

MAINE STATE LEGISLATURE

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LEGAL AFFAIRS

Reported by: Senator Handy of Androscoggin

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STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 614, L.D. 1712, Bill, "An Act to Clarify Liquor Licensing Authority"

Amend the bill by striking out the title and substituting the following:

'An Act to Clarify the Licensing Authority of the Department of Public Safety'

Further 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. 17 MRSA §332, sub-§1, as enacted by PL 1977, c. 350, §4, is amended to read:

1. Organizations eligible. Notwithstanding other provisions of law, the Chief of the State Police may issue a license to operate a game of chance to an agricultural society eligible for the state stipend under Title 7, section 62, or to a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization, or to a volunteer fire department or to an auxiliary of any of these organizations, any of which shall have been must be founded, chartered or organized in this State prior-to-its-application before applying for a license.

Sec. 2. 25 MRSA §3901, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §2, is repealed and the following enacted in its place:

COMMITTEE AMENDMENT

1 1. Bureau of Liquor Enforcement. The Department of Public
2 Safety, Bureau of Liquor Enforcement, as established in this
3 chapter, is responsible for the enforcement of liquor laws and
4 rules established governing the manufacture, importation,
5 storage, transportation and sale of all liquor.

6
7 **Sec. 3. 25 MRSA §3901, sub-§§2 and 3,** as enacted by PL 1987, c.
8 45, Pt. A, §2, are amended to read:

10 **2. Chief.** The Commissioner of Public Safety shall appoint
11 as ~~Director~~ chief of the bureau a person experienced in law
12 enforcement or enforcement of liquor laws, who may be removed for
13 cause by the commissioner.

14
15 A. The ~~director~~ chief, subject to the Civil Service Law,
16 may appoint as many liquor enforcement officers as ~~may be~~
17 ~~found~~ necessary. The liquor enforcement officers ~~shall be~~
18 are under the direct supervision and control of the ~~director~~
19 chief.

20
21 **3. Eligibility.** The ~~director~~ chief and the employees of
22 the bureau are subject to the same eligibility requirements of
23 Title 28-A, section 52.

24
25 **Sec. 4. 28-A MRSA §2, sub-§6,** as amended by PL 1993, c. 410,
26 Pt. ZZ, §1, is further amended to read:

28 **6. Bureau.** "Bureau" means the Bureau of Liquor
29 Enforcement, which includes the Liquor Licensing and Tax
30 Division, within the Department of Public Safety ~~and includes the~~
31 ~~functions of liquor licensing and taxation formerly under the~~
32 ~~Bureau of Alcoholic Beverages and Lottery Operations within the~~
33 ~~Department of Administrative and Financial Services.~~

34
35 **Sec. 5. 28-A MRSA §2, sub-§8-A** is enacted to read:

36
37 **8-A. Chief.** "Chief" means the Chief of the Bureau of
38 Liquor Enforcement.

40 **Sec. 6. 28-A MRSA §2, sub-§9,** as enacted by PL 1987, c. 45,
41 Pt. A, §4, is repealed.

42
43 **Sec. 7. 28-A MRSA §2, sub-§10-A,** as amended by PL 1993, c.
44 410, Pt. ZZ, §3, is repealed.

46 **Sec. 8. 28-A MRSA §2, sub-§§11-A and 13-A** are enacted to read:

48 **11-A. Farm winery.** "Farm winery" means a facility that is
49 fermenting, aging and bottling its own wine, not to exceed 50,000
50 gallons per year.

2 13-A. Law enforcement officer. "Law enforcement officer"
4 means any person who by virtue of public employment is vested by
6 law with a duty to maintain public order, to prosecute offenders,
8 to make arrests for crimes whether that duty extends to all
 crimes or is limited to specific crimes, to perform probation
 functions and to perform intensive supervision functions.

10 Sec. 9. 28-A MRSA §2, sub-§15, ¶B-2 is enacted to read:

12 B-2. Bed and breakfast. "Bed and breakfast" means a place
14 that advertises itself as a bed and breakfast where the
16 public for a fee may obtain overnight accommodations that
 include a sleeping room or rooms and at least one meal per
 day.

18 Sec. 10. 28-A MRSA §2, sub-§15-A is enacted to read:

20 15-A. Liquor Licensing and Tax Division. "Liquor Licensing
22 and Tax Division" means the Liquor Licensing and Tax Division
 within the Bureau of Liquor Enforcement.

24 Sec. 11. 28-A MRSA §2, sub-§17, as enacted by PL 1987, c. 45,
 Pt. A, §4, is repealed.

26 Sec. 12. 28-A MRSA §2, sub-§29, as enacted by PL 1987, c. 45,
28 Pt. A, §4, is amended to read:

30 29. Small brewery. "Small Maine brewery" means a facility
32 that is brewing, lagering and kegging, bottling or packaging its
 own malt liquor within the State, not to exceed 50,000 gallons
 per year.

