

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

SECOND REGULAR SESSION-1994

Legislative Document

No. 1712

S.P. 614

In Senate, January 11, 1994

An Act to Clarify Liquor Licensing Authority.

Submitted by the Department of Public Safety pursuant to Joint Rule 24.
Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HALL of Piscataquis.
Cosponsored by Senator: SUMMERS of Cumberland, Representatives: CLARK of Millinocket,
KERR of Old Orchard Beach, STEVENS of Sabattus, TRUE of Fryeburg.

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

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

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 A, §2, is repealed and the following enacted in its place:

1. Bureau of Liquor Enforcement. The Department of Public Safety, Bureau of Liquor Enforcement, as created in this chapter, is responsible for the enforcement of liquor laws and the rules established for governing the manufacturing, importing, storing, transporting and sale of all liquor.

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

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

Sec. 3. 28-A MRSA §2, sub-§9, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

Sec. 4. 28-A MRSA §2, sub-§§11-A and 13-A are enacted to read:

11-A. Liquor Licensing and Tax Division. "Liquor Licensing and Tax Division" means the Liquor Licensing and Tax Division within the Bureau of Liquor Enforcement.

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

Sec. 5. 28-A MRSA §3, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

Sec. 6. 28-A MRSA §3, sub-§§1-A and 1-B are enacted to read:

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

1-B. Liquor Licensing and Tax Division may accept checks. The Liquor Licensing and Tax Division may accept checks for

2 license fees, application fees, permits, excise taxes, premiums
and other fees authorized by this Title.

4 Sec. 7. 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~~ operation of
the state liquor laws stores. The commission has the following
10 powers:

12 Sec. 8. 28-A MRSA §62, sub-§§2 and 3, as enacted by PL 1987, c.
45, Pt. A, §4, are repealed.

14 Sec. 9. 28-A MRSA §62, sub-§6, as enacted by PL 1987, c. 45,
16 Pt. A, §4, is amended to read:

18 6. **Sell at retail.** To sell at retail in state liquor
20 stores in original packages, either over the counter or by
shipment to points within the State, spirits of all kinds for
22 consumption off the premises at state liquor stores to be
operated under the direction of the commission; and

24 Sec. 10. 28-A MRSA §62, sub-§§7 to 9, as enacted by PL 1987, c.
45, Pt. A, §4, are repealed.

26 Sec. 11. 28-A MRSA §62, sub-§10, as enacted by PL 1987, c. 45,
28 Pt. A, §4, is amended to read:

30 10. **Hearings.** An individual member of the commission may
32 conduct hearings in any matter pending before the commission. He
shall, after holding the hearing, file with the commission all
34 papers connected with the case, a transcript of all the testimony
and a report of his findings. The commission shall review the
36 evidence and examine all papers and the findings of the
individual member of the commission before rendering its
decision~~†~~.

38 Sec. 12. 28-A MRSA §62, sub-§11, as amended by PL 1987, c.
40 769, Pt. A, §112, is repealed.

42 Sec. 13. 28-A MRSA §62, sub-§12, as enacted by PL 1987, c. 45,
Pt. A, §4, is repealed.

44 Sec. 14. 28-A MRSA §62-A is enacted to read:

46 **§62-A. Duties of the Bureau of Liquor Enforcement**
48

2 The bureau shall establish policy and rules concerning the
3 administration and the enforcement of the liquor laws. The
4 bureau shall:

5 1. General supervision. Supervise the manufacturing,
6 importing, sorting, transportation and sale of all liquor;

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

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

16 4. Prevent sale to minors and others. Prevent the sale of
17 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 hearing officer to conduct appeal hearings.
21 Except as provided in section 805, the decision of the director
22 is 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.

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

38 6. Food servicing organizations. Adopt rules permitting
39 food servicing organizations catering to passengers on
40 international flights to purchase wine and malt liquor from
41 wholesale outlets or distributors, as long as the wine and malt
42 liquor are resold for consumption during international travel.
43 Food servicing organizations include ship chandlers, provided
44 the sale of liquor is for consumption on board the vessel.

2 that the wine and malt liquor are resold to vessels of foreign
3 registry for consumption after those vessels have left port.
4 Food servicing organizations are not subject to section 2,
5 subsection 15; and

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

10
11 **Sec. 15. 28-A MRSA §72-A, sub-§§1 and 6,** as enacted by PL
12 1991, c. 376, §49, are repealed.

13
14 **Sec. 16. 28-A MRSA §161-A,** as enacted by PL 1989, c. 816,
15 §3, is repealed.

16
17 **Sec. 17. 28-A MRSA §601, sub-§1, ¶¶A and B,** as enacted by PL
18 1987, c. 45, Pt. A §4, are amended to read:

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

21 (1) At least 21 years of age; and

22 (2) A citizen of the United States; and.

23 (3) ~~A resident of the State if applying for a~~
24 ~~full-time license.~~

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

28 (1) At least 21 years of age; and

29 (2) A citizen of the United States; and.

30 (3) ~~A resident of the State if applying for a~~
31 ~~full-time license.~~

32
33 **Sec. 18. 28-A MRSA §653, sub-§5,** as enacted by PL 1987, c. 45,
34 Pt. A, §4, is amended to read:

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

39
40 **Sec. 19. 28-A MRSA §704-A** is enacted to read:

2
3 **§704-A. Employment of law enforcement officers**

4 **1. Employment prohibited.** A retail licensee or licensee
5 for the sale of liquor to be consumed on licensed premises may
6 not employ a law enforcement officer for the purpose of serving
7 or selling liquor.

8 **Sec. 20. 28-A MRSA §1052, sub-§1,** as amended by PL 1993, c.
9 260, §1, is further amended to read:

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

17 **Sec. 21. 28-A MRSA §1065, sub-§3,** as amended by PL 1987, c.
18 342, §89, is repealed.

19 **Sec. 22. 28-A MRSA §1075, sub-§1,** as amended by PL 1993, c.
20 410, Pt. ZZ, §19, is further amended to read:

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

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

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

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

33 **D.** The Department of Human Services licenses the additional
34 premises.

35 **Sec. 23. 28-A MRSA §2075, sub-§4,** as amended by PL 1993, c.
36 266, §25, is repealed and the following enacted in its place:

37 **4. Penalties.** A person who illegally imports or transports
38 from place to place within the State less than 6 gallons of
39 spirits or who illegally causes less than 6 gallons of spirits to
40 be shipped into the State commits a civil violation for which a
41 penalty of not more than \$1000 shall be imposed.

2 forfeiture not to exceed \$500 must be adjudged. A person who
3 illegally imports or transports from place to place within the
4 State 6 or more gallons of spirits or who illegally causes 6 or
5 more gallons of spirits to be shipped into the State commits a
6 Class E crime.

8 **STATEMENT OF FACT**

10 This bill completes the transfer of liquor licensing with
11 corresponding responsibilities from the Bureau of Alcoholic
12 Beverages to the Bureau of Liquor Enforcement within the
13 Department of Public Safety.

14
15
16
17
18
19
20 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.