

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

One Hundred and Seventh Legislature

AT THE

1ST SPECIAL SESSION

JANUARY 19, 1976 TO APRIL 29, 1976

AND

2ND SPECIAL SESSION

JUNE 14, 1976

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

PORTLAND LITHOGRAPH COMPANY
PORTLAND, MAINE
1977

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature
AT THE FIRST SPECIAL SESSION
January 19, 1976 to April 29, 1976
AND THE SECOND SPECIAL SESSION
June 14, 1976

Supplementary to the Acts and Resolves of the Regular Session

[supplied from page 3097 of volume]

by PL 1971, c. 544, § 119, is repealed.

Sec. 136. 34 MRSA § 1424, as enacted by PL 1971, c. 171, is amended to read:

§ 1424. Escape

Any person, who escapes or attempts to escape from custody while in another state pursuant to subchapter I, shall be subject to the penalties provided in ~~section 710~~ Title 17-A, section 755 for escape or attempt to escape from the State Prison.

Sec. 137. PL 1975, c. 499, § 6 is repealed and the following enacted in place thereof:

Sec. 6. 17 MRSA §§ 1053, 1054, 1091, 1092, 1094, 1131, 1133, and 1134, are repealed.

Sec. 138. PL 1975, c. 623, § 83 is repealed and the following enacted in place thereof:

Sec. 83. PL 1975, c. 499, § 72 is enacted to read:

Sec. 72. Effective date. Sections 2 to 71 of this Act shall become effective May 1, 1976.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect May 1, 1976.

Effective May 1, 1976

CHAPTER 741

AN ACT to Revise the Statutes Concerning Alcoholic Beverages.

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

Sec. 1. 28 MRSA § 2, as last amended by PL 1975, c. 540, § 1, is repealed and the following enacted in place thereof:

§ 2. Definitions

The following words and phrases, unless the context clearly indicates otherwise, shall have the following meanings when used in any statute or law relating to intoxicating liquor.

1. Alcohol. "Alcohol" shall mean that substance known as ethyl alcohol, hydrated oxide of ethyl or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar, potatoes or other substances including all dilutions and mixtures of these substances.

2. Bureau. "Bureau" shall mean the Bureau of Alcoholic Beverages within the Department of Finance and Administration.

3. Catering. "Catering" shall mean service of liquor with or without food by clubs, having the catering privilege, to groups of nonmembers at a prearranged function.

4. Commission. "Commission" shall mean the State Liquor Commission.

5. Corporation. "Corporation" shall mean a corporation organized and incorporated under the laws of this State or authorized to transact business within this State.

6. Intoxicating liquor. "Intoxicating liquor" shall have the same meaning as the word "liquor."

7. Licensee. "Licensee" shall mean the person to whom a license of any kind is issued by the commission.

8. Licensed establishments. "Licensed establishments" shall mean premises licensed to sell spirituous, vinous or malt beverages for consumption on or off the licensed premises as defined in this section. Licensed establishments shall consist of the following defined premises:

A. Airline. "Airline" shall mean any person operating regularly scheduled intrastate or interstate passenger air transportation.

B. Civic auditorium. "Civic auditorium" shall mean a municipal, county or a state or a quasi-municipal, quasi-county or quasi-state owned or operated auditorium or civic center.

C. Club. "Club" shall mean any reputable group of individuals incorporated and operating in a bona fide manner solely for objects of recreational, social, patriotic or fraternal nature and not for pecuniary gain. To qualify for license or any renewal thereof under this Title a club shall, for at least one year immediately preceding application therefor, have been in continuous operation and existence, regularly occupied as owner or lessee a suitable clubhouse or quarters for use of members, held regular meetings, conducted its business through officers regularly elected, and charged and collected dues from elected members, except that any veterans' organization in the State having a charter from a national veterans' organization shall be exempted from the one-year requirement, provided it has been established for not less than 3 months.

(1) Club member. "Club member" shall mean a person who, whether as a charter member or admitted in accordance with the bylaws of the club, has become a bona fide member and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with bylaws and whose name and address is entered on the list of members, and no person who does not have full club privileges shall be considered a bona fide member.

D. Dining cars. "Dining cars" and "cars supplying food" shall mean and include cars in which food is prepared and served and also other cars, for accommodations in which an extra charge is made, in which food is served from a dining car or from a car supplying food in the same train.

E. Golf club. "Golf club" shall mean any commercially operated facility, whether publicly or privately owned, offering golfing facilities to the general public for a fee, having as a part thereof a regulation size golf course of not less than 9 holes and an average total of not less than 2,400 yards per 9 holes with a value of not less than \$100,000, offering food for sale to the public and having adequate facilities for the sale and consumption of alcoholic beverages as determined by the State Liquor Commission.

F. Hotel. "Hotel" shall mean any reputable place operated by responsible persons of good reputation, where the public for a consideration obtains sleeping accommodations and where meals may be served, whether or not under one roof. At least 10% of the total volume of business shall be from the sale of food. Each hotel shall be equipped with at least 14 adequate sleeping rooms when it is located in a municipality of 3,000 or less, 20 such sleeping rooms when located in a municipality having population of from 3,000 to 7,500 and 30 such sleeping rooms when located in municipalities having more than 7,500 population. All such rooms shall be in addition to rooms used by the owner or his employees. Increase in population as shown by the 1960 and any subsequent Federal Census shall not affect the eligibility for license of premises licensed prior to any such census.

No group of buildings which is reasonably classified as overnight camps shall qualify as a hotel.

A hotel shall be deemed to be serving meals when it provides on the premises a public dining room or rooms, open and serving food during the morning, afternoon and evening, and a separate kitchen in which food is regularly prepared for the public. The commission is specifically authorized to make such rules and regulations as they deem necessary to carry out this section.

Nothing in this subsection shall be held to prevent the commission from issuing part-time licenses to bona fide part-time hotels. The above requirements with respect to number of rooms shall not apply to premises licensed on August 13, 1947; nor shall the above requirements with respect to 14 adequate sleeping rooms apply to premises licensed during 1969.

