

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

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1987

mation as required by the department of the existence of the claim.

2-E. Notification of pleading. In any action to recover the medical cost of injury, disease, disability or similar occurrence for which the party received medical benefits under the Medicaid program, the party bringing the action shall notify the department of that action at least 10 days prior to filing the pleadings. Department records indicating medical benefits paid by the department on behalf of the recipient shall be prima facie evidence of the medical expenses incurred by the recipient for the related medical services.

2-F. Disbursement. No disbursement of any award, judgment or settlement may be made to a recipient without the recipient or the recipient's attorney first providing at least 10 days' written notice to the department of the award, judgment or settlement or obtaining from the department a release of any obligation owed to it for medical benefits provided to the recipient.

Effective August 4, 1988.

CHAPTER 622

S.P. 780 — L.D. 2037

AN ACT to Conserve Striped Bass.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the interstate management of Atlantic coast striped bass requires a minimum size limit of 33 inches in total length for Chesapeake Bay stock; and

Whereas, the State's minimum size of striped bass is 24 inches in fork length as of December 31, 1987; and

Whereas, Chesapeake Bay striped bass will migrate into state waters by May 1988; and

Whereas, failure to protect Chesapeake Bay striped bass under 33 inches in total length could lead to a federal moratorium on the taking of striped bass in state waters; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §6555, as amended by PL 1987, c. 513, §§6 and 7, is repealed and the following enacted in its place:

§6555. Striped bass; method of taking

It is unlawful to fish for or take striped bass in the waters of the State, except by hook and line.

It is unlawful to take or possess striped bass which are less than 33 inches in total length. It is unlawful to possess striped bass unless the fish are whole with head on and are 33 inches or more in total length.

Sec. 2. 12 MRSA §6556, as repealed and replaced by PL 1985, c. 596, §§4 and 5, is repealed and the following enacted in its place:

§6556. Striped bass; limits; personal use

It is unlawful for any person to fish for or take striped bass in the waters of the State, except for personal use.

It is unlawful for any person to take or possess more than 2 striped bass each day.

Sec. 3. 12 MRSA §6556-A is enacted to read:

§6556-A. Striped bass; modification of requirements

The commissioner may, by rule adopted pursuant to Title 5, chapter 375, modify the requirements of sections 6555 and 6556 to the extent that modifications are adopted by the Atlantic States Marine Fisheries Commission for the purposes of conserving striped bass.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 23, 1988.

CHAPTER 623

H.P. 1598 — L.D. 2184

AN ACT to Make Corrections in the Recodification of the Liquor Laws.

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

Sec. 1. 28 MRSA §52, as repealed by PL 1987, c. 45, Pt. A, §3 and as amended by PL 1987, c. 349, Pt. H, §16, is repealed.

Sec. 2. 28 MRSA §101, as repealed by PL 1987, c. 45, Pt. A, §3 and as amended by PL 1987, c. 54, §1, is repealed.

Sec. 3. 28 MRSA §103, as repealed by PL 1987, c. 45, Pt. A, §3 and as amended by PL 1987, c. 54, §2, is repealed.

Sec. 4. 28-A MRSA §61, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

1. Membership. The State Liquor Commission shall consist of ~~2~~ 5 members to be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and to confirmation by the Legislature. Not more than ~~2~~ 3 members of the commission may belong to the same political party. The Governor shall designate one of the members to be the commission chairman.

Sec. 5. 28-A MRS §124, sub-§4, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

4. Repeal or reconsideration. Where a municipality or unincorporated place has voted to accept or reject any local option question, the vote is effective until repealed by a new petition and vote as required by section 121 or 122. No local option vote may be taken on the same question more than once in any ~~2-year~~ one-year period.

Sec. 6. 28-A MRS §457, as enacted by PL 1987, c. 342, §23, is amended to read:

§457. Transfer of agency liquor store license

If an agency liquor store license is transferred, the new licensee may operate the agency liquor store after notifying the commission of the transfer until a new agent is selected by the commission.

Sec. 7. 28-A MRS §605, sub-§§5 and 8, as enacted by PL 1987, c. 342, §27, are amended to read:

5. Incorporation of licensee's business. The incorporation of a licensee's business or a change in the form of incorporation of a licensee's business are transfers within the meaning of this section. This subsection does not apply to agency liquor stores as long as the licensed agent retains control of the corporate stock.

8. Application. This section does not apply to certificate of approval holders ~~or agency liquor stores.~~

Sec. 8. 28-A MRS §653, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses requiring their approval and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses.