34 Sec. 13. 28-A MRSA §3, as enacted by PL 1987, c. 45, Pt. A,
36 §4, is repealed and the following enacted in its place:

38 §3. Payments by check

40 1-A. Commission may accept payment by personal check. The
42 commission may accept payment by personal check from licensees
 for the purchase of liquor.

44 1-B. Liquor Licensing and Tax Division may accept checks.
46 The Liquor Licensing and Tax Division may accept checks for
 license fees, application fees, permits, excise taxes, premiums
 and any other fees authorized by this Title.

48 2. Checks not honored on presentation; consequences. If
50 any check is not honored on presentation by the State, the
 Bureau of Liquor Enforcement shall withhold the license if not
 issued, or immediately take back the license if issued, voiding

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2 it until the person who paid by personal check has paid all costs
3 of check failure. The commission or the division may order that
4 person to make all payments to the commission or to the division
5 only by cash, certified check or money order for a period not to
6 exceed one year.

8 **Sec. 14. 28-A MRSA §62, first ¶,** as enacted by PL 1987, c. 45,
9 Pt. A, §4, is amended to read:

10 The State Liquor Commission shall establish the policy and
11 rules concerning the administration and ~~enforcement~~ operation of
12 the state liquor laws stores. The commission has the following
13 powers:

14 **Sec. 15. 28-A MRSA §62, sub-§§2 to 4,** as enacted by PL 1987, c.
15 45, Pt. A, §4, are repealed.

16 **Sec. 16. 28-A MRSA §62, sub-§§5 and 6,** as enacted by PL 1987,
17 c. 45, Pt. A, §4, are amended to read:

18 **5. Spirits for sale.** To buy and have in its possession
19 spirits for sale to the public. The commission shall buy spirits
20 directly and not through the State Purchasing Agent. All spirits
21 must be free from adulteration and misbranding. ~~In purchases of~~
22 ~~liquor the commission shall give priority, wherever feasible, to~~
23 ~~these products manufactured or bottled in the State; and~~
24 and

25 **6. Sell at retail.** To sell at retail in state liquor
26 stores in original packages, either over the counter or by
27 shipment to points within the State, spirits of all kinds for
28 consumption off the premises at state liquor stores to be
29 operated under the direction of the commission.

30 **Sec. 17. 28-A MRSA §62, sub-§§7 to 10,** as enacted by PL 1987,
31 c. 45, Pt. A, §4, are repealed.

32 **Sec. 18. 28-A MRSA §62, sub-§11,** as amended by PL 1987, c.
33 769, Pt. A, §112, is repealed.

34 **Sec. 19. 28-A MRSA §62, sub-§12,** as enacted by PL 1987, c. 45,
35 Pt. A, §4, is repealed.

36 **Sec. 20. 28-A MRSA §62-A** is enacted to read:

37 **§62-A. Duties of the Bureau of Liquor Enforcement**

38 The bureau shall establish policies and rules concerning the
39 administration and the enforcement of the liquor laws. The
40 bureau shall:

41

1 1. General supervision. Supervise the manufacture,
2 importation, storage, transportation and sale of all liquor;

4 2. Rules. Adopt rules not inconsistent with this Title or
5 other laws of the State for the administration, clarification,
6 execution and enforcement of all laws concerning liquor and to
7 help prevent violations of those laws. The observance of these
8 rules is a condition precedent to the issuing or renewing of any
9 license to sell liquor. The rules adopted by the State Liquor
10 Commission prior to May 1, 1993 are adopted by the bureau;

12 3. Licensing. Issue and renew all licenses when provided
13 for by this Title and hold licensing hearings;

14 4. Prevent sale to minors and others. Prevent the sale of
15 liquor by licensees to minors and intoxicated persons;

18 5. Act as a review board. Act as a review board on all
19 appeals from the decisions of municipal officers. The bureau
20 shall appoint a hearings officer to conduct appeal hearings.
21 Except as provided in section 805, the decision of the chief is
22 final. The hearings officer for the bureau is the Director of
23 the Liquor Licensing and Tax Division.

24 The hearings officer may conduct hearings in any licensing matter
25 pending before the bureau. The hearings officer shall, after
26 holding the hearing, file with the bureau all papers connected
27 with the case and report the findings to the director. The
28 director shall render a final decision based upon the record of
29 the hearing.