(1) Hotel guest. "Hotel guest" shall mean a person whose name and address is registered on the registry maintained by the hotel and who is the bona fide occupant of a room of the hotel. A person registering solely for the purpose of obtaining liquor is not deemed a hotel guest.

G. Incorporated civic organization. "Incorporated civic organization" means any charitable or nonprofit civic organization incorporated as a corporation without stock under Title 13, chapter 81.

H. Indoor ice skating club. "Indoor ice skating club" shall mean any commercially operated indoor facility offering ice skating facilities to the general public, which charges a fee and which has adequate facilities for the sale and consumption of alcoholic beverages.

I. Indoor tennis club. "Indoor tennis club" shall mean any commercially operated indoor facility with 4 or more tennis courts which is open to the general public, which charges a fee and which has adequate facilities for the sale and consumption of alcoholic beverages.

J. Restaurant. "Restaurant" shall mean a reputable place operated by responsible persons of good reputation and habitually and regularly used for the purpose of providing food for the public, and provided with adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for the public. In the case of both full-time and part-time licenses at least 10% of the total volume of business shall be sale of food. In no case shall the commission renew any license for the sale of malt or vinous liquor unless they are furnished with proof that the previous year's business conformed to the income provision of this subsection. The income provision of this subsection shall not apply to the bowling business conducted in bowling alleys, so called. The commission is specifically authorized to make such rules and regulations as they deem necessary for carrying out this subsection.

K. Class A. restaurant. "Class A restaurant" shall mean a reputable place operated by responsible persons of good reputation which is properly equipped and which prepares and serves full course meals. In municipalities having a population of above 50,000 persons, year-round Class A restaurants must do a minimum of \$50,000 per year in sale and service of food to the public on their premises. In municipalities having a population of above 50,000 persons, part-time licensees must do a minimum of \$30,000 business in sale or service of food to the public on their premises as a requirement for a part-time license not in excess of 6 consecutive months and \$20,000 business in sale or service of food to the public on their premises as a requirement for a part-time license not in excess of 3 consecutive months. In municipalities having a population of 30,001 to 50,000 persons, year-round class A restaurants must do a minimum of \$40,000 per year in sale and service of food to the public on their premises. In municipalities having a population of 30,001 to 50,000 persons, part-time licensees must do a minimum of \$25,000 business in sale or service of food to the public on their premises as a requirement for a part-time license not in excess of 6 consecutive months and \$20,000 in sale or service of food to the public on their premises as a requirement for a part-time license not in excess of 3 consecutive months. In municipalities having a population of 20,001 to 30,000 persons, year-round Class A restaurants must do a minimum of \$30,000 per year in sale and service of food to the public on their premises and part-time licensees must do a minimum of \$20,000 business in sale and service of food to the public on their premises as a requirement for a part-time license not in excess of 6 consecutive months. In municipalities having a population of 20,000 persons or less, year-round class A restaurants must do a minimum of \$20,000 per year in sale and service of food to the public on their premises, and part-time licensees must do a minimum of \$15,000 business in sale or service of food to the public on their premises as a requirement for a part-time license not in excess of 6 consecutive months. If the judgment of the commission is that the applicant would probably qualify, then a license shall be issued. In no case shall the commission renew any license for the sale of liquor under this subsection unless they are furnished with proof that the previous year's business conformed to the income provisions of this subsection. The commission is specifically authorized to make such rules and regulations as they deem necessary for carrying out this subsection.

L. Retailer. "Retailer" shall mean and include persons licensed by the commission to engage in the purchase and resale of malt or brewed beverages or wines, or both, in the original container as purchased from a duly licensed wholesaler to be resold for consumption off the premises only.

M. Tavern. "Tavern" shall mean a reputable place operated by responsi-

ble persons where no food is sold, other than prepared packaged foods, and bar snacks, and no business is carried on except the sale of cigarettes and tobacco products and except the sale of malt liquor at a bar. There shall be no table, chairs or other seating accommodations and all persons served shall remain standing at the bar.

N. Class A tavern. "Class A tavern" shall mean a reputable place operated by responsible persons of good reputation where food may be sold and malt liquors are sold at tables, booths and counters, and where no minors shall be permitted to remain on the licensed premises. All such taverns shall comply with the rules and regulations of the Department of Human Services and be licensed by same and this license fee shall be \$15.

O. Vessel. "Vessel" shall mean a craft used for navigation of the water, any ship, vessel or boat of any kind, licensed for carrying not less than 25 passengers under the requirements of the Public Utilities Commission or the United States Coast Guard, and propelled by steam or otherwise and used only on waters other than inland waters.

9. Liquor. "Liquor" shall mean and include any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquors, intended for human consumption, which contains more than $\frac{1}{2}$ of 1% of alcohol by volume.

10. Malt liquors. "Malt liquors" shall mean all kinds and types of liquors as defined produced by the fermentation of malt wholly or partially or from any substitute therefor, which contain $\frac{1}{2}$ of 1% of alcohol or less by volume.

11. Minor. "Minor" shall mean a person who has not attained his 18th birthday.

12. Person. "Person" shall mean an individual, copartnership, corporation or voluntary association.

13. Premise or premises. "Premise" or "premises" shall mean and include all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest and which the licensee uses in the operation of the licensed business and which have been approved by the commission as proper places therein for the exercise of the license privilege.

Without limitation of its other powers, the commission shall not approve as a proper place for the exercise of the license privilege, amusement areas primarily for minors, beaches or any other area designed primarily for use by minors. No minor, unless in the company of his or her parent or guardian, shall be permitted in any part of a hotel where the license privilege is exercised with the exception of public dining room or rooms and of sleeping rooms.

The commission shall establish rules and regulations for the separation of areas where the license privilege may be exercised from areas where it may not be exercised, but complete non-access between the areas controlled by the licensee need not be required.

Premises shall include that place where an incorporated civic organization sells or serves spirituous and vinous liquors and malt liquors pursuant to a license obtained under section 801-B.

