

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 750

H.P. 554

House of Representatives, March 2, 1993

An Act to Protect Children from Illegal Tobacco Sales.

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICHARDSON of Portland.
Cosponsored by Senator LAWRENCE of York and
Representatives: PENDEXTER of Scarborough, PENDLETON of Scarborough, PFEIFFER of
Brunswick, Senator: PARADIS of Aroostook.

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

2
3 Sec. 1. 5 MRSA §281, last ¶, as amended by PL 1991, c. 780, Pt.
4 Y, §20, is further amended to read:

6 The department shall coordinate financial planning and
7 programming activities of departments and agencies of the State
8 Government for review and action by the Governor, prepare and
9 report to the Governor and to the Legislature financial data and
10 statistics and administer under the direction of the State Liquor
11 Commission the laws relating to legalized alcoholic beverages
12 within and retail tobacco sales in this State. The department
13 consists of the bureaus and organizations referenced in section
14 947-B, and the State Liquor Commission, except the Bureau of
15 Liquor and Tobacco Enforcement and the State Lottery Commission.

16 Sec. 2. 22 MRSA §1578-C is enacted to read:

17
18 §1578-C. Retail tobacco sales licensing

19
20 1. Retail tobacco license. It is unlawful for any person,
21 partnership or corporation that engages in retail sales,
22 including retail sales through vending machines, or in free
23 distribution of tobacco products to sell, keep for sale or give
24 away in the course of trade any tobacco products to anyone
25 without first obtaining a retail tobacco license from the State
26 Liquor Commission in accordance with Title 28-A, chapter 102,
27 subchapter I.

28
29 2. Violation; penalty. Imposition of penalties for
30 violation of this section must be in accordance with Title 28-A,
31 chapter 102, subchapter III.

32
33 3. Enforcement. The Department of Public Safety, Bureau of
34 Liquor and Tobacco Enforcement shall enforce this section.

35
36 4. Repeal. This section is repealed December 1, 1996.

37
38 Sec. 3. 22 MRSA §1579, sub-§4 is enacted to read:

39
40 4. Prohibition; misrepresentation by minors; penalty. It
41 is unlawful for any person under the age of 18 to misrepresent
42 that person's age by producing fraudulent identification for the
43 purpose of purchasing cigarettes or any other tobacco product. A
44 person who violates this subsection commits a civil violation for
45 which a warning may be issued or a forfeiture of not less than
46 \$10 nor more than \$50 may be adjudged for each violation. The
47 judge, as an alternative to the civil forfeiture permitted by
48 this section, may assign the violator to perform up to 10 hours
49 of specified community service work.
50

2 **Sec. 4. 22 MRSA §1628, sub-§2**, as amended by PL 1989, c. 445,
3 §9, is further amended to read:

4
5 **2. Violation.** It is unlawful for any person, firm or
6 corporation to knowingly distribute or sell cigarettes or any
7 other tobacco products by the use of a vending machine to minors
8 ex. It is unlawful for any person, firm or corporation to
9 knowingly distribute or sell cigarettes or any other tobacco
10 product by the use of a vending machine that is placed in a
11 location other than a location that is at all times under direct
12 supervision by an adult during the hours the machine is
13 accessible or that also offers for sale products other than
14 cigarettes and other tobacco products.

15 **Sec. 5. 25 MRSA Pt. 10**, first 4 lines are repealed and the
16 following enacted in their place:

17
18 PART 10

19
20 BUREAU OF LIQUOR AND TOBACCO ENFORCEMENT

21
22 CHAPTER 451

23
24 BUREAU OF LIQUOR AND TOBACCO ENFORCEMENT

25
26 **Sec. 6. 25 MRSA §3901**, as enacted by PL 1987, c. 45, Pt. A,
27 §2, is amended to read:

28
29 **§3901. Bureau of Liquor and Tobacco Enforcement**

30
31 **1. Bureau of Liquor and Tobacco Enforcement.** The
32 enforcement division of the State Liquor Commission shall ~~be~~ is
33 the Bureau of Liquor and Tobacco Enforcement within the
34 Department of Public Safety, as created in this chapter.
35 Notwithstanding any other provisions of law, the Department of
36 Public Safety is responsible for the enforcement of the liquor
37 laws, the retail tobacco sale laws and the rules of the
38 commission.
39

40
41 **2. Director.** The Commissioner of Public Safety shall
42 appoint as ~~Director~~ director of the bureau a person experienced
43 in law enforcement or enforcement of liquor and tobacco laws, who
44 may be removed for cause by the commissioner.

