

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 363

H.P. 259

House of Representatives, January 14, 1999

**An Act to Reduce Operating Under the Influence by Requiring  
Certification of On-premise Alcohol Servers.**

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative McALEVEY of Waterboro.  
Cosponsored by Senator O'GARA of Cumberland and  
Representatives: GAGNE of Buckfield, LABRECQUE of Gorham, LOVETT of Scarborough,  
MAYO of Bath, O'BRIEN of Augusta, USHER of Westbrook, WHEELER of Bridgewater,  
WHEELER of Eliot.

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

4           **Sec. 1. 28-A MRSA §2514-A** is enacted to read:

6           **§2514-A. Server certification**

8           **1. Certification required.** The following certification requirements apply.

10           A. An on-premise server who works in an establishment licensed under chapter 43 shall complete, within one year of employment as a server, an alcohol server education course that is certified by the commissioner.

12           B. A seasonal on-premise server who works in an establishment licensed under chapter 43 shall complete, within 2 years of employment as a server, an alcohol server education course that is certified by the commissioner.

14           **2. Waiver.** The commissioner may grant temporary waivers for certification to on-premise servers if a certified alcohol server education course is not available.

16           **Sec. 2. 28-A MRSA §2515, sub-§1, ¶A**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

18           A. The server's and server's employees attendance--at completion of a certified server education training course; and

20           **Sec. 3. 28-A MRSA §2519**, as amended by PL 1997, c. 373, §§166 to 169, is further amended by repealing and replacing the headnote to read:

22           **§2519. Certification of alcohol server education courses**

24           **Sec. 4. 28-A MRSA §2519, sub-§1**, as amended by PL 1997, c. 373, §166, is further amended to read:

26           **1. Certification of alcohol server education courses.** The commissioner shall ~~approve~~ certify alcohol server education courses for a period of 2 years that meet the criteria developed under this section. The commissioner may renew ~~approval~~ certification provided the course meets the criteria applicable at the time of renewal.

28           Course providers may request renewal by submitting current course material at least 60 days prior to the date of expiration.

2           **Sec. 5. 28-A MRSA §2519, sub-§3**, as enacted by PL 1987, c. 45,  
Pt. A, §4, is amended to read:

4           **3. Advisory committee; course criteria.** The advisory  
committee shall determine specific criteria ~~which~~ that an alcohol  
6 server education course must contain to receive ~~approval~~  
certification. The specific criteria shall must be based on and  
8 include the following.

10           A. The instructors of the program must possess the relevant  
skills to provide instruction.

12           B. The course ~~provides~~ must provide instruction and the  
14 development of skills in the following subject matters:

16                   (1) Identification of intoxicated individuals and  
minors;

18                   (2) Intervention to prevent excessive consumption of  
20 alcohol by such methods as serving food and encouraging  
the consumption of nonalcoholic beverages;

22                   (3) Making consumers aware of their condition and  
24 their responsibility for driving in an intoxicated  
condition and providing alternate transportation when  
26 available;

28                   (4) Knowledge of state laws relating to the sale and  
distribution of alcohol and the legal responsibilities  
30 of servers and consumers;

32                   (5) Knowledge of the effect of alcohol by volume and  
timing of intake in relation to an individual's weight;

34                   (6) Examination of proof of age identification and  
36 methods of detecting false or altered age  
identification documents;

38                   (7) Policies and practices to prevent the sale or  
40 service of alcohol to minors and visibly intoxicated  
individuals; and

42                   (8) The effects of alcohol on the human body,  
44 including the disease concept of alcoholism.

46           C. Participants ~~are~~ must be evaluated before taking the  
course and after completion of the course.

48           D. Participants who successfully complete the course and  
50 the final evaluation ~~are~~ must be awarded certificates

2 recognizing that they have successfully completed an  
3 approved a certified alcohol server education course.

