

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1692

S.P. 650

In Senate, January 11, 1996

An Act to Improve Local Control over Liquor Licensing.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator RAND of Cumberland.
Cosponsored by Senators: ABROMSON of Cumberland, AMERO of Cumberland,
Representatives: BOUFFARD of Lewiston, DAGGETT of Augusta, MITCHELL of Portland,
MURPHY of Berwick, POULIOT of Lewiston, RICKER of Lewiston, TOWNSEND of
Portland.

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

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Sec. 1. 28-A MRSA §653, sub-§1, as amended by PL 1995, c. 140, §§4 and 5, is further amended to read:

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses or to consider the suspension of licenses, except that, for a request for renewal of a license, when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license

2 applied for, the bureau shall notify the applicant of that
3 fact in writing. The bureau shall give the applicant 30
4 days to file an amended application for the appropriate
5 class of license, accompanied by any additional license fee,
6 with the municipal officers or county commissioners, as the
7 case may be. If the applicant fails to file an amended
8 application within 30 days, the original application must be
9 denied by the bureau. The bureau shall notify the applicant
10 in writing of its decision to deny the application including
11 the reasons for the denial and the rights of appeal of the
12 applicant.

13 **Sec. 2. 28-A MRS §653, sub-§2**, as amended by PL 1993, c. 730,
14 §27, is further amended to read:

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

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

24 B. Noncompliance of the licensed premises or its use with
25 any local zoning ordinance or other land use ordinance ~~not~~
26 ~~directly-related-to-liquor-control~~;

27 C. Conditions of record such as waste disposal violations,
28 health or safety violations or repeated parking or traffic
29 violations on or in the vicinity of the licensed premises
30 and caused by persons patronizing or employed by the
31 licensed premises or other such conditions caused by persons
32 patronizing or employed by the licensed premises that
33 unreasonably disturb, interfere with or affect the ability
34 of persons or businesses residing or located in the vicinity
35 of the licensed premises to use their property in a
36 reasonable manner;

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

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

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

2 **Sec. 3. 28-A MRSA §653, sub-§3, ¶B**, as amended by PL 1993, c.
3 730, §27, is further amended to read:

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5 B. If the decision appealed from is an application denial
6 or a license suspension, the bureau may issue the license
7 only if it finds by clear and convincing evidence that the
8 decision was without justifiable cause.

10 **Sec. 4. 28-A MRSA §654, sub-§1**, as enacted by PL 1987, c. 45,
11 Pt. A, §4, is amended to read:

12 **1. Character; location; operation of business.** In issuing
13 ~~or~~, renewing or suspending licenses, the commission, the
14 municipal officers or the county commissioners, as the case may
15 be, shall give consideration to:

18 A. The character of any applicant;

20 B. The location of the place of business;

22 C. The manner in which it has been operated; and

24 D. Whether the operation has endangered the safety of
25 persons in or on areas surrounding the place of business.

26 **Sec. 5. 28-A MRSA §754, sub-§1**, as enacted by PL 1987, c. 45,
27 Pt. A, §4, is amended to read:

30 **1. Records open for inspection.** All records required to be
31 kept under this chapter are open for inspection to the
32 commission, its representatives or representatives of the Bureau
33 of Liquor Enforcement at any time. With prior written approval
34 from the Bureau of Liquor Enforcement and subject to conditions
35 that the Director of the Bureau of Liquor Enforcement determines
36 advisable, records pertaining to a licensee that are required to
37 be kept under this chapter are open for inspection to
38 representatives of the municipality in which the license is
39 approved. Municipal access is limited to those records necessary
40 to determine the licensee's compliance with licensing
41 requirements. The commission, its representatives or
42 representatives of the Bureau of Liquor Enforcement may make
43 copies of records which that may be used as evidence of violation
44 of this chapter.

46 **Sec. 6. Report.** By May 1, 1987, the Bureau of Alcoholic
47 Beverages and Lottery Operations shall study the impact of
48 increased control by local governments in the process of awarding
49 and suspending liquor licenses and the enforcement of the liquor
50 laws and report its findings to the joint standing committee of
the Legislature having jurisdiction over legal affairs.

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STATEMENT OF FACT

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6 This bill allows municipalities to hold hearings for
consideration of requests for renewal of liquor licenses and also
8 for consideration of the suspension of liquor licenses. If a
municipality suspends a liquor license, it must indicate its
10 reasons for suspending the license and provide the licensee with
a copy of the findings.

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The bill also permits municipalities to deny or suspend a
14 license for noncompliance with any local zoning ordinance or land
use ordinance.

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The bill also gives municipalities access to records of
18 establishments that sell liquor, with approval from the Bureau of
Liquor Enforcement, for the purpose of investigating compliance
with licensing requirements.