

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

(2) The project may not unreasonably harm the protected natural resources covered by this article.

(3) The Department of Transportation and its contractors use erosion control measures to prevent sedimentation of any surface waters.

(4) The project may not block any fish passage in any watercourse.

(5) The project may not result in any excessive intrusion of the project into the protected natural resources.

B. Those activities that are exempt from permitting requirements under section 480-Q are not subject to this subsection.

C. The Department of Transportation must notify the commissioner before construction activities begin if the provisions of this subsection are utilized.

Sec. 3. 38 MRSA §480-T is enacted to read:

§480-T. Transportation improvements

Prior to February 15, 1991, an individual permit is not required by this article for maintenance or repair of public transportation facilities or structures, or transportation reconstruction or replacement projects that are under the direction and supervision of the Department of Transportation that do not affect a coastal wetland or coastal sand dune system.

1. Requirements. The commissioner and the Commissioner of Transportation shall enter into a memorandum of understanding for projects to be undertaken in accordance with this section. In addition, the Department of Transportation shall meet the following conditions for any project undertaken pursuant to this section.

A. All projects must be performed in a manner consistent with this article and in compliance with rules adopted by the board.

B. The project may not unreasonably harm the protected natural resources covered by this article.

C. The Department of Transportation and their contractors use erosion control measures to prevent sedimentation of any surface waters.

D. The project may not block any fish passage in any watercourse.

E. The project may not result in any excessive intrusion of the project into the protected natural resources.

2. Exempt activities. Those activities that are exempt from permitting requirements under section 480-Q are not subject to this section.

3. Notification. The Department of Transportation must notify the department prior to beginning the construction of any projects undertaken that meet the requirements of this section.

4. Repeal. This section is repealed on February 15, 1991, except that reconstruction or replacement projects that have been advertised prior to that date continue to be subject to this section.

Sec. 4. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1989-90

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Land Quality Control

All Other	\$3,000
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Provides funds for printing, postage, transcription services, room rental and other related rule-making expenses. These funds may not lapse but must be carried forward to June 30, 1991.

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

Effective April 10, 1990.

CHAPTER 815

H.P. 1651 - L.D. 2284

**An Act to Provide for Forfeiture of Weapons
Used in Crimes Against Persons**

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

17-A MRSA §1158, as enacted by PL 1989, c. 382, is amended to read:

§1158. Forfeiture of firearms

As part of every judgment of conviction and sentence imposed, every firearm used by the defendant or any accomplice during the commission of any murder or Class A, Class B or Class C crime ~~shall~~ or any Class D crime defined in chapter 9, 11 or 13 must be forfeited to

the State and the court shall so order, unless another person can satisfy the court prior to the judgment and by a preponderance of the evidence that such other person had a right to possess the firearm, to the exclusion of the defendant, at the time of the offense. The Attorney General shall adopt rules in accordance with Title 5, chapter 375, governing the disposition to state, county and municipal agencies of firearms forfeited under this section.

See title page for effective date.

CHAPTER 816

S.P. 942 - L.D. 2380

An Act Regarding the Operation of Bottle Clubs

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

Whereas, current law contains no criteria regarding who may operate a bottle club where liquor is consumed on the premises; and

Whereas, this lack of criteria allows operation of drinking establishments by persons who have been convicted of a Class A, Class B or Class C crime and who are ineligible for a liquor license under statutory standards designed to protect public safety; 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. 28-A MRSA §161, sub-§1, ¶C, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

C. Any bottle club which does not register with the commission commits a ~~civil violation for which a forfeiture not to exceed \$500 may be adjudged~~ Class E crime.

Sec. 2. 28-A MRSA §161, sub-§§1-A to 1-C are enacted to read:

1-A. Eligibility qualifications. The commission may not register a bottle club unless each owner or operator of the bottle club meets the eligibility qualifications under section 601, subsection 1.

1-B. Disqualification. The commission may not register a bottle club if the commission determines that:

A. An owner or operator of the bottle club is disqualified from receiving a liquor license under section 601, subsection 2;

B. A municipality, under section 161-A, has denied an owner or operator of the bottle club permission to operate the bottle club for which registration is sought and the commission has not reversed that decision under section 161-A, subsection 4; or

C. The purpose of the application is to circumvent the eligibility or disqualification provisions of section 601.

The commission shall notify each owner or operator of the bottle club in writing of its decision to approve or deny registration of the bottle club under this subsection. The decision of the commission to approve or deny registration of a bottle club is final agency action.

1-C. Penalty for operation after denial. Notwithstanding subsection 1, paragraph C, a person who operates a bottle club after receipt of notice of denial of registration under subsection 1-B commits a Class D crime.

Sec. 3. 28-A MRSA §161-A is enacted to read:

§161-A. Local approval of bottle clubs

1. Application to local authorities. An owner or operator of a bottle club, prior to registration with the commission under section 161, shall apply to the municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, for permission to operate the bottle club or for transfer of location of an existing bottle club. The commission shall prepare and supply application forms.

2. 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 bottle clubs and applications for transfer of location of existing bottle clubs. The municipal officers, or the county commissioners, shall provide public notice of a hearing held under this section. The notice, at the applicant's prepaid expense, must state the name and place of the hearing and must appear on at least 6 consecutive days before the date of the hearing in a daily newspaper having general circulation in the municipality or unincorporated place where the bottle club is located or on 2 consecutive weeks before the hearing date in a weekly newspaper having general circulation in the municipality or unincorporated place where the bottle club is located.

3. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. An application may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;