

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

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Legislative Document

No. 1533

H.P. 1053

House of Representatives, April 25, 2017

An Act To Update the Laws Relating to Liquor Licensing and Enforcement

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LUCHINI of Ellsworth.
Cosponsored by Representative: DILLINGHAM of Oxford.

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

2 **Sec. 1. 28-A MRSA §2, sub-§15, ¶G**, as enacted by PL 1987, c. 45, Pt. A, §4, is
3 amended to read:

4 G. "Golf ~~club~~ course" means ~~any~~ a commercially operated facility, whether publicly
5 or privately owned, offering golfing facilities to the general public for a fee, ~~which~~
6 ~~includes~~ including a regulation size golf course of not less than 9 holes and an
7 average total of not less than 1,200 yards per 9 holes, ~~which that~~ has a value of not
8 less than \$100,000, ~~which that~~ offers food for sale to the public and ~~which that~~ has
9 adequate facilities for the sale and consumption of liquor.

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

12 **26. Retail sale.** "Retail sale" means any single sale of liquor ~~of less than 20 gallons,~~
13 ~~or its metric equivalent,~~ for consumption on or off the premises where sold and whether
14 in the original package or as a mixed drink for immediate consumption.

15 **Sec. 3. 28-A MRSA §10, sub-§2-B, ¶B**, as enacted by PL 2015, c. 494, Pt. D,
16 §9, is amended to read:

17 B. When access between the 2 licensed areas exists for patrons of either
18 establishment, all malt liquor and wine sold for on-premises consumption must be
19 served by an employee of the licensed establishment and may be served only when
20 accompanying food or a full course meal prepared in a separate and complete kitchen
21 on the premises. A restaurant under this paragraph must serve food. For the
22 purposes of this paragraph, ~~"full meal" means a diversified selection of food that~~
23 ~~cannot ordinarily be consumed without the use of tableware and cannot be~~
24 ~~conveniently consumed while standing or walking~~ "food" includes cold or hot meals,
25 including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot
26 dogs, pizzas and other food items that customarily appear on a restaurant menu.
27 "Food" does not include prepackaged snack foods such as popcorn, chips or pretzels.
28 A Class A restaurant under this paragraph must serve a full course meal.

29 **Sec. 4. 28-A MRSA §453, sub-§2-C, ¶A**, as amended by PL 2013, c. 269, Pt. A,
30 §5, is repealed.

31 **Sec. 5. 28-A MRSA §453, sub-§2-C, ¶B**, as enacted by PL 2009, c. 213, Pt.
32 JJJJ, §2, is repealed.

33 **Sec. 6. 28-A MRSA §453, sub-§2-C, ¶B-1** is enacted to read:

34 B-1. The applicant will be able to stock the following inventory purchased from the
35 bureau:

36 (1) In a municipality with a population of 1,000 or more, at least \$10,000 worth
37 of spirits; and

38 (2) In a municipality with a population of 999 or less, at least \$5,000 worth of
39 spirits; and

1 **Sec. 7. 28-A MRSA §453, sub-§2-D**, as amended by PL 2015, c. 221, §2, is
2 repealed.

3 **Sec. 8. 28-A MRSA §453-A, sub-§9**, as enacted by PL 2011, c. 460, §1, is
4 repealed.

5 **Sec. 9. 28-A MRSA §453-D, sub-§1**, as enacted by PL 2011, c. 135, §1, is
6 amended to read:

7 **1. Relocation application requirements.** The bureau shall permit a change of
8 location of an agency liquor store licensee if:

9 A. The licensee submits ~~a \$2,000 relocation fee and~~ an application in a form
10 prescribed by the bureau;

11 B. The application includes proof of receipt of municipal approval of the relocation;

12 C. The licensee has held the license and operated as an agency liquor store for no
13 less than one year at the currently licensed location, unless the relocation is directly
14 related to retroactive zoning or unintentional destruction of the property that prevents
15 rebuilding at the current location; ~~and~~

16 D. The proposed location of the agency liquor store meets all applicable criteria for
17 licensure for an agency liquor store; and

18 E. The application includes proof of notification, in the form of a certified mail
19 receipt, that all agency liquor stores in the same municipality as the licensee's
20 proposed relocation site were notified of the proposed relocation before receiving
21 approval under paragraph B.

22 **Sec. 10. 28-A MRSA §453-D, sub-§2**, as enacted by PL 2011, c. 135, §1, is
23 repealed.

