the retail license or January 1, 1991, whichever  
7 occurs first. Any person issued a retail license after January  
9 1, 1991, shall successfully complete this course of study within  
11 60 days of issuance of the retail license. A retailer who has  
13 successfully completed this course of study may provide alcohol  
15 server course instruction for that retailer's employees.

17 2. Exemption. Retailers who, on the effective date of this  
19 section, have held a retail license for 5 or more consecutive  
21 years are not required to take or complete the training course  
23 provided for by subsection 1.

25 3. Training course for violators. If a retail employee is  
27 found to have violated any provision of this Title, the court  
29 shall order, in addition to any penalty imposed, that that retail  
31 employee successfully complete an alcohol server training course,  
33 approved by the Commissioner of Public Safety pursuant to section  
35 2519, within 45 days of entry of its judgment.

37 §1237. Legislative oversight

39 1. Progress reporting. The commission shall report  
41 annually to the joint standing committee of the Legislature  
43 having jurisdiction over legal affairs on its progress in  
45 implementing the permit program provided for by this chapter. In  
47 its annual report, the commission report shall detail the income,  
49 broken down by license category, generated through issuance of  
51 liquor servers' permits, and the expenses of the Commissioner of  
Public Safety; the State Liquor Commission, the Bureau of  
Alcoholic Beverages, Licensing Division; the Department of Public  
Safety, Bureau of Liquor Enforcement; and the Maine  
Vocational-Technical Institute System incurred in implementing  
this chapter. The report shall also include recommendations for  
legislation necessary or desirable to further the purposes of  
this chapter. The commission shall furnish to the joint standing  
committee of the Legislature having jurisdiction over legal  
affairs quarterly reports on the income and expenses information  
required in the commission's annual report.

2. Review by Commissioner of Public Safety. The  
Commissioner of Public Safety shall review the effectiveness, in  
reducing violations of this Title, of the liquor seller's permit  
and licensee education provisions of this Act and shall determine  
whether holders of liquor sellers' permits need further  
training. The Commissioner of Public Safety shall report the  
findings and conclusions of this review, together with any  
recommendations for pertinent legislative action, to the joint  
standing committee of the Legislature having jurisdiction over  
legal affairs during the First Regular Session of the 116th  
Legislature.

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3. Sunset. The following provisions are repealed on October 1, 1993:

A. Chapter 47; and

B. Section 2, subsection 25-A.

**Sec. 3. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
<b>PUBLIC SAFETY, DEPARTMENT OF</b>		
<b>Bureau of Liquor Enforcement</b>		
Positions	(2.0)	(4.0)
Personal Services	\$9,648	\$62,605
All Other	5,906	22,265
Capital Expenditures	12,256	28,648
Provides funds for 2 clerical positions beginning March 1, 1990, and 2 liquor enforcement officers beginning January 1, 1991, to increase enforcement and provide training.		
<b>DEPARTMENT OF PUBLIC SAFETY TOTAL</b>	<b>\$27,810</b>	<b>\$113,518</b>
<b>MAINE VOCATIONAL-TECHNICAL INSTITUTE SYSTEM, BOARD OF TRUSTEES OF THE</b>		
<b>Maine Vocational-Technical Institute System - Board of Trustees</b>		
All Other		\$50,160
Provides funds to establish 2 full-time coordinators and one clerical position to oversee and implement the training requirements.		

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1	<b>BOARD OF TRUSTEES OF THE</b>		
3	<b>MAINE VOCATIONAL-TECHNICAL</b>		
	<b>INSTITUTE SYSTEM</b>		
5	<b>TOTAL</b>		<u>\$50,160</u>
7	<b>TOTAL APPROPRIATIONS</b>	<u>\$27,810</u>	<u>\$163,678</u>

8       **Sec. 4. Allocation.** The following funds are allocated from the  
9       Alcoholic Beverage Fund to carry out the purposes of this Act.

11		<b>1989-90</b>	<b>1990-91</b>
13	<b>FINANCE, DEPARTMENT OF</b>		
15	<b>Alcoholic Beverage -</b>		
17	<b>General Operations</b>		
19	Positions	(2.0)	(2.0)
21	Personal Services	\$10,455	\$43,578
23	All Other	20,000	12,000
25	Capital Expenditures	16,200	
27	Provides funds for 2 clerical		
29	positions beginning March 1,		
31	1990, and additional computer		
	hardware and software to		
	administer the liquor		
	sellers' permit program.		
33	<b>DEPARTMENT OF FINANCE</b>		
35	<b>TOTAL</b>	<u>\$46,655</u>	<u>\$55,578</u>