Premise or premises shall include municipally-owned and county-owned and operated auditoriums or civic centers. However, there shall be no sales of malt liquor, wine or spirits permitted during any school activities or events primarily attended by minors in the rooms where these activities are taking place.

Places located on fairgrounds operated by agricultural societies or where pari-mutuel racing is conducted, which otherwise meet the definition of a hotel or a restaurant, shall be deemed to be a hotel or restaurant for purposes of this Title, notwithstanding the fact an admission charge must be paid to gain entrance to such place.

14. Retail sale. "Retail sale" shall mean any single sale of liquor in the original package for off the premises consumption of less than 20 gallons.

15. Sale or sell. "Sale" or "sell" shall include any transfer or delivery of liquor for a consideration, and any gift thereof in connection with or as a part of a transfer of property.

16. Spirits. "Spirits" shall mean any liquor produced by distillation or if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind.

17. Vinous liquor. "Vinous liquor" shall mean wine.

18. Wholesaler. "Wholesaler" shall mean and include persons licensed by the commission to engage in the purchase and resale of malt or brewed beverages and wines, or both, in the original containers, as prepared for the market by the manufacturer at the place of manufacture, but not for consumption on the premises of said wholesaler.

19. Wine "Wine" shall mean any liquor produced by natural fermentation.

20. Table wine. "Table wine" means any wine containing not more than 14% alcohol by volume, including sparkling wines.

Sec. 2. 28 MRSA § 4, as last amended by PL 1975, c. 45 and c. 80, §§ 1-2, is repealed and the following enacted in place thereof:

§ 4. Business days and hours

No liquor shall be sold except as herein provided. Liquor may be sold and delivered by any licensee by himself, clerk, servant or agent between 6 a.m. and 1 a.m.

No liquor shall be sold or delivered by any licensee by himself, clerk, servant or agent on any licensed premise between 1 a.m. and 6 a.m. and between 1 a.m. and 12 noon on Sundays. Except as hereinafter provided, no licensee shall permit the consumption of liquors on his premises on Sunday or after 15 minutes past the hours prohibited for sale thereof, except by bona fide guests in their rooms.

Liquor may be sold on January 1st of any year from midnight to 2 a.m. If January 1st falls on Monday, licensees shall be permitted to sell or deliver

any liquors between 9 p.m., Sunday, December 31st and 2 a.m., January 1st.

Liquor may be sold in any municipality on the day of holding a general election or state-wide primary after the polls of that municipality have closed.

No liquor shall be sold in this State on Memorial Day prior to 12 noon.

The hours of selling or delivering referred to shall be the legal time prevailing in the State on the day of the sale.

Nothing in this section shall be construed to allow the sale of liquor in municipalities, towns and plantations in violation of section 101.

Any person, except an officer in performance of his duties, who purchases liquor on Sunday, in violation of this section shall be guilty of a misdemeanor and shall be subject to the same penalty provided in this section for the illegal sale of liquor on Sunday.

Any licensee by himself, clerk, servant or agent, except as herein provided, who sells liquor on Sunday shall be punished by a fine of not less than \$100, nor more than \$500, and costs, and a penalty of not less than 2 months nor more than 6 months in jail, at the discretion of the court; and in default of fine and costs, an additional penalty by imprisonment for 6 months. Any clerk, servant, agent or other person in the employment of a licensee who violates or in any manner aids or assists in violating the law relating to Sunday sale of liquor shall suffer like penalties.

Any licensee by himself, clerk, servant or agent who sells liquor on Sunday in municipalities and unincorporated places which have voted affirmatively to the questions pertaining to Sunday sales in section 101 during the hours of 1 a.m. and 12 noon and who violates any of the rules and regulations of the commission, upon conviction, after hearing before the Administrative Court Judge shall be subject to the suspension or revocation, or both, of his license or right to sell on Sunday.

If any licensee or any clerk, servant or agent of a licensee is convicted of a violation of this section and appeals from the judgment and sentence of the trial court, the licensee's license to sell liquor shall be suspended during the time such appeal is pending in the appellate court unless the trial court shall otherwise order and no new or renewal license to sell liquor shall be granted to the licensee during the time of such appeal.

Sec. 3. 28 MRSA § 9, as enacted by PL 1965, c. 513, § 53 and as last amended by PL 1973, c. 788, § 123, is repealed and the following enacted in place thereof:

§ 9. Entrances from retail liquor store premises

Notwithstanding any other statute or rule or regulation of the commission to the contrary, any licensed retail liquor premise may be connected with any other licensed retail liquor premise by a doorway or other apertures that are not securely and permanently sealed.

Any persons taking a drink of liquor to, offering a drink of liquor to another or consuming liquor within the licensed premises of a retail store under the common roof shall be deemed in violation of Title 17, section 2003 and shall be punished in a like manner.

That part of the premises which the applicant owns, leases or rents shall be fully described in the application for license and the licensee may be required by the commission to identify on the premises by an appropriate marking, the area which he owns, rents or leases.

All persons carrying on any business, except any bank or savings and loan institution, duly organized and existing by virtue of the laws of the State of Maine or of the United States of America under the common roof and having common entrances shall in writing to the commission agree to allow reasonable inspection of their premises by authorized enforcement agents of the Department of Public Safety and authorized licensing inspectors of the Liquor Commission.

Sec. 4. 28 MRSA c. 3, as amended, is repealed and the following enacted in place thereof:

CHAPTER 3

ADMINISTRATION AND ORGANIZATION

§ 51. Administration; enforcement

The administration of the state liquor laws shall be vested in the State Liquor Commission, and the enforcement of the state liquor laws shall be vested in the Bureau of Liquor Enforcement within the Department of Public Safety.

§ 52. State Liquor Commission; appointment

The State Liquor Commission, as heretofore established, shall consist of 3 members to be appointed by the Governor, subject to review by the Joint Standing Committee on Liquor Control and to confirmation by the Legislature, to serve for 3 years and may be removed by the Governor on the address of both branches of the Legislature or by impeachment. The Governor shall designate one of the members to be its chairman and not more than 2 members thereof shall belong to the same political party. Any vacancy shall be filled by appointment for a like term. The State Liquor Commission shall meet at the call of the chairman and at least once a month.