32 The hearings officer may administer oaths and issue subpoenas for
33 witnesses and subpoenas duces tecum to compel the production of
34 books and papers relating to any license question in dispute
35 before the bureau or to any matter involved in a hearing.
36 Witness fees in all proceedings are the same as for witnesses
37 before the Superior Court and must be paid by the bureau, except
38 that, notwithstanding Title 16, section 253, the bureau is not
39 required to pay the fees before the travel and attendance occur;

40 6. Food servicing organizations. Adopt rules permitting
41 food servicing organizations that cater to passengers on
42 international flights and cruises to purchase wine and malt
43 liquor from wholesale outlets or distributors as long as the wine
44 and malt liquor are resold for consumption during international
45 travel. Food servicing organizations include ship chandlers as
46 long as the wine and malt liquor are resold to vessels of foreign
47 registry for consumption after those vessels have left port.
48 Food servicing organizations are not subject to section 2,
49 subsection 15; and

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7. Recommend revocation of licenses. Recommend to the Administrative Court that it suspend or revoke, in accordance with sections 802, 803 and 1503, any license issued pursuant to this Title or the rules adopted under this Title.

Sec. 21. 28-A MRSA §72-A, sub-§§1 and 6, as enacted by PL 1991, c. 376, §49, are repealed.

Sec. 22. 28-A MRSA §161, sub-§1-B, ¶A, as enacted by PL 1989, c. 816, §2, is amended to read:

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

Sec. 23. 28-A MRSA §161, sub-§1-B, ¶B, as enacted by PL 1989, c. 816, §2, is repealed.

Sec. 24. 28-A MRSA §161-A, as enacted by PL 1989, c. 816, §3, is repealed.

Sec. 25. 28-A MRSA §601, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

1. Eligibility qualifications. The commission bureau may not issue a license to an applicant unless that applicant meets the following qualifications.

A. If the applicant is an individual, he the applicant must be:

- (1) At least 21 years of age; and
- (2) A citizen of the United States; ~~and.~~
- ~~(3) A resident of the State if applying for a full-time license.~~

B. If the applicant is a partnership or association, all persons each person having an interest in the partnership or association must be:

- (1) At least 21 years of age; and
- (2) A citizen of the United States; ~~and.~~
- ~~(3) A resident of the State if applying for a full-time license.~~

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2 C. If the applicant is a corporation, it must be
incorporated under the laws of the State or authorized to
transact business in the State.

4
6 Sec. 26. 28-A MRSA §653, as amended by PL 1989, c. 592, §§3
and 4, is further amended to read:

8 **§653. Hearings; bureau review; appeal**

10 1. **Hearings.** The municipal officers or, in the case of
unincorporated places, the county commissioners of the county in
12 which the unincorporated place is located, shall hold a public
hearing for the consideration of applications for new on-premise
14 licenses and applications for transfer of location of existing
on-premise licenses. The municipal officers or county
16 commissioners may hold a public hearing for the consideration of
requests for renewal of licenses.

18 A. The ~~emmission~~ bureau shall prepare and supply
20 application forms.

22 B. The municipal officers or the county commissioners, as
the case may be, shall provide public notice of any hearing
24 held under this section by causing a notice, at the
applicant's prepaid expense, stating the name and place of
26 hearing, to appear on at least 6 consecutive days before the
date of hearing in a daily newspaper having general
28 circulation in the municipality where the premises are
located or on 2 consecutive weeks before the date of the
30 hearing in a weekly newspaper having general circulation in
the municipality where the premises are located.

32 2. **Findings.** In granting or denying an application, the
34 municipal officers or the county commissioners shall indicate the
reasons for their decision and provide a copy to the applicant.
36 A license may be denied on one or more of the following grounds:

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

40 B. Noncompliance of the licensed premises or its use with
42 any local zoning ordinance or other land use ordinance not
directly related to liquor control;

44 C. Conditions of record such as waste disposal violations,
46 health or safety violations or repeated parking or traffic
violations on or in the vicinity of the licensed premises
48 and caused by persons patronizing or employed by the
licensed premises or other such conditions caused by persons
50 patronizing or employed by the licensed premises which that

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unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

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

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601.

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the commission bureau. The commission bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the commission bureau may consider all of the licensure requirements for licensure and findings referred to in subsection 2.

A. If the decision appealed from ~~was-to-issue-the~~ is an issuance of license denial, the commission bureau may reverse the decision if it was arbitrary or based on an erroneous finding.

B. If the decision appealed from ~~was-to-deny-the~~ is an application denial, the commission bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

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

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Sec. 27. 28-A MRSA §704-A is enacted to read:

§704-A. Employment of law enforcement officers

A retail licensee may not employ a law enforcement officer for the purpose of serving or selling liquor.

Sec. 28. 28-A MRSA §705, sub-§5, as enacted by PL 1993, c. 266, §15, is repealed.

Sec. 29. 28-A MRSA §708, sub-§2, as repealed and replaced by PL 1987, c. 342, §44, is amended to read:

2. Wholesale licensees. No A wholesale licensee may not offer to retail licensees any special discounts, volume discounts, depletion allowances ~~or~~, other reduced prices or discounts, or refunds except bona fide price reductions under section 1408 offered to all retail licensees. No A wholesale licensee may offer any free merchandise, rebate, refund or gift contingent on the purchase of malt liquor ~~or~~ wine or low-alcohol spirits.