45 **A.** The director, subject to the Civil Service Law, may
46 appoint as many liquor and tobacco enforcement officers as
47 may be found necessary. The liquor and tobacco enforcement
48 officers shall ~~be~~ are under the direct supervision and
49 control of the director.
50

2 **3. Eligibility.** The director and the employees of the
3 bureau are subject to the same eligibility requirements of Title
4 28-A, section 52.

6 **Sec. 7. 28-A MRSA** first 2 lines are repealed and the following
7 enacted in their place:

8 **TITLE 28-A**

10 **LIQUOR AND TOBACCO**

12 **Sec. 8. 28-A MRSA §2, sub-§14,** as enacted by PL 1987, c. 45,
14 Pt. A, §4, is amended to read:

16 **14. Licensee.** "Licensee" means the person to whom a license
17 of any kind is issued by the commission. "Licensee" includes,
18 but is not limited to, agency liquor stores, tobacco retailers,
19 wholesalers and distributors and certificate of approval holders.

20 **Sec. 9. 28-A MRSA §51,** as amended by PL 1989, c. 503, Pt. B,
22 §117, is further amended to read:

24 **§51. Administration; enforcement**

26 **1. Administration by commission.** The State Liquor
27 Commission, as established by Title 5, section 12004-E,
28 subsection 3, shall administer the state liquor and retail
29 tobacco sales laws.

30 **2. Enforcement by Bureau of Liquor and Tobacco**
31 **Enforcement.** The Department of Public Safety, Bureau of Liquor
32 and Tobacco Enforcement ~~within the Department of Public Safety,~~
33 as established by Title 25, section 3901, shall enforce the state
34 liquor and retail tobacco sales laws.

36 **Sec. 10. 28-A MRSA §52, sub-§1,** as enacted by PL 1987, c. 45,
38 Pt. A, §4, is amended to read:

40 **1. Interest in corporation.** Has any connection with,
41 official, professional or otherwise, or who owns any stock in a
42 corporation interested either directly or indirectly in the
43 manufacture or sale of liquor or tobacco; or

44 **Sec. 11. 28-A MRSA §61, sub-§5,** as enacted by PL 1987, c. 45,
46 Pt. A, §4, is amended to read:

48 **5. Public meetings.** The commission may hold public
49 meetings each year at various locations within in the State for
50 the purpose of outlining operations under the liquor laws and the

2 retail tobacco sales laws, receiving suggestions from and
disseminating information to the public.

4 **Sec. 12. 28-A MRSA §62, first ¶**, as enacted by PL 1987, c. 45,
Pt. A, §4, is amended to read:

6 The State Liquor Commission shall establish the policy and
8 rules concerning the administration and enforcement of the liquor
and retail tobacco sales laws. The commission has the following
10 powers:

12 **Sec. 13. 28-A MRSA §62, sub-§§3 and 8**, as enacted by PL 1987,
c. 45, Pt. A, §4, are amended to read:

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

26 **8. Prevent sale to minors and others.** To prevent the sale
of liquor by licensees to minors, to intoxicated persons and to
28 interdicted persons and to prevent retail sales of tobacco
products to persons under 18 years of age;

30 **Sec. 14. 28-A MRSA §63, sub-§3**, as repealed and replaced by PL
32 1987, c. 342, §16, is amended to read:

34 **3. Publish laws and rules.** The commission shall publish a
~~compilation~~ compilations containing this Title, other laws
36 concerning liquor and, all rules adopted under this Title and
laws and rules concerning retail tobacco sales every 4 years.

38 A. The commission shall supply a copy of the appropriate
40 compilation to every new licensee at no charge.

42 B. The commission shall notify all licensees of changes in
the law laws and rules within 90 days of adjournment of each
44 regular session of the Legislature.

46 (1) The commission shall supply a copy of the new laws
and rules at no charge when requested by licensees.
48

2 (2) The commission shall supply a copy of the new laws
and rules to persons other than licensees for a
4 reasonable fee.

6 C. The commission may charge a reasonable fee for the
appropriate compilation to cover the cost of producing the
8 compilation to persons other than licensees.