§ 53. Powers of the State Liquor Commission

The State Liquor Commission shall establish the policy, rules and regulations pertaining to the administration and enforcement of the liquor laws. The commission shall have the following powers and duties:

1. Supervision of the Bureau of Alcoholic Beverages. To supervise and direct the Director of the Bureau of Alcoholic Beverages relating to all phases of the merchandising of liquor through state stores and special agency stores.

2. General supervision; rules and regulations. To have general supervision of manufacturing, importing, storing, transporting and sale of all liquors and to make such rules and regulations as they deem necessary for such purposes and to make rules and regulations for the administration, clarification, carrying out, enforcing and preventing violation of all laws pertain-

ing to liquor, which rules and regulations shall have the force and effect of law, unless and until set aside by some court of competent jurisdiction or revoked by the commission.

3. Rules and regulations. To adopt rules, requirements and regulations not inconsistent with this Title or other laws of the State, the observance of which shall be conditions precedent to the granting of any license to sell liquor, including malt liquor or table wine. In issuing or renewing licenses, the commission shall give consideration to the character of any applicant, the location of the place of business and the manner in which it has been operated. The commission may refuse to issue licenses to corporations when any of its officers, directors or stockholders do not possess the qualifications required of unincorporated persons under this section.

4. Purchase, transportation and sale of alcohol. To have control and supervision of the purchase, importation, transportation and sale of alcohol; and to make rules and regulations for such purchase, importation, transportation and sale of same to any industrial establishment in this State for industrial uses, or schools, colleges and state institutions for laboratory use only, or to hospitals for medicinal use therein only, or to any licensed pharmacist in this State for use in the compounding of prescriptions and other medicinal use but not for sale by such pharmacists unless compounded with or mixed with other substances, or to any physician, surgeon, osteopath, chiropractor, optometrist, dentist or veterinarian for medicinal use only.

5. Wine and spirits for sale. To buy and have in their possession wine, except table wine, and spirits for sale to the public. Such wine and spirits shall be purchased by the commission directly and not through the State Purchasing Agent and shall be free from adulteration and misbranding. The commission shall in their purchases of liquors give priority, wherever feasible, to those products manufactured or bottled in this State.

6. Notice to delist or stop purchases. Before any item listed by the commission is discontinued or delisted or before the commission issues any order to stop purchases of any item listed, they shall give the vendor of such items reasonable notice in writing of their intention to so delist or stop purchase of such items.

7. Sell at retail. To sell at retail in state stores in original packages and for cash, either over the counter or by shipment to points within the State, wine, except table wine, and spirits of all kinds for consumption off the premises at state stores to be operated under the direction of the commission.

8. Licensing. To issue and renew all licenses provided for by this Title and to hold hearings thereon. Prospective licensees who have been granted a license, effective at a future date, may, on approval of the commission, order liquor in advance of the effective date of the license and may advertise such effective date.

9. Prevent sale to minors and others. To prevent the sale by licensees of wine and spirits to minors, persons under the influence of liquor or to an interdicted person.

10. Act as review board. To act as a review board and on all appeals from the decisions of municipal officers, and except as provided by section 403, the decisions of the commission shall be final. All decisions of the commission acting as a review board must be approved by at least 2 members.

11. Hearings. A single commissioner may conduct hearings in any matter pending before the commission. He shall, after holding the hearing, file with the commission all papers connected with the case, a transcript of all the testimony and a report of his findings. The commission shall review the evidence and examine all papers and the findings of the single commissioner before rendering their decision.

12. Oaths; subpoenas; witnesses. Any member of the commission may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any question in dispute before them or to any matter involved in a hearing. Witness fees in all proceedings shall be the same as for witnesses before the Superior Court. Whoever, having been summoned as a witness by any member of the commission to appear before the commission, without reasonable cause fails to appear at the time and place designated in the subpoena or summons shall be punished, on complaint or indictment, by a fine of not more than \$100 or by imprisonment for less than one year.

13. Food servicing organizations. To adopt rules, requirements and regulations permitting food servicing organizations catering to passengers on international flights to purchase wine and malt beverages from wholesale outlets or distributors, providing such wine and malt beverages are resold for consumption during international travel.

§ 54. Duties of the State Liquor Commission

1. Bureau of Alcoholic Beverages; rules and regulations. The commission shall establish rules and regulations as well as procedures for the administration and operation of the Bureau of Alcoholic Beverages.

2. Pamphlet of regulations. To publish at least annually on or before August 31st, or 90 days after becoming law, in a convenient pamphlet form all regulations then in force and to furnish copies of such pamphlets to every licensee authorized by law to sell liquor.

3. Public meetings. The commission shall hold public meetings each year at various locations within the State for the purpose of outlining operations under the liquor laws, receiving suggestions thereto and disseminating information to the public.

4. Annual report. To make an annual report to the Governor of their activities and of the amount of malt liquor license fees collected together with such other information as they deem advisable or as the Governor may require.

5. Expenses. The expenses for the administration of the commission in carrying out the duties as set forth in this Title shall be paid from such amounts as the Legislature may allocate from the revenues derived from the operations of the commission. Such amounts shall become available in accordance with Title 5, chapters 141 to 155.

§ 55. Salaries and expenses

Each member of the commission shall receive a per diem salary of \$50 and his actual expenses for the first 50 meetings of each calendar year. For any meetings after the 50th meeting, each member of the commission shall receive his actual expenses.