Sec. 30. 28-A MRSA §711, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

§711. Advertising strength of malt liquor

1. Illegal to advertise or label. No A licensee may not:

A. Issue, publish, post or cause to be issued, published or posted any advertisement of a malt liquor, ~~including a label which that~~ refers in any manner to the alcohol content of the malt liquor manufactured, sold or distributed by the licensee. This paragraph does not prohibit the inclusion of the alcoholic content of the malt liquor on the product label;

B. Use in any advertisement or label the words "full strength," "extra strength," "high test," "high proof," "prewar strength" or similar words or phrases ~~which would indicate or suggest level of alcohol content;~~ or

C. Use in any advertisement ~~or label~~ any numerals unless adequately explained in type of the same size, prominence and color.

2. Illegal to purchase, transport, sell or distribute. No A licensee may not purchase, transport, sell or distribute any malt liquor advertised or labeled contrary to this section.

Sec. 31. 28-A MRSA §714, sub-§2, as enacted by PL 1991, c. 543, is amended to read:

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2 **2. Right of sale and purchase.** The ~~commission~~ bureau may
4 not deny the wholesale and retail sale of malt liquor in a keg or
any fraction of a keg to a purchaser entitled to purchase malt
6 liquor.

8 **Sec. 32. 28-A MRSA §714, sub-§3, ¶¶A and B,** as amended by PL
1993, c. 266, §17, are further amended to read:

10 A. Every keg of malt liquor offered for sale by an
12 ~~off-premises~~ off-premise retail licensee must be tagged in a
manner and with a label ~~of a type~~ approved by the ~~Director~~
14 ~~of the Bureau of Liquor Enforcement~~ chief identifying the
keg. The tag must be supplied for each keg, without fee, by
16 the wholesaler or small brewer of the keg.

18 B. The retail seller of the keg shall complete a form
designed and approved by the ~~Director of the Bureau of~~
20 ~~Liquor Enforcement~~ chief and affix the label to each keg
supplied to the retail seller by the distributor of the
22 keg. The form must be printed and distributed, without fee,
by the wholesaler or small brewer of the keg. The form must
24 include the name, address and date of birth of the purchaser
and the identification number of the keg. The form must
26 summarize the requirements of this section, the penalties
for violating any provision of this section and the
28 penalties for providing alcohol to a minor. The seller
shall retain the form as a record subject to chapter 31.

30 **Sec. 33. 28-A MRSA §1004, sub-§3, ¶B-2** is enacted to read:

32 B-2. Bed and breakfasts:

34 **Sec. 34. 28-A MRSA §1005, sub-§3, ¶B-2** is enacted to read:

36 B-2. Bed and breakfasts:

38 **Sec. 35. 28-A MRSA §1006, sub-§3, ¶A,** as enacted by PL 1987,
c. 45, Pt. A, §4, is amended to read:

40 A. Clubs without catering privileges; and

42 **Sec. 36. 28-A MRSA §1006, sub-§3, ¶B** is enacted to read:

44 B. Bed and breakfasts.

46 **Sec. 37. 28-A MRSA §1052, sub-§1,** as amended by PL 1993, c.
48 260, §1, is further amended to read:

1. ~~Off-premise catering license for sale of liquor off-premise.~~ Class A restaurants, Class A lounges, Class A restaurant/lounges, hotels and clubs licensed to sell spirits, wine and malt liquor may apply for an additional license to conduct off-premises catering of spirits, wine and malt liquor at planned events or gatherings to be held at locations other than the licensee's premises under this section.

Sec. 38. 28-A MRSA §1061-A is enacted to read:

§1061-A. Bed and breakfasts

1. Issuance of licenses. The bureau may issue to a bed and breakfast, as defined in section 2, subsection 15, paragraph B-2, a license under this section for the sale of spirits, wine and malt liquor to be consumed on the premises.

2. Service restricted. The service of spirits, wine and malt liquor at a bed and breakfast is restricted to bona fide registered patrons of that bed and breakfast and the patrons' guests.