10 Sec. 15. 28-A MRSA Pt. 9 is enacted to read:

12 PART 9
14 TOBACCO LICENSING
16 CHAPTER 102
18 TOBACCO LICENSES
20 SUBCHAPTER I
22 RETAIL TOBACCO LICENSES

24 §2601. Applications

26 1. File application with commission. An applicant for a
retail tobacco license shall file an application in the form
28 required by the commission.

30 2. False answer given intentionally. A person who
intentionally gives a false answer in an application for a retail
32 tobacco license violates Title 17-A, section 453.

34 §2602. Application procedure

36 1. License fee. The fee for a retail tobacco license is \$5
for retail premises whose annual volume of tobacco sales is less
38 than 20,000 cartons; \$50 for retail premises whose annual volume
of tobacco sales is 20,000 cartons or greater; and \$50 for
40 persons engaged in free distribution of tobacco products. The
applicant must enclose the fee with the application for the
42 license. For purposes of this section, each vending machine is
considered a separate retail premise.

44 2. Effective date and term of license. All retail tobacco
46 licenses are for a term of one year and are effective from the
date of issuance.

48

2 3. Renewal. Licenses may be renewed upon application for
renewal and payment of the annual fee, subject to commission
4 rules.

6 4. Multiple licenses. A licensee applying for licenses to
operate more than one premises or more than one vending machine
8 shall obtain a separate license for each premises and each
machine and shall pay the fee prescribed for each premises and
10 each machine.

12 **§2603. Display of notices**

14 1. Display of licenses. A licensee shall publicly display
the license on the premises and the machines to which the license
16 applies.

18 2. Display of prohibition against sales to minors. All
licensees shall post notice of Title 22, section 1579,
20 prohibiting tobacco sales to minors. Notices must be publicly
and conspicuously displayed in the licensee's place of business
22 in letters at least 3/8 inches high. Signs required by this
section may be provided at cost by the Department of Public
24 Safety, Bureau of Liquor and Tobacco Enforcement.

26 **§2604. Notification of license expiration**

28 1. Grace period upon license expiration. Except as
provided in subsection 3, a retail tobacco licensee who
30 unintentionally fails to renew any license upon its expiration
date and continues to make sales of tobacco products is not
32 chargeable with illegal sales under section 2607 for a period of
7 days following the expiration date.

34 2. Commission shall notify licensee of expiration. The
commission shall notify the licensee by the most expedient means
36 available that the license has expired and that all sales of
tobacco products must be suspended immediately and remain
38 suspended until the license is properly renewed.

40 3. Illegal sales after expiration of grace period or after
notice. A retail tobacco licensee who continues to make sales of
42 tobacco products after receiving proper notification of the
expired license must be charged with illegal sales under section
44 2607.

46 **§2605. Transfer of licenses; death; bankruptcy; receivership;**
guardianship; corporations

48 Except as otherwise provided in this section, a license or
50 any interest in a license may not be sold, transferred, assigned

2 or otherwise subject to control by any person other than the
4 licensee. If the business or any interest in the business
6 connected with a licensed activity is sold, transferred or
8 assigned, the license holder shall immediately send to the
commission the license and a sworn statement showing the name and
address of the purchaser. The commission is not required to
refund any portion of the license fee if the license is
surrendered before it expires.

10 1. Transfer within same municipality. Upon receipt of a
12 written application, the commission may transfer any retail
14 tobacco license from one place to another within the same
municipality. A transfer may not be made to premises for which
the licenses could not have been originally legally issued.

16 2. Death, bankruptcy or receivership. In the case of
18 death, bankruptcy or receivership of any licensee, the executor
20 or administrator of the deceased licensee, the trustee or
22 receiver of the bankrupt licensee or the licensee in receivership
may retain the license for the remaining term of the license or
transfer the license without additional fee.

24 A. For the benefit of the estate, personal representatives,
26 receivers or trustees may operate the premises themselves or
through a manager for one year from the date of their
appointment.

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

32 (2) If the license or renewed license is not
34 transferred within one year from the date of
appointment, the license becomes void and must be
returned to the commission for cancellation.

36 (3) Any suspension or revocation of the license by the
38 Administrative Court for any violation applies to the
40 manager and the personal representative, receiver or
trustee.