A. The commission shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall ~~prepare~~ provide public notice of any hearing held under this section by caus-

ing a notice, at the applicant's prepaid expense, stating the name and place of hearing, ~~to be printed; appear on at least 6 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or on 2 consecutive weeks before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.~~

(1) ~~If the municipality where the premises are situated has a daily newspaper, then in that newspaper for at least 6 consecutive days before the date of hearing;~~

(2) ~~If the municipality where the premises are situated has a newspaper, although not a daily, then in that newspaper for 2 consecutive weeks before the date of hearing; or~~

(3) ~~If no newspaper is printed, then for at least 6 consecutive days in a daily newspaper having general circulation in the municipality in which the premises are situated or for 2 consecutive weeks before the date of hearing in any newspaper published in that county.~~

Sec. 9. 28-A MRS §751, sub-§1, as amended by PL 1987, c. 342, §48, is further amended to read:

1. Records to be kept. Every retail licensee shall keep for 2 years complete records showing:

- A. The date of all purchases;
- B. The actual prices paid;
- C. The fact that the licensee paid by cash or check for all liquor bought by him at the time of or before delivery of the liquor; and
- D. The name and address of every person from whom the liquor was purchased.

Sec. 10. 28-A MRS §751, sub-§3, as enacted by PL 1987, c. 342, §49, is repealed and the following enacted in its place:

3. On-premise retail licensee to keep records of sales separate. An on-premise retail licensee shall separate liquor sales from food sales by the licensee in the licensee's records.

Sec. 11. 28-A MRS §1007, sub-§2, ¶A, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. Full-time (one year) \$ ~~125~~ 135;

Sec. 12. 28-A MRS §1012, sub-§1, ¶B, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

Sec. 13. 28-A MRS §1012, sub-§3, ¶A, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. The license fee per calendar day of the event or gathering is\$10.

Sec. 14. 28-A MRSA §1061, sub-§4, as amended by PL 1987, c. 232 and as repealed and replaced by PL 1987, c. 342, §84, is repealed and the following enacted in its place:

4. Required number of sleeping rooms. Each hotel must be equipped with at least the required number of adequate sleeping rooms.

A. The number of rooms required is based on the population of the municipality in which the hotel is located.

(1) If the hotel is located in a municipality of 3,000 or less population, the hotel must have at least 14 adequate sleeping rooms.

(2) If the hotel is located in a municipality of more than 3,000 but not more than 7,500 population, the hotel must have at least 20 adequate sleeping rooms.

(3) If the hotel is located in a municipality of 7,500 or more population, the hotel must have at least 30 adequate sleeping rooms.

B. Any increase in population as shown by the 1960 and any subsequent Federal Census does not affect the eligibility for license of premises licensed before that census.

Sec. 15. 28-A MRSA §1355, as amended by PL 1987, c. 248 and repealed and replaced by PL 1987, c. 342, §107, is repealed and the following enacted in its place:

§1355. Manufacturer licenses

1. Issuance of licenses. The commission may issue manufacturer licenses to distill, rectify, brew or bottle spirits, wine or malt liquor to distillers, rectifiers, brewers, bottlers and wineries, as defined in section 2, operating under federal law and federal supervision.

1-A. Breweries. The following provisions apply to the manufacturer's license issued to a brewery, other than a small Maine brewery licensed under subsection 2.

A. The holder of a brewery license may produce malt liquor in an amount exceeding 50,000 gallons a year.

B. The holder of a brewery license may permit sampling of the malt liquor product on the premises:

(1) By employees for the purpose of quality control of the product;

(2) By wholesalers for the purpose of determining whether to carry the brewery's product as a wholesale product, provided that the holder of the brewery license pays the excise tax on the product

sampled according to section 1652; and

(3) By the public in conjunction with a tour of the brewery's facilities, provided that:

(a) The holder of the brewery license pays the excise tax on the product sampled according to section 1652; and

(b) Minors are not permitted to consume any product with an alcohol content greater than 1/2 of 1%.

C. The holder of a brewery license may sell on the brewery premises during regular business hours a specialty package of malt liquor produced at the brewery, the volume of which is not to exceed one gallon, to be consumed off the premises.

D. The holder of a brewery license may sell the brewery's product to wholesalers.

E. The holder of a brewery license may be issued one license under chapter 43 for the sale of liquor to be consumed on the premises for a location other than the brewery.