Sec. 39. 28-A MRSA §1063, sub-§§2 and 4, as amended by PL 1993, c. 410, Pt. ZZ, §18, are further amended to read:

2. Income from sale of food requirement. At least a minimum amount of the gross annual income must be from the sale of food for each Class A restaurant or Class A restaurant/lounge. The income from sale of food requirement is based on the population of the municipality in which the Class A restaurant or Class A restaurant/lounge is located. ~~For purposes of this section, "year-round" means operated for more than 6 months in a year.~~

A. In municipalities having a population of more than 50,000 persons:

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

~~(2) Part-time Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of:~~

~~(a) Thirty thousand dollars from the sale of food to the public on their premises if the Class A restaurant or Class A restaurant/lounge operates for more than 3 months but no more than 6 months in a year, and~~

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2 ~~(b)--Twenty-thousand-dollars-from-the-sale-of-feed~~
3 ~~to-the-public-on-their-premises-if-the-Class-A~~
4 ~~restaurant-or-Class-A-restaurant/lounge-operates~~
5 ~~for-no-more-than-3-months-in-any-year;~~

6
7 B. In municipalities having a population of more than
8 30,000 but not more than 50,000 persons:

9
10 (1) Year-round Class A restaurants or Class A
11 restaurant/lounges must have a minimum gross annual
12 income of \$40,000 per year from the sale of food to the
13 public on their premises; and

14 ~~(2)---Part-time---Class---A---restaurants---or---Class---A~~
15 ~~restaurant/lounges---must---have---a---minimum---gross---annual~~
16 ~~income-of;~~

17
18 ~~(a)--Twenty-five-thousand-dollars-from-the-sale-of~~
19 ~~feed--to--the--public--on--their--premises--as--a~~
20 ~~requirement-if-the-Class-A-restaurant-or-Class-A~~
21 ~~restaurant/lounge-operates-for-more-than-3-months~~
22 ~~and-no-more-than-6-months-in-a-year;-and~~

23
24 ~~(b)--Twenty-thousand-dollars-from-the-sale-of-feed~~
25 ~~to-the-public-on-their-premises-if-the-Class-A~~
26 ~~restaurant-or-Class-A-restaurant/lounge-operates~~
27 ~~for-no-more-than-3-months-in-a-year;~~

28
29 C. In municipalities having a population of more than
30 20,000, but not more than 30,000 persons:

31
32 (1) Year-round Class A restaurants or Class A
33 restaurant/lounges must have a minimum gross annual
34 income of \$30,000 per year from the sale of food to the
35 public on their premises; and

36
37 ~~(2)---Part-time---Class---A---restaurants---or---Class---A~~
38 ~~restaurant/lounges---must---have---a---minimum---gross---annual~~
39 ~~income-of-\$20,000-from-the-sale-of-feed-to-the-public~~
40 ~~on-their-premises-if-the-Class-A-restaurant-or-Class-A~~
41 ~~restaurant/lounge-operates-for-more-than-3-months-and~~
42 ~~no-more-than-6-months-in-a-year;-and~~

43
44 D. In municipalities having a population of not more than
45 20,000 persons:

46
47 (1) Year-round Class A restaurants or Class A
48 restaurant/lounges must have a minimum gross annual
49 income of \$20,000 per year in sale of food to the
50 public on their premises; and

~~(2)---Part-time---Class---A---restaurants---or---Class---A
restaurant/lounges---must---have---a---minimum---gross---annual
income---of---\$15,000---from---the---sale---of---food---to---the---public
on---their---premises---if---the---Class---A---restaurant---or---Class---A
restaurant/lounge---operates---for---no---more---than---6---months---in
a---year.~~

4. Licensee for renewal must show proof of meeting income requirement. The bureau may not renew any license for the sale of liquor under this subsection unless the licensee furnishes the bureau with proof that the previous year's business conformed to the income requirement of this subsection. The bureau shall prorate food requirements for licensees who operate during only part of an annual license period.

Sec. 40. 28-A MRSA §1065, sub-§3, as amended by PL 1987, c. 342, §89, is repealed.

Sec. 41. 28-A MRSA §1072, sub-§3, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

3. Exception to one-year requirement. Any veterans' organization in the State having a charter from a national veterans' organization is exempt from the one-year requirement of subsection 2, if it has been established for not less than 3 months.

Sec. 42. 28-A MRSA §1075, sub-§1, as amended by PL 1993, c. 410, Pt. ZZ, §19, is further amended to read:

1. Licenses. The bureau may issue one auxiliary license under this section for additional premises to any Class A restaurant or Class A restaurant/lounge licensee located at a ski area, lounge or any hotel licensee located at a ski area if the following requirements are met:

A. The additional premises are located at the same ski area where the Class A restaurant, Class A restaurant/lounge, lounge or hotel is licensed;

B. Food is for sale at the additional premises, although not necessarily prepared there;

C. The additional premises are properly equipped, including tables and chairs; and

D. The Department of Human Services licenses the additional premises.

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2 Sec. 43. 28-A MRSA §1355, as amended by PL 1993, c. 60, §1,
is further amended to read:

4 **§1355. Manufacturer licenses**

6 1. **Issuance of licenses.** The ~~commission~~ bureau may issue
7 manufacturer licenses to distill, rectify, brew or bottle
8 spirits, wine or malt liquor to distillers, rectifiers, brewers,
9 bottlers and wineries, as defined in section 2, operating under
10 federal law and federal supervision.