§ 56. Working capital

The net profits of the commission shall be general revenue of the State. The commission is authorized to keep and have on hand a stock of wines, except table wines, and spirits for sale, the value of which, when priced for resale, shall be computed on less carload price quotations f.o.b. warehouse filed by liquor and wine vendors. The inventory value shall be based upon actual cost for which payment may be due and shall not at any time exceed the amount of working capital authorized. Wines and spirits shall not be considered in the inventory until payment has been made therefor. The maximum permanent working capital of the commission is established at \$3,500,000 and permanent advances up to this amount may be authorized by the Governor upon recommendation of the commission with the approval of the Commissioner of Finance and Administration. The permanent working capital of the commission may be supplemented by temporary loans from other state funds upon recommendation of the commission and by approval of the Commissioner of Finance and Administration and the Governor.

§ 57. Director of the Bureau of Alcoholic Beverages; appointment

The Commissioner of Finance and Administration, with the advice and consent of the State Liquor Commission, shall appoint a Director of the Bureau of Alcoholic Beverages whose term of office shall be continuous, subject only to removal for cause by the commission and the Commissioner of Finance and Administration. The salary of the director shall be fixed by the Governor.

In appointing a director, consideration shall be given to the following qualifications: Sound judgment, practical experience and ability in merchandising, executive administration, salesmanship and sound business principles. The director shall not be a member of the commission.

§ 58. Director of the Bureau of Alcoholic Beverages; powers and duties

The Director of the Bureau of Alcoholic Beverages within the Department of Finance and Administration shall be the chief administrative officer of the bureau. The Director of the Bureau of Alcoholic Beverages shall be subject to the direction of the State Liquor Commission as defined in this chapter. The director of the bureau shall administer the policies, rules and regulations of the State Liquor Commission under the supervision of the commission. The director of the bureau shall operate the bureau and implement the liquor laws according to the procedures established by the State Liquor Commission.

The Director of the Bureau of Alcoholic Beverages shall have general charge of the office and records and shall employ, with the approval of the Commissioner of Finance and Administration and the State Liquor Commission, subject to the Personnel Law, such personnel and make expenditures as may be necessary to fulfill the purposes of this Title.

§ 59. Bureau of Liquor Enforcement

The enforcement division of the State Liquor Commission shall be the Bureau of Liquor Enforcement within the Department of Public Safety, as heretofore created. The Commissioner of Public Safety shall appoint as Director

of the Bureau of Liquor Enforcement a person experienced in law enforcement or enforcement of liquor laws, who may be removed for cause by the commissioner. The director, subject to the Personnel Law, may appoint as many inspectors as may be found necessary. The inspectors shall be under the direct supervision and control of the director. They shall have the same powers and duties throughout the several counties of the State, as sheriffs have in their respective counties, relating to liquor. Their power and duties shall include the duty to inquire into and arrest for violations of any of the provisions of this Title, to arrest for violations of Title 17, chapter 69, to arrest for violations of Title 29, section 2182, to arrest for impersonation of or interference with liquor inspectors, and to arrest for disturbances of the peace in the pursuance of their duties relating to liquor under this Title and to serve all processes necessary for and pertaining to enforcement of any of the provisions of this Title. All business and financial records of licensees shall be confidential.

Notwithstanding any other provisions of law, the Department of Public Safety shall be responsible for the enforcement of the liquor laws and the rules and regulations of the commission.

§ 60. Eligibility of members and employees

No person shall be eligible for appointment as a member of the State Liquor Commission, as an employee of the commission, the Bureau of Alcoholic Beverages or the Bureau of Liquor Enforcement in any capacity, including the director, who has any connection with, official, professional or otherwise, or who owns any stock in a corporation interested either directly or indirectly in the manufacture or sale of liquor or who has been convicted of the breach of any state or federal law regulating the manufacture, sale or transportation of intoxicating liquor. Neither the commission, nor any employee, shall accept directly or indirectly any samples, gratuities, favors or anything of value from a manufacturer, seller, brewer or licensee or any representative of the same under circumstances which might reasonably be construed as influencing or improperly relating to past, present or future performance of his official duties.

Sec. 5. 28 MRSA § 101, as last amended by PL 1975, c. 623, §§ 40-43, is repealed and the following enacted in place thereof:

§ 101. Form of question and ballot

The municipal officers of cities and towns and the assessors of plantations, upon receipt of a petition signed by 15% of the voters in that municipality in the last gubernatorial election and addressed to the municipal officers as defined in Title 30, section 1901, subsection 7, not more than 45 days or less than 30 days prior to the municipal election or town meeting, are empowered and directed to notify the inhabitants of their respective municipalities to meet in the manner prescribed by law for the calling and holding of municipal elections or town meetings to vote upon any one or all of the following questions:

1. Shall state stores for the sale of liquor be operated by permission of the State Liquor Commission in this city or town? (State Liquor Store)

2. Shall licenses be granted in this city or town for the sale herein of spirituous and vinous liquors to be consumed on the premises of establishments qualified to sell spirituous and vinous liquor for consumption on the premises?

3. Shall licenses be granted in this city or town for the sale herein of malt liquor (beer, ale and other malt liquors) to be consumed on the premises of establishments qualified to sell malt liquors for consumption on premises?

4. Shall licenses be granted in this city or town for sale herein of malt liquor (beer, ale and other malt liquors) and table wine not to be consumed on the premises of establishments qualified to sell malt liquor and wine for consumption off the premises?

5. Shall state stores and special agency stores for the sale of liquor be operated by permission of the State Liquor Commission in this city or town on Sunday? (State Liquor Store)

6. Shall this municipality or unincorporated place authorize the sale of spirituous and vinous liquors on Sunday for consumption on the premises of establishments licensed to sell spirituous liquors for consumption on the premises?

7. Shall this municipality or unincorporated place authorize the sale on Sunday of malt liquor (beer, ale and other malt liquors) to be consumed on the premises of establishments licensed to sell malt liquors for consumption on the premises?

8. Shall this municipality or unincorporated place authorize the sale on Sunday of malt liquor (beer, ale and other malt liquors) and table wine to be consumed off the premises of establishments licensed to sell malt liquor and wine for consumption off the premises?

Where a city or town has voted in favor of accepting or not accepting the ballot questions, said vote shall be effective until repealed according to the procedure established in the first paragraph of this section.