24 **Sec. 11. 28-A MRSA §601, sub-§2, ¶J**, as amended by PL 1997, c. 373, §51, is
25 further amended to read:

26 J. The applicant is a golf ~~club~~ course or a restaurant located on the property of a golf
27 ~~club~~ course and the Maine Human Rights Commission has found reasonable grounds
28 to believe that the golf ~~club~~ course has denied membership to a person in violation of
29 Title 5, chapter 337, subchapter ~~✓~~ 5, and has determined that conciliation efforts
30 under Title 5, ~~chapter 337~~, section 4612, subsection 3 have not succeeded. The
31 Maine Human Rights Commission shall notify the bureau when the golf ~~club~~ course
32 has corrected its discriminatory membership practices, after which the applicant
33 ceases to be disqualified under this paragraph.

34 **Sec. 12. 28-A MRSA §652, sub-§6**, as enacted by PL 1987, c. 45, Pt. A, §4, is
35 amended to read:

36 **6. Public service license.** One public service license is sufficient to cover all
37 steamboats, cars, railroads and aircraft operated by any one public service corporation.

1 **Sec. 13. 28-A MRSA §706, sub-§1**, as amended by PL 1997, c. 437, §3, is
2 further amended to read:

3 **1. Acceptable identification.** A licensee may refuse to serve liquor to any person
4 who fails to display upon request an identification card issued under Title 29-A, section
5 1410, including an official identification card issued by a federally recognized Indian
6 tribe in the State as described in Title 29-A, section 1410, subsection 7, or a motor
7 vehicle operator's license bearing the photograph of the operator and issued under Title
8 29-A, chapter 11.

9 **Sec. 14. 28-A MRSA §712, sub-§2**, as repealed and replaced by PL 2013, c. 165,
10 §1, is amended to read:

11 **2. Serve from faucet, spigot, dispensing apparatus by trade name.** A licensee
12 may not furnish or serve any ~~malt~~ liquor from any faucet, spigot or other dispensing
13 apparatus, unless:

14 A. The trade name or brand of the ~~malt~~ liquor served appears in full sight of the
15 customer in legible lettering upon the faucet, spigot or dispensing apparatus; or

16 B. The licensee displays a list of all ~~malt liquors~~ liquor currently available on tap that
17 is clearly visible to patrons of the establishment in a manner that allows a patron to
18 identify the trade name or brand of the ~~malt~~ liquor that is being dispensed from each
19 faucet, spigot or dispensing apparatus.

20 **Sec. 15. 28-A MRSA §714, sub-§1, ¶A**, as enacted by PL 1991, c. 543, is
21 amended to read:

22 A. "Keg" means a container capable of holding at least ~~7.75~~ 5 gallons of liquid.

23 **Sec. 16. 28-A MRSA §1001, sub-§3, ¶G**, as enacted by PL 1987, c. 45, Pt. A,
24 §4, is amended to read:

25 G. Golf ~~clubs~~ courses;

26 **Sec. 17. 28-A MRSA §1003, sub-§3, ¶G**, as enacted by PL 1987, c. 45, Pt. A,
27 §4, is amended to read:

28 G. Golf ~~clubs~~ courses;

29 **Sec. 18. 28-A MRSA §1004, sub-§3, ¶G**, as enacted by PL 1987, c. 45, Pt. A,
30 §4, is amended to read:

31 G. Golf ~~clubs~~ courses;

32 **Sec. 19. 28-A MRSA §1005, sub-§3, ¶G**, as enacted by PL 1987, c. 45, Pt. A,
33 §4, is amended to read:

34 G. Golf ~~clubs~~ courses;

35 **Sec. 20. 28-A MRSA §1012, sub-§4**, as amended by PL 2005, c. 108, §1, is
36 further amended to read:

1 **4. Golf course mobile service bar.** A licensee who is the owner of a golf course
2 may apply for a license to sell ~~malt~~ liquor from a mobile service bar as provided in
3 section 1075-A. The license fee per calendar year is \$100.

4 **Sec. 21. 28-A MRSA §1073**, as amended by PL 1997, c. 373, §100, is further
5 amended to read:

6 **§1073. Indoor racquet clubs; ice skating clubs; golf courses; curling clubs; and**
7 **bowling centers**

8 **1. Issuance of licenses.** The bureau may issue licenses under this section for the sale
9 of spirits, wine and malt liquor to be consumed on the premises to bowling centers,
10 curling clubs, golf ~~clubs~~ courses, indoor ice skating clubs and indoor racquet clubs as
11 defined in section 2, subsection 15, paragraphs B-1, D-1, G, J and K respectively.

