

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 85

S.P. 34

In Senate, January 11, 2017

**An Act To Establish a Public Service Berthing Vessel License for the
Sale of Liquor**

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator MIRAMANT of Knox.
Cosponsored by Representative KUMIEGA of Deer Isle and
Senators: BELLOWS of Kennebec, JACKSON of Aroostook, Representatives: AUSTIN of
Gray, HAWKE of Boothbay Harbor, KORNFIELD of Bangor, PIERCE of Dresden.

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

2 **Sec. 1. 28-A MRSA §2, sub-§12-B** is enacted to read:

3 **12-B. In port or docked.** "In port or docked" means, in reference to a public service
4 berthing vessel, that the vessel is tied up to the original berth, mooring or dock from
5 which the public service berthing vessel embarked upon its voyage or any other berth,
6 mooring or dock located in the same coastal port in the State or inland waters in the State
7 from which the public service berthing vessel embarked upon its voyage.

8 **Sec. 2. 28-A MRSA §2, sub-§15, ¶W** is enacted to read:

9 W. "Public service berthing vessel" means any ship, vessel or boat of any kind used
10 for navigation of the coastal waters of the State or for commercial navigation of
11 inland waters of the State and licensed to carry not fewer than 6 passengers under the
12 requirements of the Public Utilities Commission or the United States Coast Guard
13 with overnight berthing capacity for all passengers and in which one or more meals
14 are prepared and served to passengers on board the vessel daily, and that regularly
15 leaves the vessel's home port for overnight voyages of at least one night.

16 **Sec. 3. 28-A MRSA §2, sub-§16-B** is enacted to read:

17 **16-B. Leaving port.** "Leaving port" means that a public service berthing vessel is
18 leaving the confines of the port from which it originally embarked upon its voyage.

19 **Sec. 4. 28-A MRSA §2, sub-§24-A** is enacted to read:

20 **24-A. Reaching port.** "Reaching port" means that a public service berthing vessel
21 operating on coastal waters of the State is returning to the confines of the port from which
22 it originally embarked upon its voyage.

23 **Sec. 5. 28-A MRSA §1012, sub-§7** is enacted to read:

24 **7. Public service berthing vessel license.** A public service berthing vessel may
25 obtain a license to sell spirits, wine and malt liquor to be consumed on the premises
26 pursuant to section 1080 subject to the following fees.

27 A. The license fee for a one-day license is \$50.

28 B. The license fee for a 2-day license is \$65.

29 C. The license fee for a 5-day license is \$110.

30 D. The license fee for an 8-day license is \$155.

31 E. The license fee for an 11-day license is \$200.

32 F. The license fee for a 14-day license is \$245.

33 **Sec. 6. 28-A MRSA §1080** is enacted to read:

1 **§1080. Public service berthing vessels**

2 **1. Issuance of licenses.** Notwithstanding section 1077, the bureau may issue a
3 license under this section to a public service berthing vessel for the sale of spirits, wine
4 and malt liquor to be consumed on the premises.

5 **2. Requirements.** The requirements and conditions for issuing a license to a public
6 service berthing vessel are as follows.

7 A. The bureau shall require that a public service berthing vessel maintain a suitable
8 kitchen or galley and be able to prepare and serve meals to passengers on a daily
9 basis.

10 B. Except as provided in subparagraph (1), a license issued under this section to a
11 public service berthing vessel authorizes the licensee to sell liquor on the public
12 service berthing vessel after leaving port and before reaching port and a license
13 issued under this section to a public service berthing vessel operating on inland
14 waters authorizes the licensee to sell liquor on board the public service berthing
15 vessel after leaving and before docking on inland waters.

16 (1) A licensee may sell liquor for consumption on board a public service
17 berthing vessel that is in port or docked only if prior approval for the sale is
18 obtained from the bureau under the license application procedure in section 653.
19 A separate approval must be obtained for each port or dock location from which
20 on-board sales of liquor are to be made.

21 C. A public service berthing vessel licensed to sell liquor under this section may sell
22 liquor on Sundays only between the hours of 5:00 a.m. and 1:00 a.m. the following
23 day on inland waters and when the public service berthing vessel is within the
24 3-nautical-mile line boundary on coastal waters.

25 D. Notwithstanding the provisions of sections 121 and 122, a public service berthing
26 vessel on inland waters may sell liquor without approval of the municipal legislative
27 body or, in the case of unincorporated places, the county commissioners.