12 1-A. **Breweries.** The following provisions apply to the
13 manufacturer's license issued to a brewery, other than a small
14 Maine brewery licensed under subsection 2.

16 A. The holder of a brewery license may produce malt liquor
17 in an amount exceeding 50,000 gallons a year.

18 B. The holder of a brewery license may permit sampling of
19 the malt liquor product on the premises:

22 (1) By employees for the purpose of quality control of
23 the product;

24 (2) By wholesalers for the purpose of determining
25 whether to carry the brewery's product as a wholesale
26 product, provided that the holder of the brewery
27 license pays the excise tax on the product sampled
28 according to section 1652; and

30 (3) By the public in conjunction with a tour of the
31 brewery's facilities, provided that:

34 (a) The holder of the brewery license pays the
35 excise tax on the product sampled according to
36 section 1652; and

38 (b) Minors are not permitted to consume any
39 product with an alcohol content greater than 1/2
40 of 1%.

42 C. The holder of a brewery license may sell on the brewery
43 premises during regular business hours a specialty package
44 of malt liquor produced at the brewery, the volume of which
45 is not to exceed one gallon, to be consumed off the premises.

46 D. The holder of a brewery license may sell the brewery's
47 product to wholesalers.
48

2 E. The holder of a brewery license may be issued one
3 license under chapter 43 for the sale of liquor to be
4 consumed on the premises for a location other than the
5 brewery.

6 (1) The retail license must be held exclusively by the
7 holder of the brewery license.

8 (2) This retail license authorizes the sale of
9 products of the brewery, other than the specialty
10 package under paragraph C, in addition to other liquor
11 permitted to be sold under the retail license, to be
12 consumed on the premises.

13 (3) Notwithstanding section 1361, the brewery licensee
14 may sell products of the brewery directly to the retail
15 licensee under this paragraph without selling to a
16 wholesale licensee. The brewery licensee shall keep and
17 maintain complete records on all sales to the retail
18 licensee.

19 (4) All records of the brewery licensee shall must be
20 kept separate from the records of the retail licensee.

21
22 **2. Small breweries.** The following conditions apply to
23 licenses issued to small Maine breweries.

24
25 A. A holder of a small Maine brewery license may produce
26 malt liquor containing 25% or less alcohol by volume in an
27 amount not to exceed 50,000 gallons per year.

28
29 A-1. A holder of a small Maine brewery license may permit
30 sampling of the malt liquor product on the premises for the
31 following purposes.

32 (1) Employees may sample the product for the purpose
33 of quality control of the product.

34 (2) Wholesalers and retailers may sample the product
35 for the purpose of determining whether to carry the
36 product as a wholesale or retail product, provided that
37 the holder of the small Maine brewery license pays the
38 excise tax on the product sampled according to section
39 1652.

40 (3) The public may sample the product in conjunction
41 with a tour of the brewery's facilities, provided that:

42 (a) The holder of the small Maine brewery license
43 pays the excise tax on the product according to
44 section 1652; and
45

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2 (b) Minors are not permitted to consume any
3 product with an alcohol content greater than 1/2
4 of 1%.

6 B. A holder of a small Maine brewery license may sell, on
7 the premises during regular business hours, malt liquor
8 produced at the brewery by the bottle, by the case or in
9 bulk.

10 C. A holder of a small Maine brewery license may sell or
11 deliver the product to licensed retailers and wholesalers.
12 The licensee may sell, on the premises for consumption off
13 the premises, malt liquor produced at the brewery by the
14 bottle, case or in bulk to licensed retailers, including,
15 but not limited to, off-premise retail licensees,
16 restaurants and clubs.

18 D. A holder of a small Maine brewery license may apply for
19 one license for the sale of liquor to be consumed on the
20 premises for a location other than the brewery.

22 E. A holder of a small Maine brewery license may list on
23 product labels and in its advertising the list of the
24 ingredients and the product's average percentage of the
25 recommended daily allowances of nutritional requirements.

28 **3. Farm wineries.** The following conditions apply to Maine
29 farm wineries.

30 A. A holder of a Maine farm winery license may produce
31 wines and sparkling wines in an amount not to exceed 50,000
32 gallons a year.

34 B. A holder of a Maine farm winery license may serve
35 complimentary samples of wine and sell, during regular
36 business hours, wines produced at the winery by the bottle,
37 by the case or in bulk on the premises of the winery to
38 persons who are not minors. A holder of a Maine farm winery
39 license may serve complimentary samples of wine on Sunday
40 after the hour of 12 noon and may sell wines on Sunday after
41 the hour of 12 noon if the municipality in which the winery
42 is located has authorized the sale of wines on Sunday for
43 consumption off the premises under chapter 5.

