

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 2380

(Filing No. S-615)

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STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 942, L.D. 2380, Bill, "An Act Regarding the Operation of Bottle Clubs"

Amend the bill in the emergency preamble in the 3rd paragraph in the 3rd line (page 1, line 11 in L.D.) by striking out the following: "or other drug-related offenses"

Further amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 28-A MRSA §161, sub-§§1-A to 1-C are enacted to read:

1-A. Eligibility qualifications. The commission may not register a bottle club unless each owner or operator of the bottle club meets the eligibility qualifications under section 601, subsection 1.

1-B. Disqualification. The commission may not register a bottle club if the commission determines that:

A. An owner or operator of the bottle club is disqualified from receiving a liquor license under section 601, subsection 2;

B. A municipality, under section 161-A, has denied an owner or operator of the bottle club permission to operate the bottle club for which registration is sought and the commission has not reversed that decision under section 161-A, subsection 4; or

C. The purpose of the application is to circumvent the eligibility or disqualification provisions of section 601.

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2 The commission shall notify each owner or operator of the bottle  
3 club in writing of its decision to approve or deny registration  
4 of the bottle club under this subsection. The decision of the  
5 commission to approve or deny registration of a bottle club is  
6 final agency action.

7 1-C. Penalty for operation after denial. Notwithstanding  
8 subsection 1, paragraph C, a person who operates a bottle club  
9 after receipt of notice of denial of registration under  
10 subsection 1-B commits a Class D crime.

11 Sec. 3. 28-A MRSa §161-A is enacted to read:

12 §161-A. Local approval of bottle clubs

13 1. Application to local authorities. An owner or operator  
14 of a bottle club, prior to registration with the commission under  
15 section 161, shall apply to the municipal officers or, in the  
16 case of unincorporated places, the county commissioners of the  
17 county in which the unincorporated place is located, for  
18 permission to operate the bottle club or for transfer of location  
19 of an existing bottle club. The commission shall prepare and  
20 supply application forms.

21 2. Hearings. The municipal officers or, in the case of  
22 unincorporated places, the county commissioners of the county in  
23 which the unincorporated place is located, shall hold a public  
24 hearing for the consideration of applications for new bottle  
25 clubs and applications for transfer of location of existing  
26 bottle clubs. The municipal officers, or the county  
27 commissioners, shall provide public notice of a hearing held  
28 under this section. The notice, at the applicant's prepaid  
29 expense, must state the name and place of the hearing and must  
30 appear on at least 6 consecutive days before the date of the  
31 hearing in a daily newspaper having general circulation in the  
32 municipality or unincorporated place where the bottle club is  
33 located or on 2 consecutive weeks before the hearing date in a  
34 weekly newspaper having general circulation in the municipality  
35 or unincorporated place where the bottle club is located.

36 3. Findings. In granting or denying an application, the  
37 municipal officers or the county commissioners shall indicate the  
38 reasons for their decision and provide a copy to the applicant.  
39 An application may be denied on one or more of the following  
40 grounds:

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

43 B. Noncompliance of the bottle club with any local zoning  
44 ordinance or other land use ordinance not directly related  
45 to liquor control;

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2 C. Conditions of record such as waste disposal violations,  
4 health or safety violations or repeated parking or traffic  
6 violations on or in the vicinity of the bottle club and  
8 caused by persons patronizing or employed by the bottle club  
10 or other such conditions caused by persons patronizing or  
12 employed by the bottle club that unreasonably disturb,  
14 interfere with or affect the ability of persons or  
16 businesses residing or located in the vicinity of the bottle  
18 club to use their property in a reasonable manner;

20 D. Repeated incidents of record of breaches of the peace,  
22 disorderly conduct, vandalism or other violations of law at  
24 or in the vicinity of the bottle club and caused by persons  
26 patronizing or employed by the bottle club;

28 E. A violation of any provision of this Title;

30 F. In the case of corporate applicants, ineligibility or  
32 disqualification under section 601 of any officer, director  
34 or stockholder of the corporation; and

36 G. Location of the bottle club at an amusement area, beach  
38 or other area designed primarily for use by minors.

40 4. Appeal to commission. Any applicant aggrieved by the  
42 decision of the municipal officers or county commissioners under  
44 this section may appeal to the commission. The commission shall  
46 hold a public hearing in the city, town or unincorporated place  
where the premises are situated. In acting on such an appeal,  
the commission may consider all of the requirements referred to  
in subsection 3.

A. If the decision appealed is approval of the application,  
the commission may reverse the decision if it was arbitrary  
or based on an erroneous finding.

B. If the decision appealed is denial of the application,  
the commission may reverse the decision and register the  
bottle club under section 161 only if it finds by clear and  
convincing evidence that the decision was without  
justifiable cause.

5. Appeal to Superior Court. Any person or governmental  
entity aggrieved by a commission decision under this section may  
appeal the decision to the Superior Court.'

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2 Further amend the bill by inserting before the statement of  
fact the following:

4 **FISCAL NOTE**

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8 The State Liquor Commission and the court system will incur  
10 additional costs related to the regulation of bottle clubs. Both  
the State Liquor Commission and the Judicial Department will be  
able to absorb these additional costs within existing budgeted  
resources.'

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16 **STATEMENT OF FACT**

18 The amendment makes the procedure and requirements for  
obtaining permission to operate a bottle club comparable to those  
applicable to persons seeking a license to sell liquor.

20 The amendment requires that an applicant obtain municipal  
22 approval, or in the case of unincorporated places the approval of  
the county commissioners, to operate a bottle club. The local  
24 authority may deny an application to operate a bottle club only  
on specified grounds, including conviction of the applicant of a  
26 Class A, Class B or Class C crime.

28 The local authority's decision may be appealed to the State  
Liquor Commission which may reverse the local decision if it  
30 determines that the decision was arbitrary or based on an  
erroneous finding, in the case of a decision to approve the  
32 application, or that the decision was by clear and convincing  
evidence without justifiable cause, if the decision was to deny  
34 the application.

36 Notwithstanding the local authority's decision, under the  
amendment as under the bill, the commission may not register a  
38 bottle club if an owner or operator is disqualified from  
receiving a liquor license under the Maine Revised Statutes,  
40 Title 28-A, section 601, subsection 2. The amendment forbids  
registration of a bottle club if the owner or applicant does not  
42 meet the eligibility requirements of Title 28-A, section 601,  
subsection 1. Operation of a bottle club after receipt of notice  
44 of denial of registration from the commission is a Class D crime.

Reported by Senator Baldacci for the Committee on Legal  
Affairs. Reproduced and Distributed Pursuant to Senate  
Rule 12.

(3/23/90)

(Filing No. S-615)