42 (4) No personal representative, receiver, trustee or
44 duly appointed manager may operate under the license
unless approved by the commission.

46 B. If a licensee dies, the following persons, with the
48 written approval of the commission, may continue to operate
under the license for not more than 60 days pending
appointment of a personal representative of the estate:

50 (1) The surviving spouse;

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

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

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

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

C. When no administration of the estate of a deceased licensee is contemplated, the surviving spouse or person designated by all the heirs of the deceased licensee may take over the license under the same conditions as are provided for operation and transfer by executors and administrators.

3. Guardians and conservators. Duly appointed and qualified guardians and conservators of the estate of a licensee may take over, operate and renew licenses of their wards during their term of office if they or their managers are approved by the commission.

A. Guardians and conservators may not transfer their wards' licenses and shall renew licenses each year.

B. Penalties for violations apply to both guardians or conservators and their managers in the same manner as executors or administrators and their managers in subsection 2.

4. Sale of stock of a corporate licensee. Any sale or transfer of stock of a corporate licensee that results in the sale or transfer of more than 10% of the shares of stock of the corporate licensee is considered a transfer within the meaning of this section.

5. Incorporation of licensee's business. The incorporation of a licensee's business or a change in the form of incorporation of a licensee's business is a transfer within the meaning of this section.

6. Change in partnership. Addition or deletion of a partner in a partnership is a transfer within the meaning of this section.

7. Corporate merger or acquisition. The merger or acquisition of a licensee that is incorporated is a transfer within the meaning of this section.

2 §2606. Information to retail clerks

4 1. Educational program required. Retail tobacco licensees shall provide information on the laws regarding retail tobacco sales to all employees whose duties include those sales.

6 2. Schedule for information program. The information program must commence prior to the employee's initial assignments.

8 3. Information program contents. The information program must include the following:

10 A. The provisions of this chapter;

12 B. The provisions of Title 22, section 1579; and

14 C. Techniques for identifying underage purchasers of tobacco products.

16 §2607. Sale of tobacco products without a valid license

18 Any person who engages in retail tobacco sales or in free distribution of tobacco products in the ordinary course of trade in this State without a valid license commits a Class E crime.

20 §2608. Identification cards

22 A licensee may refuse to sell tobacco to any person who fails to display upon request an identification card issued under Title 5, section 88-A, or a motor vehicle operator's license bearing the photograph of the operator and issued under Title 29, chapter 7.

24 SUBCHAPTER II

26 TOBACCO DISTRIBUTOR AND WHOLESALER LICENSES

28 §2621. Applications

30 1. File application with commission. An applicant for a tobacco distributor or wholesaler license shall file an application in the form required by the commission.

32 2. False answer given intentionally. A person who intentionally gives a false answer in an application for a tobacco distributor or wholesaler license violates Title 17-A, section 453.

34 §2622. Application procedure

1 1. License fee. The fee for a tobacco distributor or
2 wholesaler license is \$5,000. The license applies to all outlets
3 of the distributor or wholesaler. The applicant must enclose the
4 fee with the application for the license.

6 2. Effective date and term of license. All tobacco
7 distributor or wholesaler licenses are for a term of one year and
8 are effective from the date of issuance.

10 3. Renewal. Licenses may be renewed upon application for
11 renewal and payment of the annual fee, subject to commission
12 rules.

14 **§2623. Notification of license expiration**

16 1. Grace period upon license expiration. Except as
17 provided in subsection 3, a tobacco distributor or wholesaler
18 licensee who unintentionally fails to renew any license upon its
19 expiration date and continues to make sales of tobacco products
20 is not chargeable with illegal sales under section 2625 for a
21 period of 7 days following the expiration date.

22 2. Commission must notify licensee of expiration. The
23 commission shall notify the licensee by the most expedient means
24 available that the license has expired and that all sales of
25 tobacco products must be suspended immediately and remain
26 suspended until the license is properly renewed.

28 3. Illegal sales after expiration of grace period or after
29 notice. A tobacco distributor or wholesaler who continues to
30 make sales of tobacco products after receiving proper
31 notification of the expired license must be charged with illegal
32 sales under section 2625.