The inhabitants of the several municipalities shall vote by ballot on said questions, those in favor voting "Yes" on their ballots and those opposed "No" and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and return of the results shall be made to the office of the Secretary of State who shall forward the results to the State Liquor Commission.

The decisions of the voters of any municipality in regard to the questions set forth in this section prior to the effective date of this Act shall remain valid unless changed by the procedure established in the first paragraph.

Each question in this section shall apply to both full-time and part-time licensed establishments.

Upon this ballot no other referendum question shall be printed.

Sec. 6. 28 MRSA § 102, 5th, 6th & 7th ¶¶, as enacted by PL 1969, c. 360, § 9, are repealed.

Sec. 7. 28 MRSA § 103, first and 2nd sentences, as repealed and replaced by PL 1971, c. 622, § 89-A, are amended to read:

Upon petition signed by ~~20%~~ 15% or more of the voting age residents in an unincorporated place requesting a vote on local option questions, the Secretary of State shall forthwith appoint a time and place, give public notice in the same manner as provided for notice in section 252 and cause a vote on such questions to be taken in such unincorporated place under his supervision and subject to such rules and regulations as he shall promulgate. ~~Voting age residents in an unincorporated place shall be as shown by returns to the State Tax Assessors dated April 7, 1971, which returns shall be deposited by the Tax Assessor in the Secretary of State's office.~~

Sec. 8. 28 MRSA § 153, first ¶, as repealed and replaced by PL 1975, c. 256, is amended to read:

The ~~bureau with the approval of the~~ State Liquor Commission shall have authority to license and regulate, in cities, towns and unorganized territories which have voted in favor of the operation of state stores under local option provisions and where there is no state store, retailers as special agency stores on an annual, seasonal or temporary basis for the purpose of selling liquor in sealed bottles, containers or original packages for consumption off the premises. The liquor shall be sold by the ~~bureau with the approval of the State Liquor commission~~ Commission, to the special agency stores pursuant to section 204.

Sec. 9. 28 MRSA § 153, sub-§ 1, 2nd ¶, as repealed and replaced by PL 1975, c. 256, is amended to read:

The ~~Bureau of Alcoholic Beverages~~ State Liquor Commission shall, in accordance with Title 5, section 2351, give public notice that a state agency retail store may be established in a particular city, town or unorganized territory. The ~~Bureau of Alcoholic Beverages~~ State Liquor Commission shall request all interested parties in said city, town or unorganized territory to notify the ~~Bureau of Alcoholic Beverages~~ State Liquor Commission in regard to the establishment of a state agency retail store. The ~~Bureau of Alcoholic Beverages~~ State Liquor Commission shall provide all applicants with the necessary information for the establishment of a special agency retail store. Upon receipt of all applications for a special agency store in a municipality, the State Liquor Commission shall notify the municipal officers of that municipality of the proposed location of each applicant at least 30 days prior to the final selection of an applicant or applicants by the State Liquor Commission. The ~~Bureau of Alcoholic Beverages~~ State Liquor Commission shall conduct an investigation to determine the most feasible location and type of facility for the agency store, and any applicant denied a permit shall be given reasons for the permit refusal.

Sec. 10. 28 MRSA § 153, sub-§ 1, first sentence of the last ¶, as repealed and replaced by PL 1975, c. 256, is amended to read:

Any applicant aggrieved by a decision made by the ~~Bureau of Alcoholic Beverages~~ State Liquor Commission may appeal to the Administrative Court Judge in accordance with Title 5, chapters 301-307.

Sec. 11. 28 MRSA § 154 is repealed and the following enacted in place thereof:

§ 154. Business hours

State retail liquor stores and state agency stores may be open for the sale and delivery of liquor between the hours of 9 a.m. and midnight in municipalities and unincorporated places which have voted affirmatively on section 101, subsection 1. The State Liquor Commission shall establish the hours of operation of each state retail liquor store and state agency store.

The hours of sale referred to in this section shall be the legal time prevailing in the State on the day of the sale.

Sec. 12. 28 MRSA § 203, first ¶, last sentence, as enacted by PL 1971, c. 136, is repealed.

Sec. 13. 28 MRSA § 252, first sentence, as amended by PL 1975, c. 37, is further amended to read:

The municipal officers or in case of unincorporated places the county commissioners of the county wherein such unincorporated place is located, shall hold a public hearing for the consideration of all new applications for liquor licenses requiring their approval ~~or where the municipal officers or county commissioners deem it necessary, on application for renewal of licenses requiring their approval.~~

Sec. 14. 28 MRSA § 252, as last amended by PL 1975, c. 37, is further amended by adding after the first paragraph the following new paragraphs:

Every municipality or county shall request applications for liquor licenses from the State Liquor Commission and those applications shall be approved by the State Liquor Commission. The State Liquor Commission shall hold a hearing in the municipality or county requesting the application for a liquor license. Any municipality or county aggrieved by the decision of the State Liquor Commission to approve an application for a license may appeal the decision to the Administrative Court in accordance with Title 5, chapters 301 - 307.

Requests for renewal of liquor licenses shall be directed to the State Liquor Commission. The municipal officers or in the case of unincorporated places, the county commissioners of the county wherein such unincorporated place is located may, in writing, indicate the reasons for the denial of a license renewal, and the commission shall require the applicant to obtain municipal approval prior to resubmitting the application for renewal.

Sec. 15. 28 MRSA § 252, as last amended by PL 1975, c. 37, is further amended by adding after the last paragraph the following new paragraph:

Part-time licenses may be extended by the State Liquor Commission upon request by a licensee for a 2-month period only.

Sec. 16. 28 MRSA § 252, as last amended by PL 1975, c. 37, is further amended by adding at the end the following new paragraph:

Any applicant for a renewal of a liquor license or any municipality, town or plantation contesting the issuance of a license renewal or aggrieved by the decision of the State Liquor Commission may appeal the decision to the Superior Court.

Sec. 17. 28 MRSA § 305, 3rd, 4th and 5th ¶¶, as repealed and replaced by PL 1975, c. 184, are repealed and the following enacted in place thereof:

Licensed clubs may offer prizes, gratuities or other inducements, otherwise legal, as a means of promoting attendance on licensed premises.

