

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

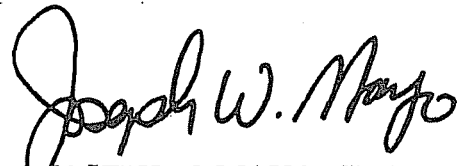
No. 793

H.P. 589

House of Representatives, March 4, 1993

An Act to Improve Local Control over Liquor Licensing.

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


JOSEPH W. MAYO, Clerk

Presented by Representative O'GARA of Westbrook.
Cosponsored by Senator CLEVELAND of Androscoggin and
Representatives: CROSS of Dover-Foxcroft, PLOURDE of Biddeford, Senators: BRANNIGAN
of Cumberland, HANDY of Androscoggin.

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

2
3 **Sec. 1. 28-A MRSA §754, sub-§1**, as enacted by PL 1987, c. 45,
4 Pt. A, § 4, is amended to read:

6 **1. Records open for inspection.** All records required to be
7 kept under this chapter are open for inspection to the
8 commission, its representatives ~~or~~, representatives of the Bureau
9 of Liquor Enforcement or representatives of the municipality in
10 which the license is approved at any time. The commission, its
11 representatives or representatives of the Bureau of Liquor
12 Enforcement may make copies of records which that may be used as
13 evidence of violation of this chapter.

14
15 **Sec. 2. 28-A MRSA §802, sub-§3**, as enacted by PL 1987, c. 45,
16 Pt. A, §4, is amended to read:

18 **3. Failure to maintain requirements.** Failure to have ~~and~~
19 maintain meet throughout the entire license period all of the
20 requirements of definitions, laws and rules necessary to qualify
21 for a license, including those related to municipal approval.

22 A. For this offense the Administrative Court Judge may
23 suspend licenses for an indefinite period of time until he
24 the Administrative Court Judge is satisfied that the
25 licensee has conformed to all qualifications required for
26 licensing.

28
29 **Sec. 3. 28-A MRSA §803, sub-§1**, as amended by PL 1987, c. 342,
30 §51, is further amended to read:

32 **1. Violation of law or rule.** Upon discovering a violation
33 of federal or state law, rule or regulation relating to liquor,
34 or an infraction of a rule issued by the commission, the Director
35 of the Bureau of Liquor Enforcement, ~~or~~ the director's designee,
36 or the municipal officers or their designee in the municipality
37 where the violation occurred, shall:

38 A. Report the violation to the Administrative Court Judge
39 in a signed complaint; or

42 B. Issue warnings to the licensees involved.

44 **Sec. 4. 28-A MRSA §807** is enacted to read:

46 **§807. Municipal authority**

48 **1. Municipal authority.** Sections 801 to 806
49 notwithstanding, a municipality may by ordinance authorize the
50 municipal officers, or their designee, to revoke or suspend
51 licenses approved by the municipality.

2 2. Limited power. The power to revoke or suspend conferred
4 by this section is limited to revocations or suspensions based on
 a violation of the standards or requirements in sections 653 and
 654 that justify a license denial.

6 3. Process. In revoking or suspending a license, the
8 municipal officers or their designee shall follow the process
 established in section 653.

10 4. Appeal to the commission. A municipal decision may be
12 appealed to the commission pursuant to section 653, subsection 3.

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

18 6. Term of suspension or revocation. Suspension may be for
20 a definite period or an indefinite period. Revocation must be
 for the time remaining on the license.

22 7. Effect of appeal to the commission on suspension or
24 revocation. A municipal decision to suspend or revoke a license
26 may not be suspended pending a final decision of the commission
28 on appeal unless the appellant deposits \$1,000 with the
30 commission at the time that the appeal is filed along with a
32 written request that the municipal decision be suspended pending
34 the commission's decision. If the municipal decision is upheld
 by the commission and if the commission concludes that the appeal
 has little or no merit and that it was primarily filed for the
 purpose of delaying the license suspension or revocation, the
 appellant forfeits the deposit and the deposit must be delivered
 by the commission to the municipality. If the municipal decision
 is overturned by the commission, the commission shall return the
 deposit to the appellant.

36 Sec. 5. 28-A MRSA §1063, sub-§2, as amended by PL 1987, c.
38 342, §88, is further amended to read:

40 2. Income from sale of food requirement. At least a
42 minimum amount of the gross annual income must be from the sale
44 of food for each Class A restaurant. ~~The income from sale of~~
46 ~~food requirement is based on the population of the municipality~~
 ~~in which the Class A restaurant is located~~ Class A restaurants
 must have at least 60% of their gross annual income from the sale
 of food to the public on their premises.

48 ~~At---In---municipalities---having---a---population---of---more---than~~
 ~~50,000---persons+~~

50 ~~(1)---Year-round-Class-A-restaurants-must-have-a-minimum~~
52 ~~gross-annual-income-of-\$50,000-per-year-from-the-sale~~
 ~~of-food-to-the-public-on-their-premises, and~~

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

4 (a)--Thirty thousand dollars from the sale of food
to the public on their premises as a requirement
6 for a part-time license not in excess of 6
consecutive months; and

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

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

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

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

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

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

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

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

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

46 D.--In municipalities having a population of not more than
48 20,000 persons:

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

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

STATEMENT OF FACT

The purpose of this bill is to improve public safety and health by improving municipal authority to monitor and control and sale of liquor. That authority is currently very limited under state law. Specifically the bill:

1. Redefines Class A restaurants by requiring that at least 60% of their gross annual income come from the sale of food to the public on their premises. Currently, the law sets a flat dollar amount for Class A restaurants, depending on the size of the municipality within which they are located;

2. Amends existing law by giving municipalities access to food and alcohol sales records maintained by establishments that service liquor. Currently, the authority is limited to the State Liquor Commission and its representatives;

3. Clarifies the existing law so that it is clear that if an individual or entity that has a liquor license violates any of the state law provisions that must be met in order to gain municipal approval that violation may be used to revoke the license;

4. Allows municipal officers or their designee to file a complaint with the Administrative Court regarding license violations. Currently, the authority is limited to the State Liquor Commission or the Director of the Bureau of Liquor Enforcement or the director's designee; and

5. Establishes a revocation process for use by municipalities that choose to enact local ordinances to provide for a local revocation.