34 **§2624. Transfer of licenses; death; bankruptcy; receivership;**
35 **guardianship; corporations**

38 Except as otherwise provided in this section, a license or
39 any interest in a license may not be sold, transferred, assigned
40 or otherwise subject to control by any person other than the
41 licensee. If the business or any interest in the business
42 connected with a licensed activity is sold, transferred or
43 assigned, the license holder shall immediately send to the
44 commission the license and a sworn statement showing the name and
45 address of the purchaser. The commission is not required to
46 refund any portion of the license fee if the license is
47 surrendered before it expires.

48 1. Death, bankruptcy or receivership. In the case of
49 death, bankruptcy or receivership of any licensee, the executor
50

2 or administrator of the deceased licensee, the trustee or
3 receiver of the bankrupt licensee or the licensee in receivership
4 may retain the license for the remaining term of the license or
5 transfer the license without additional fee.

6 A. For the benefit of the estate, personal representatives,
7 receivers or trustees may operate the premises themselves or
8 through a manager for one year from the date of their
9 appointment.

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

12 (2) If the license or renewed license is not
13 transferred within one year from the date of
14 appointment, the license becomes void and must be
15 returned to the commission for cancellation.

16 (3) Any suspension or revocation of the license by the
17 Administrative Court for any violation applies to the
18 manager and the personal representative, receiver or
19 trustee.

20 (4) No personal representative, receiver, trustee or
21 duly appointed manager may operate under the license
22 unless approved by the commission.

23 B. If a licensee dies, the following persons, with the
24 written approval of the commission, may continue to operate
25 under the license for not more than 60 days pending
26 appointment of a personal representative of the estate:

27 (1) The surviving spouse;

28 (2) A person who has filed a petition for appointment
29 as executor or administrator for the estate of the
30 deceased licensee;

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

32 (4) Any person designated by all of the heirs of the
33 deceased licensee.

34 C. When no administration of the estate of a deceased
35 licensee is contemplated, the surviving spouse or person
36 designated by all the heirs of the deceased licensee may
37 take over the license under the same conditions as are
38 provided for operation and transfer by executors and
39 administrators.

2 matters concerning violations by tobacco licensees of any federal
3 or state law or regulation related to tobacco sales.

4 2. Powers. The Administrative Court may impose fines or
5 suspend or revoke licenses in accordance with this chapter.

6 **§2632. Causes for imposition of penalties**

7
8 The Administrative Court may impose fines or revoke or
9 suspend licenses for the following causes:

10
11 1. Violation of law or infraction of rule. Violation of
12 any federal or state law, rule or regulation related to the sale
13 of tobacco products; or

14
15 2. False material statement. Knowingly making a false
16 material statement of fact in the application for the license.

17 **§2633. Revocation or suspension procedure**

18
19 1. Violation of law or rule. Upon discovering a violation
20 of a federal or state law, rule or regulation related to retail
21 tobacco sales, the Director of the Bureau of Liquor and Tobacco
22 Enforcement within the Department of Public Safety or the
23 director's designee shall:

24
25 A. Report the violation to the Administrative Court in a
26 signed complaint; or

27 B. Issue warnings to the licensees involved.

28
29 2. Notice and hearing. Except as provided under subsection
30 7, upon receipt of a signed complaint prepared under subsection
31 1, paragraph A, the Administrative Court shall notify the
32 licensee and hold a hearing according to the following procedures.

33
34 A. The Administrative Court shall notify the licensee by
35 -serving on the licensee a copy of the complaint and a notice
36 stating the time and place of the hearing and that the
37 licensee may appear in person or by counsel at the hearing.
38 Service of the complaint and hearing notice is sufficient
39 when sent by registered or certified mail at least 7 days
40 before the date of the hearing to the address given by the
41 licensee at the time of application for a license.

42
43 B. The Administrative Court shall conduct a hearing limited
44 to the facts, laws and rules, as specified in the complaint.

45
46 C. The Administrative Court shall conduct the hearing in
47 the following manner.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

(1) The Administrative Court may subpoena and examine witnesses, administer oaths and subpoena and compel the attendance of parents and legal guardians of unemancipated minors.

(a) The commission shall pay to the witnesses the legal fees for travel and attendance, except that, notwithstanding Title 16, section 253, the commission is not required to pay the fees before the travel and attendance occur.

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

(3) The Administrative Court shall state in writing the findings and decision in each case, based on the facts, laws and the rules cited in the complaint. The findings must specify the facts found and the laws or rules found to be violated.