Nothing in this section shall be construed to prohibit licensees licensed to sell liquor for consumption on the premises from offering special package plans or price premiums. Licensees may advertise their special package plans or price premiums.

Sec. 18. 28 MRSA c. 13, subchapter II is repealed.

Sec. 19. 28 MRSA § 604, 1st ¶, last sentence, as last repealed and replaced by PL 1969, c. 590, § 49, is amended to read:

The fee therefor shall be ~~\$500~~ \$600 per year for malt liquor only and ~~\$300~~ \$600 for table wine only, which sum shall accompany the application for such certificate.

Sec. 20. 28 MRSA § 651, 1st ¶, 1st sentence, as amended by PL 1969, c. 360, § 21, is further amended to read:

Licenses for the sale and distribution of malt liquor or table wine at wholesale under such regulations as the commission may prescribe may be issued by the commission upon an application in such form as they may prescribe and upon payment of an annual fee of ~~\$300~~ \$600 for the principal place of business, and ~~\$300~~ \$600 for each additional warehouse maintained by such wholesale licensee, except that the commission may issue special permits, upon application in writing, for the temporary storage of malt liquors or table wine under such terms and upon such conditions as the commission may prescribe.

Sec. 21. 28 MRSA § 701, as last amended by PL 1975, c. 540, §§ 2 and 3, is repealed and the following enacted in place thereof:

§ 701. Fees

1. Fees for full-year licenses. Fees for full-year licenses for the sale of alcoholic beverages for on-premise consumption of liquor shall be as follows:

- A. Class I License, spirituous, vinous, and malt beverages \$ 750
 - (1) Class I-A License—Optional License—For hotels that do not serve food—Spirituous, vinous, and malt beverages \$1,000
- B. Class II License, Spirituous liquor only \$ 500
- C. Class III License, vinous liquors only \$ 200
- D. Class IV License, malt liquor only \$ 200
- E. Class V License, Clubs—Without Catering Privileges—spirituous, vinous, and malt beverages \$ 450

2. Fees for part-time licenses. Fees for part-time licenses for the sale of alcoholic beverages to be consumed on the premises shall be 1/2 the full-time fee at their location.

3. Fees for license extensions. Fees for the extension of part-time licenses for a 2-month period for the sale of alcoholic beverages to be consumed on the premises shall be as follows:

- A. Class I License, spirituous, vinous and malt beverages \$140
 - (1) Class I-A—Optional License—For hotels that do not serve food—spirituous, vinous and malt beverages \$180
- B. Class II License, spirituous liquor only \$ 40
- C. Class III License, vinous liquor only \$ 40
- D. Class IV License, malt liquor only \$ 40
- E. Class V License, Club—Without Catering Privileges—Spirituous, vinous, and malt beverages \$ 40

4. Fees for full-year licenses. Fees for full-year licenses for the sale of malt liquor and table wine to be consumed off the premises shall be as follows:

- A. Class VI license, malt liquor only \$125
 - (1) Class VI-A license—optional license—For retail stores and retail service organizations without a stock of groceries worth \$1,000 in wholesale value \$225
- B. Class VII license, Table Wine only \$125
 - (1) Class VII-A license—Optional license—For retail stores or retail service organizations without a stock of groceries worth \$1,000-wholesale value \$225

5. Fees for part-time licenses. Fees for part-time licenses for the sale of malt liquor and table wine to be consumed off the premises shall be 1/2 the full-time license fee.

6. Fees for license extensions. Fees for bimonthly extension of part-time licenses for the sale of malt liquor and table wine to be consumed off the premises shall be as follows:

- A. Class VI License, malt liquor only \$30
 - (1) Class VI-A license—Optional license—For retail stores and retail service organizations without a stock of groceries worth \$1,000 in wholesale value \$45
- B. Class VII License, Table Wine only \$30

(I) Class VII-A License—Table Wine only—For retail stores and retail service organizations without a stock of groceries worth \$1,000 in wholesale value \$45

Sec. 22. 28 MRSA § 701-A is enacted to read:

§ 701-A. Premises eligible for licenses in conformation with local option questions

1. Class I license. The following premises shall be eligible for a Class I license—spirituous, vinous and malt beverages:

- A. Airlines;
- B. Civic auditoriums;
- C. Class A restaurants;
- D. Clubs with catering privileges;
- E. Dining cars;
- F. Golf clubs;
- G. Hotels;
- H. Indoor ice skating clubs;
- I. Indoor tennis clubs and
- J. Vessels.

2. Class II License. The following premises shall be eligible for a Class II license—spirituous only:

- A. Airlines;
- B. Civic auditoriums;
- C. Class A restaurants;
- D. Clubs with catering privileges;
- E. Dining cars;
- F. Golf clubs;
- G. Hotels;
- H. Indoor ice skating clubs;
- I. Indoor tennis clubs and
- J. Vessels.

3. Class III License. The following premises shall be eligible for a Class III license—vinous only:

- A. Airlines;
- B. Civic auditoriums;
- C. Class A restaurants;
- D. Clubs with catering privileges;
- E. Dining cars;
- F. Golf clubs;
- G. Hotels;
- H. Indoor ice skating clubs;
- I. Indoor tennis clubs;
- J. Restaurants and
- K. Vessels.

4. Class IV License. The following premises shall be eligible for a Class IV license—malt beverages only:

- A. Airlines;
- B. Civic auditoriums;
- C. Class A restaurants;
- D. Clubs with catering privileges;
- E. Dining cars;
- F. Golf clubs;
- G. Hotels;
- H. Indoor ice skating clubs;
- I. Indoor tennis clubs;
- J. Restaurants;
- K. Taverns and
- L. Class A taverns.