12 **2. Food availability.** The licensee shall offer food for sale to the public at all times
13 that liquor is for sale. For bowling centers, at least 10% of the gross annual income, not
14 including income from the bowling business, must be from the sale of food.

15 **3. Separate area for sale of food and liquor.** The licensee shall set aside a separate
16 area for the sale and consumption of food and liquor in accordance with the rules of the
17 bureau. For bowling centers, that separate area may not include the area in which the
18 game of bowling is conducted.

19 **Sec. 22. 28-A MRSA §1075-A, sub-§1, ¶A**, as enacted by PL 2003, c. 579, §4,
20 is amended to read:

21 A. "Mobile service bar" means a golf cart or other similar vehicle staffed by an
22 employee of the golf course and outfitted for storage, cooling or refrigeration and sale
23 and service of ~~malt~~ liquor ~~in cans or bottles~~.

24 **Sec. 23. 28-A MRSA §1075-A, sub-§2**, as amended by PL 2009, c. 472, §§1 and
25 2, is further amended to read:

26 **2. License.** The bureau may issue a license for a mobile service bar to a licensee
27 who owns a golf course or may issue a license for a mobile service bar to a Class A
28 restaurant, Class A restaurant/lounge or Class I hotel located at a golf course ~~and to a golf~~
29 ~~course owner~~. The licensee shall ensure that:

30 A. All individuals selling, serving or dispensing ~~malt~~ liquor from a mobile service
31 bar are employees of the golf course, except as provided in subsection 2-A;

32 B. The licensee does not possess or permit possession, sale or consumption of any
33 ~~malt~~ liquor on the golf course other than that which is permitted and purchased by the
34 licensee in accordance with the license or licenses granted;

35 C. A sufficient number of employees are deployed to adequately control and ensure
36 adherence to laws applying to the serving, sale and consumption of ~~malt~~ liquor on the
37 golf course;

- 1 D. Service or consumption of any liquor is not allowed in parking lots except as
2 otherwise provided in this chapter;
- 3 E. A licensee or licensee's employees do not allow patrons to leave the golf course
4 with any liquor;
- 5 F. Only one standard serving of ~~malt~~ liquor is served to an individual at a time;
- 6 G. Signs are posted that state that a patron may not bring ~~alcoholic beverages~~ liquor
7 onto the premises of the golf course;
- 8 H. Signs are placed on the mobile service bar that state that service or consumption
9 of any liquor by a person under 21 years of age is prohibited;
- 10 I. ~~Malt liquor~~ Liquor from a mobile service bar is purchased and consumed only by
11 those patrons engaged in a round of golf;
- 12 J. The operator of a mobile service bar is at least 21 years of age and has successfully
13 completed an alcohol server education course; and
- 14 K. The operator of a mobile service bar has the ability and necessary tools to
15 immediately contact a golf course employee working at the part of the golf course
16 licensed as an on-premises establishment or an employee of a Class A restaurant or
17 Class A restaurant/lounge operating under a contract with a municipal golf course for
18 assistance in enforcing the provisions of this section.

19 **Sec. 24. 28-A MRSA §1075-A, sub-§2-A**, as enacted by PL 2009, c. 472, §3, is
20 amended to read:

21 **2-A. Municipal golf course.** Notwithstanding subsection 2, paragraph A,
22 employees of a Class A restaurant or Class A restaurant/lounge operating under a contract
23 with a municipal golf course that does not have a license to serve ~~alcoholic beverages~~
24 liquor may sell, serve or dispense ~~malt~~ liquor from a mobile service bar under the same
25 conditions prescribed by subsection 2.

26 **Sec. 25. 28-A MRSA §2519, sub-§1**, as amended by PL 2001, c. 502, §1, is
27 further amended to read:

28 **1. Approval of alcohol server education courses.** The ~~commissioner or the~~
29 ~~commissioner's~~ director of the bureau or director's designee shall approve alcohol server
30 education courses for a period of 2 years that meet the criteria developed under this
31 section. The ~~commissioner~~ director may renew approval provided the course meets the
32 criteria applicable at the time of renewal.