46 C. A holder of a Maine farm winery license, upon
47 application to and approval of the commission and payment of
48 the license fee, may obtain a license for one additional
49 location other than the winery licensed under this
50 subsection. The holder of the license is not required to

2 conduct any bottling or production of wine at the 2nd
4 licensed location, but may conduct all activities which are
6 permitted by this section at the winery.

8 D. A holder of a Maine farm winery license may sell or
10 deliver the product to licensed retailers and wholesalers,
12 and may sell, on the premises, wine produced at the winery
14 by the bottle, by the case or in bulk to licensed retailers,
16 including, but not limited to, off-premise retail licensees,
18 restaurants and clubs.

20 **Sec. 44. 28-A MRSA §2075, sub-§§1, 2 and 3, as enacted by PL**
22 **1987, c. 45, Pt. A, §4, are amended to read:**

24 **1. Only the bureau may import spirits; exception.** Except
26 as provided in this section, no person other than the ~~commission~~
28 bureau may import spirits into the State.

30 A. An individual may transport into the State and may
32 transport from place to place within the State spirits for
34 his the individual's personal use in a quantity not greater
36 than 4 quarts.

38 **2. Transportation of spirits within the State.** No person
40 may transport or cause to be transported any spirits within the
42 State in a quantity greater than 4 quarts unless the spirits were
44 purchased from a state or agency liquor store.

46 **3. Importation and transportation of spirits for special**
48 **purposes.** The ~~commission~~ bureau may, in writing, permit and
50 authorize the importation of spirits into the State and the
transportation of spirits from place to place within the State to
the following destinations for the specified purposes:

A. To industrial establishments for use as an ingredient in
the manufacture of food products, or for use as an
ingredient in the manufacture of commodities which that by
reason of their nature ~~cannot~~ can not be used for beverage
purposes, or for use in the manufacture of commodities unfit
for beverage purposes;

B. To licensed distillers and manufacturers of spirits in
the State for use as an ingredient in distilling or
manufacturing spirits and other spirituous products which
that are authorized by ~~Federal--Regulations~~ 27, Code of
Federal Regulations; and

C. To churches or to the pastor of any church for
sacramental purposes or similar religious rites.

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2 **Sec. 45. 28-A MRSA §2075, sub-§4**, as amended by PL 1993, c.
266, §25, is further amended to read:

4 **4. Penalties.** Any A person who illegally imports ~~up-to-5~~
6 less than 10 gallons of spirits or causes ~~up-to-5~~ less than 10
gallons of spirits to be shipped into the State commits a civil
8 violation for which a forfeiture not to exceed \$500 must be
adjudged. Any A person who illegally imports ~~6~~ 10 or more
10 gallons of spirits or causes ~~6~~ 10 or more gallons of spirits to
be shipped into the State commits a Class E crime.

12 **Sec. 46. 28-A MRSA §2077, sub-§1**, as amended by PL 1987, c.
14 342, §121, is further amended to read:

16 **1. Importation of malt liquor or wine into the State.** No
person other than a wholesale licensee, small brewery licensee or
18 farm winery licensee may transport or cause to be transported
malt liquor or wine into the State in a quantity greater than 3
20 gallons for malt liquor and 4 quarts for wine, unless it was
legally purchased in the State.

22 A. All shipments of malt liquor or wine transported or
caused to be transported by wholesale licensees, small
24 brewery licensees or farm winery licensees into the State
must be accompanied by an invoice, including the wholesale
26 licensee's, small brewery licensee's or farm winery
licensee's name and purchase number.

28 **Sec. 47. 28-A MRSA §2077, sub-§4**, as amended by PL 1993, c.
30 266, §27, is further amended to read:

32 **4. Penalties.** Any person who illegally transports ~~up-to-5~~
34 less than 10 gallons of wine or ~~up-to-9~~ less than 10 gallons of
malt liquor into or within the State commits a civil violation
36 for which a forfeiture not to exceed \$500 must be adjudged. Any
person who illegally transports ~~6~~ 10 or more gallons of wine or
38 10 or more gallons of malt liquor into or within the State
commits a Class E crime.

40 **Sec. 48. 28-A MRSA §2230** is enacted to read:

42 §2230. Abandonment of liquor

44 The following provisions govern the procedures for handling
abandoned liquor.

46 **1. Bureau as repository.** Notwithstanding any other
48 provisions of law, the bureau acts as a repository for all liquor
found abandoned in this State.

2 2. Procedure. A law enforcement agency that takes custody
of abandoned liquor shall:

4 A. Notify the bureau that the agency has taken custody of
the abandoned liquor and forward to the bureau the reason
6 for taking custody and a complete list of the quantities and
types of liquor in the agency's custody the day the law
8 enforcement agency takes custody or the next regular
business day; and

10 B. Secure the liquor for a period of 30 days, after which
time the agency shall transfer the liquor to the bureau.
12 The bureau shall dispose of any malt liquor or wine and
14 shall transfer any spirits to the commission for sale at
state liquor stores.