(1) The retail license must be held exclusively by the holder of the brewery license.

(2) This retail license authorizes the sale of products of the brewery, other than the specialty package under paragraph C, in addition to other liquor permitted to be sold under the retail license, to be consumed on the premises.

(3) Notwithstanding section 1361, the brewery licensee may sell products of the brewery directly to the retail licensee under this paragraph without selling to a wholesale licensee. The brewery licensee shall keep and maintain complete records on all sales to the retail licensee.

(4) All records of the brewery licensee shall be kept separate from the records of the retail licensee.

2. Small Maine breweries. The following conditions apply to licenses issued to small Maine breweries.

A. A holder of a small Maine brewery license may produce malt liquor containing 25% or less alcohol by volume in an amount not to exceed 50,000 gallons per year.

B. A holder of a small Maine brewery license may sell, on the premises during regular business hours, malt liquor produced at the brewery by the bottle, by the case or in bulk.

C. A holder of a small Maine brewery license may sell or deliver the product to licensed retailers and wholesalers. The licensee may sell, on the premises for

consumption off the premises, malt liquor produced at the brewery by the bottle, case or in bulk to licensed retailers, including, but not limited to, off-premise retail licensees, restaurants and clubs.

D. A holder of a small Maine brewery license may apply for one license for the sale of liquor to be consumed on the premises for a location other than the brewery.

E. A holder of a small Maine brewery license may list on product labels and in its advertising the list of the ingredients and the product's average percentage of the recommended daily allowances of nutritional requirements.

3. Maine farm wineries. The following conditions apply to Maine farm wineries.

A. A holder of a Maine farm winery license may produce wines and sparkling wines in an amount not to exceed 50,000 gallons a year.

B. A holder of a Maine farm winery license may serve complimentary samples of wine and sell, during regular business hours, wines produced at the winery by the bottle, by the case or in bulk on the premises of the winery to persons who are not minors. A holder of a Maine farm winery license may serve complimentary samples of wine on Sunday after the hour of 12 noon and may sell wines on Sunday after the hour of 12 noon if the municipality in which the winery is located has authorized the sale of wines on Sunday for consumption off the premises under chapter 5.

C. A holder of a Maine farm winery license, upon application to and approval of the commission and payment of the license fee, may obtain a license for one additional location other than the winery licensed under this subsection. The holder of the license is not required to conduct any bottling or production of wine at the 2nd licensed location, but may conduct all activities which are permitted by this section at the winery.

D. A holder of a Maine farm winery license may sell or deliver the product to licensed retailers and wholesalers, and may sell, on the premises, wine produced at the winery by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premise retail licensees, restaurants and clubs.

Sec. 16. 28-A MRSA §1652, sub-§2, ¶A, as amended by PL 1987, c. 236, and as repealed by PL 1987, c. 342, §116, is repealed.

Sec. 17. 28-A MRSA §1652, sub-§2-A is enacted to read:

2-A. Payment due. On the 10th day of each month, every brewery and winery shall pay the excise taxes and premium due on malt liquor and wine which that brew-

ery or winery removed from areas required to be bonded by the Federal Government.

Sec. 18. 28-A MRSA §2084, as enacted by PL 1987, c. 254, is amended to read:

§2084. Sales by agent of licensee to minors

Any agent of a licensee who sells liquor to a person when he knows or when a reasonable person should know that that person is a minor commits a civil violation for which a forfeiture of not more than \$500 may be adjudged.

Effective August 4, 1988.

CHAPTER 624

H.P. 1600 — L.D. 2189

AN ACT to Amend the Laws Governing Absentee Balloting.

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

21-A MRSA §755, as enacted by PL 1985, c. 161, §6, is amended to read:

§755. Deadline

The office of the clerk shall be open a minimum of 4 hours on the Saturday immediately preceding a general statewide regular election and any election for federal or state office to allow voters to obtain or cast absentee ballots. In order to be valid, an absentee ballot must be delivered to the municipal clerk at any time before the polls are closed.

Effective August 4, 1988.

CHAPTER 625

H.P. 1504 — L.D. 2054

AN ACT to Amend the Uniform Commercial Code.

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

Sec. 1. 11 MRSA §1-201, sub-§§(5), (14) and (20) are amended to read:

(5) Bearer. "Bearer" means the person in possession of an instrument, document of title or certificated security payable to bearer or indorsed in blank.

(14) Delivery. "Delivery" with respect to instrument, documents of title, chattel paper or certificated securities means voluntary transfer of possession.