4 **Sec. 6. 28-A MRSA §2519, sub-§4**, as enacted by PL 1987, c. 45,  
5 Pt. A, §4, is amended to read:

6  
7 **4. Advisory committee; review and recommendation.** The  
8 advisory committee shall review each alcohol server education  
9 course submitted to the commissioner and recommend that the  
10 commissioner either approve certify or not approve certify the  
11 course based on whether the course meets the criteria the  
12 advisory committee developed under subsection 3.

13 **Sec. 7. 28-A MRSA §2519, sub-§§6 and 7**, as amended by PL 1997,  
14 c. 373, §168, are further amended to read:

15  
16 **6. Instructor training.** Each instructor providing  
17 instruction in an-approved a certified alcohol server education  
18 course must be certified by the bureau. To receive  
19 certification, an instructor shall biennially attend a seminar on  
20 the liquor laws of the State provided by an employee of the  
21 bureau. There is a \$5 fee for the seminar to offset expenses  
22 incurred in carrying out this subsection. The instructor of each  
23 course provided shall supply the bureau with the name, address  
24 and telephone number of each attendant.

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26 **7. Course accountability.** The chief may appoint an  
27 employee of the bureau to monitor each alcohol server education  
28 course to ensure that the course presents proper training and  
29 meets the approved criteria. The bureau shall maintain a record  
30 of the participants who have completed an a certified alcohol  
31 server training course. Each instructor of an-approved certified  
32 course shall provide the chief with the names, addresses, dates  
33 of birth and social security numbers of students who complete the  
34 course and the date of completion. The instructors shall forward  
35 \$3 of the enrollment fee to the bureau for every name submitted.  
36 The amounts collected must be retained by the bureau to cover  
37 costs incurred in carrying out this subsection.

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39 **Sec. 8. 28-A MRSA §2519, sub-§8**, as amended by PL 1997, c.  
40 373, §169, is further amended to read:

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42 **8. Alcohol server education courses; approval; suspension;  
43 revocation.** The commissioner may refuse to issue or renew  
44 approval certification for an alcohol server education course.  
45 The commissioner may suspend or revoke approval certification for  
46 an alcohol server education course upon the recommendation of the  
47 advisory committee after reviewing ~~the~~ a report of the monitor.  
48 The following are grounds for an action to refuse to issue or

2 renew approval certification or to suspend or revoke approval  
3 certification.

4 A. The advisory committee finds that an alcohol server  
5 education course does not meet the criteria listed in  
6 subsection 3 or specific criteria determined by the  
7 committee.

8 B. The course, when presented, does not follow specific  
9 criteria determined by the advisory committee before  
10 issuance of approval certification.

11 C. The instructor of the course does not provide  
12 information or access to the monitor as required by  
13 subsection 7.

14 D. Fraud or deceit is used to obtain course approval or in  
15 providing the course or issuing certificates.

16 A person aggrieved by a decision of the commissioner to refuse to  
17 issue or renew approval certification or to suspend or revoke  
18 approval certification for an alcohol server education course  
19 may, within 30 days of receipt of that decision, appeal the  
20 decision to the Administrative Court.

21 **Sec. 9. 28-A MRSA §2521 is enacted to read:**

22 **§2521. Employment of uncertified alcohol server; prohibited**  
23 **conduct**

24 **1. Prohibited conduct.** A licensee under chapter 43 may not  
25 continue to employ:

26 **A. An on-premise alcohol server who, after one year of**  
27 **employment, is not certified under section 2514-A; or**

28 **B. A seasonal on-premise alcohol server who, after 2 years**  
29 **of employment, is not certified under section 2514-A.**

30 **2. Jurisdiction.** Pursuant to section 801, the  
31 Administrative Court has jurisdiction over violations of this  
32 section.

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**SUMMARY**

This bill requires all on-premise alcohol servers to  
complete a certified alcohol server education course. Alcohol  
server education courses must be certified by the Commissioner of  
Public Safety. Instructors who teach alcohol server education

courses must be certified by the Bureau of Liquor Enforcement.  
2 The bill also prohibits licensees who serve liquor on the  
premises from employing servers who have not completed a  
4 certified alcohol server education course.