### FISCAL NOTE

37       This bill will have the following effect on General Fund  
38       revenues:

39		<b>1989-90</b>	<b>1990-91</b>
41	<b>Total Liquor Seller's Permit</b>		
43	<b>Fees Collected</b>	\$0	\$293,625
45	<b>Less Allocations from Alcoholic</b>		
47	<b>Beverage Fund</b>	(46,655)	(55,578)
49	<b>Total General Fund Revenues</b>	(46,655)	238,047
51	<b>Total General Fund Appropriations</b>	(27,810)	(163,678)
53	<b>Net Increase (Decrease)</b>		
55	<b>of General Fund Revenues</b>	<u>(\$74,465)</u>	<u>\$74,369</u>



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The amendment makes all alcohol servers responsible for their own actions through establishment of a liquor server's permit program and by requiring training of retail licensees with less than 5 years' experience in the business and, under certain circumstances, their employees. This amendment makes the substantive changes to the bill listed below.

1. A definition of "retail employee" is added to clarify those who must obtain a liquor seller's permit.

2. Persons who work as retail employees for less than 5 calendar days per year and retail licensees are not required to obtain a liquor seller's permit.

3. The "may" on line 24 of the bill is changed to "shall" to make it clear that, if a person meets the listed criteria, the State Liquor Commission must issue that person a seller's permit.

4. Several criteria for seller's permit eligibility are changed or deleted, namely:

A. One need not complete an alcohol server's course to be eligible for a permit;

B. One must have committed no liquor law violations in the last 5 years rather than 2 years as in the original bill;

C. The criterion regarding drug use and drug dependency is deleted due to insurmountable difficulties in determining the drug use history of liquor seller's permit applicants and constitutional concerns; and

D. The criterion that the applicant answer all questions on the application is removed from the law to allow administrative flexibility in processing.

5. The "hardship" exception to the seller's permit requirement is removed.

6. A deadline is added; after July 1, 1990, a retail employee subject to the permit requirement must obtain a seller's permit by that employee's birth date in 1990, or in 1991 for those born on or before June 30th.

7. A completed and filed seller's permit application is to be deemed a temporary permit for up to 120 days.

8. Provision is made for alcohol server training in the following instances:

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- 1           A. Retailers who have held a retail license for less than 5  
3           years must complete a course of study designed to train  
5           alcohol server training instructors within 6 months of  
            issuance or renewal of the retail license or by January 1,  
            1991, whichever comes first;
- 7           B. Persons issued a retail license for the first time after  
9           January 1, 1991, must complete the course within 60 days of  
            license issuance; and
- 11          C. Retail employees found to have violated a provision of  
13          the Maine Revised Statutes, Title 28-A, must complete an  
            approved alcohol server course.
- 15          9. Retailers who receive commission-approved training may  
17          provide alcohol server training for their employees.
- 19          10. The Commissioner of Public Safety will review the  
21          effectiveness of the Liquor Seller's Permit Act and report to the  
23          joint standing committee of the Legislature having jurisdiction  
            over legal affairs during the First Regular Session of the 116th  
            Legislature. A sunset provision, repealing the Act on October 1,  
            1993, ensures additional legislative oversight.
- 25          11. The commission shall, annually and quarterly, report to  
27          the joint standing committee of the Legislature having  
            jurisdiction over legal affairs on its progress in implementing  
            this Act.
- 29          12. The amendment establishes the following fee schedule,  
31          which is designed to encourage liquor servers to seek server  
33          training and which recognizes adequate training servers received  
            in other jurisdictions:
- 35            A. Persons who have received training, in Maine or another  
37            jurisdiction, which meets the criteria listed in the Maine  
            Revised Statutes, Title 28-A, section 2519, must pay \$3 for  
39            a seller's permit;
- 41            B. Persons with 5 or more years of experience as liquor  
            sellers must pay \$3 for a seller's permit;
- 43            C. Persons who do not have this training or experience must  
45            pay \$10 for a seller's permit; and
- 47            D. Full-time students must pay \$5 for a permit good for 6  
            months.
- 49          13. A liquor seller's permit, other than a student permit,  
51          is valid for one year.

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14. Persons who work selling liquor for less than 5 days per year and retail licensees need not obtain a permit.

15. A person required to obtain a seller's permit who sells liquor after the deadline for acquiring a permit commits a civil violation and is subject to a forfeiture of \$100.

16. A retailer who permits an employee without a required permit to sell liquor faces possible revocation or suspension of that retailer's license by the Administrative Court.

17. A fiscal note, including allocation and appropriation sections, is added.

Reported by Senator Matthews for the Committee on Legal Affairs.  
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(6/13/89) (Filing No. S-265)