3. Suspension or revocation decision. The Administrative Court shall issue the decision in writing within 12 days of the hearing.

4. Suspension of penalty; place case on file. After hearing, the Administrative Court may:

- A. Suspend a penalty; or
- B. Place a case on file instead of imposing any penalty.

5. Application of suspension or revocation. A suspension or revocation applies to premises and persons in the following manner.

- A. If a licensee is interested directly or indirectly in more than one license, suspensions apply only to the premises where the violation occurs or to the machine through which the illegal sales were made.
- B. If a licensee is interested directly or indirectly in more than one license, the Administrative Court may order that a revocation apply to any of those premises or machines.
- C. If the licensee is a corporation, the Administrative Court shall treat the officers, directors and substantial stockholders as individuals.

2 6. Term of suspension or revocation. Suspensions must be
4 for a definite period of time. If the Administrative Court
6 revokes a license, the court shall specify that the commission
8 may not issue a license to the person whose license is revoked
10 for a period of not less than one nor more than 5 years from the
12 date of revocation.

14 7. Warnings. Upon the written recommendation of the
16 Director of the Bureau of Liquor and Tobacco Enforcement within
18 the Department of Public Safety, or the director's designee, the
20 Administrative Court, instead of notifying a licensee against
22 whom a complaint is pending to appear for hearing, may send the
24 licensee a warning. Warnings must be sent by registered or
26 certified mail and contain a copy of the complaint. A licensee
28 to whom a warning is sent may demand a hearing by notifying the
30 Administrative Court by registered or certified mail within 10
32 days from the date the warning was mailed.

34 8. License subsequent to violation. If violations by a
36 licensee occur during one license term and remain undiscovered or
38 carry over into the next license term pending investigation or
40 final disposition either in criminal courts or before the
42 Administrative Court, any license issued for a new license term
44 subsequent to the violation may be suspended or revoked by the
46 Administrative Court.

48 9. Fines. Notwithstanding any other provisions of this
50 Title, the Administrative Court may impose on a licensee a fine
of a specific sum of not less than \$50 nor more than \$1,500 for
any one offense. The fine may be imposed instead of or in
addition to any suspension or revocation of a license.

A. The Administrative Court shall maintain a record of all
finances received by the court and shall pay the fines into the
General Fund by the 15th of each month.

§2634. Record of proceedings and transcript

1. Court record. The Administrative Court shall keep a
full and complete record of all proceedings before the court on
the revocation and suspension of any license issued by the
commission. The Administrative Court is not required to have a
transcript of the testimony prepared unless required for
rehearing or appeal.

2. Notice to Bureau of Liquor and Tobacco Enforcement. The
Administrative Court shall forward to the Department of Public
Safety, Bureau of Liquor and Tobacco Enforcement notice of final
disposition of all proceedings conducted pursuant to this

2 subchapter. The Bureau of Liquor and Tobacco Enforcement shall
3 maintain these records for not less than 5 years.

4 **§2635. Appeal from decision of Administrative Court**

6 **1. Aggrieved person may appeal within 30 days.** Any person
7 aggrieved by the decision of the Administrative Court in revoking
8 or suspending any license issued by the commission or by refusal
9 of the commission to issue any license applied for may, within 30
10 days of the decision or refusal, appeal to the Superior Court by
11 filing a complaint.

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

14 (1) In the case of a license revocation or suspension,
15 the effective date of the suspension or revocation; or

17 (2) In the case of refusal by the commission to issue
18 a license, the day when the commission sends notice of
19 refusal, by registered or certified mail, to the
20 applicant for a license.

22 **B. Filing the complaint in the Superior Court suspends the**
23 **running of the limitation period.**

26 **2. Suspension or revocation suspended pending appeal.** The
27 operation of a suspension or revocation of a license imposed by
28 the Administrative Court must be suspended, pending judgment of
29 the Superior Court, if the licensee files an appeal in the
30 Superior Court and notifies the Administrative Court that the
31 appeal has been filed within 7 days of the mailing of the
32 decision of the Administrative Court. Notice of the decision
33 must be sent by certified mail to the address given by the
34 licensee at the time of the application for a license.

36 **3. Superior Court hearing.** The Superior Court shall fix a
37 time and place for an immediate hearing and notify the
38 Administrative Court of the hearing.