5. Class V License. The following premises shall be eligible for a Class V License—Spirituous, vinous and malt beverages:

A. Clubs without catering privileges.

6. Class VI License. The following premises shall be eligible for a Class VI license:

A. Retail Stores and Retail Service Organizations—Sale of malt liquor for off-premises consumption only.

7. Class VII License. The following premises shall be eligible for a Class VII License:

A. Retail stores and Retail Service Organizations—Sale of Table Wine for off-premise consumption only.

Sec. 23. 28 MRSA § 751, 4th ¶, as last amended by PL 1969, c. 360, § 24, is further amended by adding at the end the following sentence:

Compatible merchandise shall consist exclusively of tobacco products, newspapers, greeting cards and paper products.

Sec. 24. 28 MRSA § 752, 5th sentence is repealed.

Sec. 25. 28 MRSA § 801, first sentence, as repealed and replaced by PL 1975, c. 623, § 44, is amended to read:

Licenses for the sale of spirituou and vinous liquor and malt liquor to be consumed on the premises where sold may be issued to clubs and to bona fide hotels, restaurants, vessels, railroad dining cars, airlines, to incorporated civic organizations pursuant to section 801-B and ~~municipal~~ civic auditoriums on payment of the fees provided; subject to the provisions of section 252 and to the condition that the initial application therefor be approved by the municipal officers of the town or city in which such intended licensee, if operating a club, restaurant, hotel or municipal auditorium is operating the same, and if said hotel, restaurant or club is located in an unorganized place, said application shall be approved by the county commissioners of the county, within which such unorganized place is located, and subject to the further condition that licenses issued to restaurants, except class A restaurants, shall be limited to malt liquor or wine, or both.

Sec. 26. 28 MRSA § 801, 2nd ¶, as enacted by PL 1973, c. 749, § 8, is repealed.

Sec. 27. 28 MRSA § 801-B, sub-§ 2, as enacted by PL 1973, c. 747, § 10, is amended to read:

2. The license provided for by this section shall authorize the licensee to sell or serve liquor only at one public event or public gathering per year which is sponsored by the licensee, and said public event or public gathering shall be valid for no longer than 3 consecutive days and shall not be renewable.

Sec. 28. 28 MRSA c. 23 is repealed and the following enacted in place thereof:

CHAPTER 23

SALE OF FOOD PRODUCTS WITH A HIGH ALCOHOLIC CONTENT

§ 951. Restrictions

1. Sales of foods with alcohol restricted. Food products with an alcoholic content greater than $\frac{1}{2}$ of 1% by volume shall be offered for sale only on premises licensed by the Maine State Liquor Commission as defined in section 2, which is in full force and effect.

2. Consumers of foods with liquor restricted. It shall be illegal to sell to minors or for minors to consume foods with an alcoholic content greater than $\frac{1}{2}$ of 1% by volume, except in the presence of a parent or guardian.

§ 952. Penalties

Any violation of this chapter shall be deemed a Class E crime.

Sec. 29. 28 MRSA § 1059 is amended to read:

§ 1059. — prisoners

Whoever gives or delivers any liquor to a person confined in any jail, house of correction or other place of confinement, or to a person in custody of any officer qualified to serve criminal process, or has in his possession, within the precincts of any jail, house of correction or other place of confinement, any such liquor, with intent to convey or deliver the same to any person confined therein, unless under the direction of the physician appointed to attend such prisoner, or of the officer in charge of such place of confinement shall be punished by a fine of not more than ~~\$20~~ \$100 for the first offense and \$100 for each subsequent offense or by imprisonment for not more than 30 days.

Sec. 30. 28 MRSA § 1060, 2nd ¶, as enacted by PL 1971, c. 227, is amended to read:

There shall be a fee of \$+ \$2 for the issuance of an adult identification card.

Sec. 31. 28 MRSA § 1211 is repealed and the following enacted in place thereof:

§ 1211. Disposal of forfeited liquors

All liquors declared forfeited by any court or judge under this Title shall, by order of the court or judge rendering final judgment thereon, be turned over to the State Liquor Commission. Except as hereinafter provided, the commission shall sell such forfeited liquors in the state retail liquore stores throughout the State. If any liquor is determined by the court or judge to be unfit or unsatisfactory for consumption or retail sale, the court or judge may order such liquor to be destroyed by any officer competent to serve the process on which it was forfeited and he shall make the return accordingly to such court or judge. Such liquors shall be destroyed by pouring them upon the ground or into some public sewer.

Sec. 32. 28 MRSA c. 31 is enacted to read:

CHAPTER 31

PUBLIC INFORMATION

§ 1301. Erection of guidepost

In order to increase state revenues and to attract more of the tourist trade to the state retail liquor store in Kittery, the Maine Turnpike Authority shall erect and maintain a guidepost no more than one mile north of the York toll station on the southbound side of the Maine Turnpike. The said guidepost shall be worded as follows:

DISCOUNT LIQUOR STORE — KITTERY

YORK EXIT — U.S. ROUTE 1 SOUTH

The Bureau of Alcoholic Beverages shall compensate the Maine Turnpike Authority for the full cost of erecting the said guidepost.

Sec. 33. 36 MRSA § 1760, sub-§ 36 is enacted to read:

36. Spirituous and vinous liquors. Sales of spirituous and vinous liquors containing more than 14% alcohol by volume offered for sale in special agency stores as defined in Title 28, section 153.

Sec. 34. PL 1975, c. 540, § 5 is repealed and the following enacted in place thereof:

Sec. 5. Provisional clause. Notwithstanding any other provision of law, licenses may be granted to indoor tennis clubs, indoor ice skating clubs and golf clubs in municipalities and unincorporated places which have previously voted affirmatively on Title 28, section 101, subsections 2, 3, 6 and 7.

Sec. 35. PL 1975, c. 540, § 6 is repealed and the following enacted in place thereof:

Sec. 6. Application limited. This Act shall remain in effect for 90 days following the adjournment of the 108th Legislature in 1977. The State Liquor Commission shall evaluate the effectiveness of this law and make a written report to the 108th Legislature by January 15, 1977.

Effective July 29, 1976

CHAPTER 742

AN ACT to Clarify the Retirement Statutes.

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