

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 271

S.P. 151

In Senate, February 21, 1989

Reference to the Committee on Legal Affairs suggested and ordered printed.

Joy J. O'Brien

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TWITCHELL of Oxford.

Cosponsored by Representative WALKER of Norway and Representative JACKSON of Harrison.

STATE OF MAINE

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

An Act to Require Liquor Sellers' Permits.



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

3 **28-A MRSA c. 47** is enacted to read:

5 **CHAPTER 47**

7 **LIQUOR SELLERS' PERMITS**

9 **§1231. Short title**

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

15 **§1232. Seller's permit required**

17 No person employed by a retailer of the commission may sell
19 in a licensed liquor establishment liquor in the original
21 container or by drink, for consumption on or off the premises
23 where sold, unless that person has been issued a seller's permit
25 by the commission.

27 **§1233. Issuance of permit**

29 1. Criteria for issuing permit. The commission may, upon
31 written application, issue to or renew for any person a seller's
33 permit if that person meets the following requirements:

35 A. Is 17 years of age or older;

37 B. Has successfully completed an approved alcohol-server
39 course and examination approved by the Commissioner of
41 Public Safety;

43 C. Has not in the 2 previous years been convicted or
45 adjudicated of a violation of section 2078, 2079 or 2081;

47 D. Has not had a seller's permit previously suspended or
49 revoked;

E. Is not a drug abuser, drug addict or drug dependent
person;

F. Answers all questions on the permit application;

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

H. Submits an application fee of \$20 for the original
application and \$20 for a renewal.

1 2. Exceptions. The commission may waive the seller's
2 permit requirement as follows.

3 A. The commission may waive the requirement under
4 subsection 1, paragraph B, provided the applicant agrees to
5 successfully meet the requirement within 6 months of
6 issuance and provided the applicant can show hardship.
7 Subsequent failure by the permittee to meet the requirement
8 within 6 months will result in immediate expiration of the
9 permit.

10 B. The commission may waive the requirement under
11 subsection 1, paragraph B, provided the applicant is a
12 full-time student currently enrolled in and attends during
13 regular sessions a secondary school, vocational-technical
14 institute, college or university. The commission may issue
15 a permit valid for 4 months to any such individual. The
16 original and renewal application fee for permits under this
17 paragraph shall be \$5.

18 3. Certification by applicant. The commission shall
19 authorize the bureau to design an application that corresponds to
20 the mandatory criteria listed in subsection 1. By signing the
21 application, the applicant certifies that:

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

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

27 C. The applicant understands any false statements made in
28 the application or in any document made a part of the
29 application may result in prosecution as provided in section
30 1234.

31 4. Term of permit. A seller's permit is valid for 2 years
32 from the date of issuance, unless suspended or revoked for cause
33 by the Administrative Court, except that a permit issued to a
34 student who has not met the requirement of subsection 1,
35 paragraph B, is valid for 4 months from the date of issuance,
36 unless suspended or revoked for cause by the Administrative Court.

37 5. 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.

1 6. Retailer's responsibility. No retailer nor the
2 commission may permit any employee to sell any liquor for
3 consumption on or off the premises unless that employee has a
4 valid seller's permit issued by the commission.

5
6 7. Revocation or suspension; fine. The Administrative
7 Court may revoke or suspend a seller's permit or impose a
8 monetary penalty in lieu of or in addition to a suspension when
9 it finds the permittee in violation of this Title or any rule
10 adopted by the commission. Complaints against permittees shall
11 be processed in the same manner as complaints against retailers.
12 The issuance, suspension or revocation of a permit or the fining
13 of a permittee does not relieve a retailer from responsibility
14 for any act of an employee on the retailer's premises.

15
16 When there is a violation of this Title or any rule adopted by
17 the commission upon any retailer's premise, the Administrative
18 Court judge may suspend or revoke the seller's permit of the
19 employee who violates this Title or the rule, or the license of
20 the retailer upon whose premises the violation occurred, or both,
21 and may in lieu of suspensions impose a fine on either the
22 permittee or the retailer, or both.

23 §1234. False application; penalty

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

29
30 §1235. Unlawful use of seller's permit

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32 1. Display. No person may display or cause to be displayed
33 any revoked, suspended, fictitious or fraudulently altered
34 seller's permit.

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36 2. Loan. No person may lend a seller's permit to any other
37 person or knowingly permit the use of that permit by another.

38
39 3. Representation. No person may display or represent as
40 one's own any seller's permit not issued to that person.

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42 4. Use. No person may permit any unlawful use of a
43 seller's permit issued to that person.

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45 5. Penalty. Any person who violates this section shall be
46 guilty of a Class E crime.

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STATEMENT OF FACT

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5 This bill creates the requirement that all persons who sell
6 liquor, either by the bottle or by the drink for direct
7 consumption, must apply for a seller's permit from the State
8 Liquor Commission. In order to be issued such a permit, the
9 applicant must have completed an alcohol servers' program
approved by the Commissioner of Public Safety.