28 E. A vessel that does not leave its home port or dock for at least one night during the
29 vessel's period of licensure is not considered a public service berthing vessel and is
30 ineligible for future licensure by the bureau for the remainder of the calendar year.

31 **3. Embarkation and disembarkation.** A public service berthing vessel that
32 embarks after 5:00 p.m. on the first day of the public service berthing vessel's voyage
33 may serve liquor between the hours of 5:00 p.m. and midnight after the public service
34 berthing vessel has cast off lines from the dock and is underway on inland waters or has
35 left port even if the first day of the public service berthing vessel's license will not start
36 until after midnight of the day that the public service berthing vessel leaves.

37 A public service berthing vessel that embarks after midnight and before 5:00 p.m. is
38 considered to be on the first day of the public service berthing vessel's voyage under its
39 license under this section. All sales, service, possession and consumption of liquor by
40 passengers must cease upon the public service berthing vessel's reaching port or being in
41 port or docked unless prior approval for the sales has been obtained from the bureau
42 under the license application procedure in section 653, which would allow the sales.

1 service, possession or consumption of liquor aboard the public service berthing vessel
2 until midnight of the last day of the public service berthing vessel's licensure under this
3 section. Any service of liquor after midnight of the last day of licensure under this
4 section, except as provided in subsection 4, is considered prima facie evidence of a
5 violation of section 2078.

6 **4. Emergencies.** A public service berthing vessel operating on coastal waters that
7 experiences a mechanical or a weather-related emergency that prevents the public service
8 berthing vessel from returning to the public service berthing vessel's original port of
9 embarkation and disembarking passengers before midnight on the last day of licensure
10 under this section for that voyage must notify the United States Coast Guard and the
11 Department of Marine Resources, Bureau of Marine Patrol of the emergency and upon
12 return must notify the bureau of the date and time of the notification made to the United
13 States Coast Guard and the Bureau of Marine Patrol and the facts surrounding the
14 emergency.

15 A public service berthing vessel operating on inland waters that experiences a mechanical
16 or a weather-related emergency that prevents the public service berthing vessel from
17 returning to the public service berthing vessel's original dock of embarkation and
18 disembarking passengers before midnight on the last day of licensure under this section
19 for that voyage must notify the Department of Inland Fisheries and Wildlife, Bureau of
20 Warden Service of the public service berthing vessel's emergency and upon return must
21 notify the bureau of the date and time of the notification made to the Bureau of Warden
22 Service and the facts surrounding the emergency.

23 A licensee shall pay a fee of \$50 per day for every day that the public service berthing
24 vessel has not returned to its original port or dock of embarkation past the expiration date
25 of licensure under this section. Payment of this fee is not required in the case of an
26 emergency in which passengers had to be evacuated from the public service berthing
27 vessel during the period of licensure because of the emergency.

28 **5. Storage of liquor.** During periods of nonlicensure and upon inspection and
29 approval by the division of liquor licensing and enforcement within the bureau, a licensee
30 who has remaining liquor inventory and who plans on applying for additional licenses
31 under this section during the same calendar year may store the liquor at a location agreed
32 upon by the bureau until the next license applied for is approved by the bureau. The
33 liquor may be removed from storage and taken to the public service berthing vessel in
34 preparation for the subsequent voyage as long as passengers are not berthed on the public
35 service berthing vessel at that time. An inventory of liquor to be stored at the agreed-
36 upon location must be sent to the bureau upon the inventory's being placed into storage
37 and is subject to verification by the bureau upon request.

38 If a public service berthing vessel is licensed only once and does not plan to apply for
39 another license under this section, liquor may be returned to the wholesalers in
40 accordance with bureau rules as long as the licensee provides to the bureau an inventory
41 of the liquor to be returned and the licensee receives written permission from the bureau
42 to make the return.

43 **6. License types.** Pursuant to section 1012, subsection 7, the bureau may issue one-
44 day, 2-day, 5-day, 8-day, 11-day and 14-day licenses. The bureau shall adopt rules

1 establishing departure and return times of public service berthing vessels for one-day, 2-
2 day, 5-day, 8-day, 11-day and 14-day licenses. Rules adopted pursuant to this subsection
3 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4

SUMMARY

5 This bill authorizes the Department of Administrative and Financial Services, Bureau
6 of Alcoholic Beverages and Lottery Operations to issue licenses to public service
7 berthing vessels for the sale of spirits, wine and malt liquor on overnight voyages of at
8 least one night. The bill establishes requirements and fees for such licensing.