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

35 **Sec. 26. 28-A MRSA §2519, sub-§2**, as amended by PL 2011, c. 657, Pt. AA,
36 §76 and PL 2013, c. 368, Pt. V, §61, is further amended to read:

37 **2. Advisory committee; appointment.** The ~~commissioner~~ director of the bureau
38 shall appoint the Server Education Advisory Committee consisting of 8 members, to
39 include:

- 1 A. A representative of the faculty at the Maine Criminal Justice Academy;
- 2 B. A liquor enforcement officer;
- 3 C. A representative of the Department of the Attorney General;
- 4 D. A representative of the Department of Health and Human Services;
- 5 E. A representative of the education community;
- 6 F. A representative of a statewide liquor licensee organization;
- 7 G. A representative of a statewide trial lawyers organization; and
- 8 H. A representative of the bureau.

9 **Sec. 27. 28-A MRSA §2519, sub-§4**, as enacted by PL 1987, c. 45, Pt. A, §4, is
10 repealed.

11 **Sec. 28. 28-A MRSA §2519, sub-§6-B**, as amended by PL 2001, c. 502, §4, is
12 further amended to read:

13 **6-B. Suspension of certificate.** ~~The commissioner or the commissioner's~~ director of
14 the bureau or director's designee may suspend or revoke an alcohol server instructor's or
15 advisor's certificate upon the recommendation of the advisory committee. The following
16 are grounds for an action to suspend or revoke a certificate:

- 17 A. Repeated instances of failure to provide timely, accurate or legible information
18 required by subsection 7;
- 19 B. Repeated instances of failure to follow the course outline or cover the course
20 criteria that were used to gain approval; or
- 21 C. Receipt of a request to suspend or revoke a certificate from the administrator of
22 the course approved by the advisory committee to train instructors.

23 **Sec. 29. 28-A MRSA §2519, sub-§7**, as amended by PL 1999, c. 519, §8, is
24 further amended to read:

25 **7. Course accountability.** ~~The chief~~ director of the bureau or director's designee
26 may appoint an ~~officer~~ employee of the bureau to monitor each alcohol server education
27 course to ensure that the course presents proper training and meets the approved criteria.
28 The bureau shall maintain a record of the participants who have completed an alcohol
29 server training course. Each instructor of an approved course shall provide the ~~chief~~
30 bureau with the names, addresses, dates of birth and the driver's license numbers, state
31 identification card numbers or social security numbers of students who complete the
32 course and the date of completion. The instructors shall forward \$3 to the bureau for
33 every name submitted. The amounts collected must be retained by the bureau to cover
34 costs related to alcohol server education training.

35 **Sec. 30. 28-A MRSA §2519, sub-§8**, as amended by PL 2001, c. 502, §6, is
36 further amended to read:

- 1 4. Removes the requirement that a business prior to being considered for an agency
2 liquor store license must have sold malt liquor and wine for one year and have been
3 violation free for that same period;
- 4 5. Amends language that establishes a minimum inventory value of spirits based on
5 the population threshold established in the Maine Revised Statutes, Title 28-A, section
6 461;
- 7 6. Removes language providing an exception for businesses with more than 5
8 locations in the State that are sold to a company that has sold malt liquor or wine in
9 another state;
- 10 7. Eliminates the fee for an application for a relocation of an agency liquor store
11 within the same municipality and adds a requirement that the application for relocation
12 include proof that all existing agency liquor stores in the same municipality were notified
13 of the relocation prior to approval by that municipality;
- 14 8. Repeals the requirement that the Department of Administrative and Financial
15 Services, Bureau of Alcoholic Beverages and Lottery Operations hold a public hearing on
16 the relocation application. The only approval needed is from the municipality on the
17 relocation request by the agency liquor store;
- 18 9. Adds railroads to the list of public service corporation licensees in order to align
19 with the definition of "public service corporation";
- 20 10. Clarifies that identification issued by a federally recognized Indian tribe in the
21 State is an acceptable form of identification for the purposes for purchasing liquor;
- 22 11. Amends the provision of law requiring that any malt liquor served from a faucet,
23 spigot or dispensing apparatus must be identified by trade name to include all types of
24 liquor;
- 25 12. Reduces the number of gallons that constitute a keg;
- 26 13. Establishes that mobile service bars used on golf courses may serve all types of
27 liquor; and
- 28 14. Corrects provisions of law to refer to the director of the bureau instead of the
29 Commissioner of Administrative and Financial Services. These changes were
30 inadvertently left out of Public Law 2013, chapter 368, Part V and Public Law 2013,
31 chapter 476, Part A. The bill also provides that the director or the director's designee may
32 approve an alcohol server education course that meets specific criteria.