40 **4. Superior Court decision.** After the hearing, the
41 Superior Court may affirm, modify or reverse the decision of the
42 Administrative Court.

44 **5. Further appeal.** An aggrieved person may appeal the
45 Superior Court decision to the Supreme Judicial Court. Upon
46 appeal, the Supreme Judicial Court may, after consideration,
47 reverse or modify any decree made by the Superior Court based
48 upon an erroneous ruling or finding of law.

50 **§2636. Repeal**

2 This chapter is repealed December 1, 1996.

4 **Sec. 16. Report.** The Department of Public Safety, Bureau of
6 Liquor and Tobacco Enforcement shall submit a report to the joint
8 standing committee of the Legislature having jurisdiction over
10 legal affairs by January 30, 1996 regarding the operation of the
 tobacco licensing laws, including the number of citations issued
 for violations of tobacco sales and licensing laws, and the
 actions taken and penalties imposed upon those violators.

12 **Sec. 17. Educational programs.** To the extent that funds are
14 available, the Department of Human Services, Bureau of Health
16 shall develop and implement programs to educate retailers,
18 schools, retail clerks, minors and the general public about the
20 laws relating to cigarette sales to minors and purchases by
 minors and the consequences of violating those laws. The Bureau
 of Health shall develop and implement these educational programs
 in cooperation with the Department of Public Safety, Bureau of
 Liquor and Tobacco Enforcement.

22 **Sec. 18. Maine Revised Statutes amended; Bureau of Liquor**
24 **Enforcement; revision clause.** Wherever in the Maine Revised
26 Statutes the words "Bureau of Liquor Enforcement" appear or
28 reference is made to those words, they are amended to read and
 mean "Bureau of Liquor and Tobacco Enforcement," and the Revisor
 of Statutes shall implement this revision when updating,
 publishing or republishing the statutes.

30 **Sec. 19. Maine Revised Statutes amended; Bureau of Alcoholic**
32 **Beverages; revision clause.** Wherever in the Maine Revised Statutes
34 the words "Bureau of Alcoholic Beverages" appear or reference is
36 made to those words, they are amended to read and mean "Bureau of
 Alcoholic Beverages and Tobacco Sales," and the Revisor of
 Statutes shall implement this revision when updating, publishing
 or republishing the statutes.

38 **Sec. 20. Maine Revised Statutes amended; liquor enforcement**
40 **officer; revision clause.** Wherever in the Maine Revised Statutes the
42 words "liquor enforcement officer" appear or reference is made to
44 those words, they are amended to read and mean "liquor and
 tobacco enforcement officer," and the Revisor of Statutes shall
 implement this revision when updating, publishing or republishing
 the statutes.

46

STATEMENT OF FACT

48

50 The bill requires that retail tobacco sellers obtain a
 license from the Bureau of Alcoholic Beverages and Tobacco

2 Sales. The bill imposes a licensing requirement on tobacco
3 distributors and wholesalers. The bill also repeals the
4 licensing requirements December 1, 1996 and requires the Bureau
5 of Liquor and Tobacco Enforcement to submit a report on the
6 operation of the licensing law to the joint standing committee
7 having jurisdiction over legal affairs by January 30, 1996.

8 The bill allows the sale of cigarettes through vending
9 machines, but requires the vending machines to be licensed, and
10 provides for revocation or suspension of the machine license if
11 cigarettes are sold to minors through the machine. The bill
12 imposes license fees on distributors, wholesalers and machine
13 operators, as well as on retail licensees, to help pay for
14 additional officers to enforce the liquor and tobacco laws. The
15 bill also prohibits the sale of cigarettes in vending machines if
16 the machine also sells products other than cigarettes. The
17 restrictions that apply to cigarettes apply also to other tobacco
18 products.

20 The bill provides a penalty for minors who misrepresent
21 their age by producing fraudulent identification in order to
22 purchase tobacco products. The penalty would be a warning, a
23 fine of between \$10 and \$50 or up to 10 hours of community
24 service.

26 The bill requires the Bureau of Health, which has recently
27 received federal money to aid in smoking prevention for minors,
28 to work with the Bureau of Liquor and Tobacco Enforcement to
29 develop programs to educate tobacco sellers, minors and the
30 general public about the laws prohibiting sale to and purchase by
31 minors and the consequences of violating those laws.
32