16 3. Filing a claim. A person who wishes to file a claim for
abandoned liquor must notify the bureau in writing within the
18 30-day period prescribed in subsection 2, paragraph B and
20 identify the abandoned liquor. If a claim is not made within the
30-day period, the abandoned liquor becomes the property of the
22 State.

24 **Sec. 49. 28-A MRSA §2519, sub-§§6 and 7, as enacted by PL 1993,**
c. 266, §36, are amended to read:

26 **6. Instructor training.** Each instructor providing
28 instruction in an approved alcohol server education course shall
biennially attend a seminar on the liquor laws of the State
30 provided by an employee of the Bureau of Liquor Enforcement.
There is a \$5 fee for the seminar to offset expenses incurred in
32 carrying out this subsection. The instructor of each seminar
course provided shall supply the Bureau of Liquor Enforcement
34 with the name, address and telephone number of each attendant.

36 **7. Course accountability.** ~~The Director of the Bureau of~~
~~Liquor Enforcement~~ chief may appoint an employee of the bureau to
38 monitor each alcohol server education course to ensure that the
course presents proper training and meets the approved criteria.
40 The Bureau of Liquor Enforcement shall maintain a record of the
participants who have completed an alcohol server training
42 course. Each instructor of an approved course shall provide the
~~Director of the Bureau of Liquor Enforcement~~ chief with the
44 names, addresses, dates of birth and social security numbers of
students who complete the course and the date of completion. The
46 instructors shall forward \$3 of the \$28 enrollment fee to the
Bureau of Liquor Enforcement for every name submitted. The
48 amounts collected must be retained by the Bureau of Liquor
Enforcement to cover costs incurred in carrying out this
50 subsection.

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Sec. 50. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1994-95

**PUBLIC SAFETY, DEPARTMENT OF
Liquor Enforcement**

All Other \$25,000

Provides for the appropriation of funds for a computer system up-grade of hardware and software to improve liquor license tracking.'

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

FISCAL NOTE

1994-95

APPROPRIATIONS/ALLOCATIONS

General Fund \$25,000

REVENUES

General Fund \$95,420

Allowing "bed and breakfasts" to obtain liquor licenses will increase General Fund revenue by \$95,420 in fiscal year 1994-95. This estimate is based on approximately 260 "bed and breakfasts" obtaining liquor licenses.

This bill includes a General Fund appropriation of \$25,000 in fiscal year 1994-95 to the Bureau of Liquor Enforcement for a computer system up-grade of hardware and software to improve liquor license tracking.

This bill reduces the penalty for certain offenses from a Class E crime to a civil violation. The county jail system will realize some savings. Sentences imposed for Class E offenses must be served in a county jail. Civil violations involve no jail time. The average cost per sentence for a Class E crime is \$4,685 based upon an average length of stay of 67 days. The additional costs to the counties for the housing of each offender sentenced under this new crime are not reimbursed by the State.'

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STATEMENT OF FACT

This amendment replaces the original bill and does the following.

1. It allows auxiliaries of agricultural societies; nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organizations; or volunteer fire departments to apply for a license to operate a game of chance.

2. It amends the liquor laws to further comply with the transfer of the liquor licensing authority and corresponding responsibilities from the Bureau of Alcoholic Beverages to the Bureau of Liquor Enforcement within the Department of Public Safety.

3. It defines and allows a "bed and breakfast" to obtain a liquor license to sell malt liquor, wine or spirits to registered patrons of the bed and breakfast or the patrons' guests.

4. It prohibits law enforcement officers from working for retail licensees.

5. It strikes language dealing with sale-of-food requirements for part-time liquor licensees since part-time licenses no longer exist.

6. It allows the Bureau of Liquor Enforcement to prorate food sale requirements for licensees who operate during only part of an annual license period.

7. It exempts any nationally chartered organization in the State from satisfying the one-year requirement in order to apply for a club liquor license if the organization has been established for at least 3 months.

8. It eliminates language referring to Maine in law dealing with small breweries and farm wineries in order to comply with the General Agreement on Tariffs and Trade, or GATT.

9. It increases the quantities of liquor in law dealing with the illegal importation and transportation of malt liquor, wine and spirits.

10. It establishes a procedure for handling abandoned liquor.

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COMMITTEE AMENDMENT "A" to S.P. 614, L.D. 1712

2 11. It makes clarifications in the instructor training and
4 course accountability provisions of the alcohol server training
 laws.

6 12. It adds an appropriation section and a fiscal note to
8 the bill that includes an appropriation to the Department of
10 Public Safety for the purpose of upgrading the department's
 licensing division computer system so that the system can handle
12 the tracking of all liquor licenses. It also conforms existing
 law to current drafting standards.