

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**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**

---

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;

B. Noncompliance of the bottle club with any local zoning ordinance or other land use ordinance not directly related to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club or other such conditions caused by persons patronizing or employed by the bottle club that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the bottle club to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law at or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club;

E. A violation of any provision of this Title;

F. In the case of corporate applicants, ineligibility or disqualification under section 601 of any officer, director or stockholder of the corporation; and

G. Location of the bottle club at an amusement area, beach or other area designed primarily for use by minors.

4. Appeal to commission. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the commission. The commission shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the commission may consider all of the requirements referred to in subsection 3.

A. If the decision appealed is approval of the application, the commission may reverse the decision if it was arbitrary or based on an erroneous finding.

B. If the decision appealed is denial of the application, the commission may reverse the decision and register the bottle club under section 161 only if it finds by clear and convincing evidence that the decision was without justifiable cause.

5. Appeal to Superior Court. Any person or governmental entity aggrieved by a commission decision under this section may appeal the decision to the Superior Court.

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

Effective April 10, 1990.

## CHAPTER 817

H.P. 1741 - L.D. 2405

### An Act Regarding Importation of Liquor

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

**Sec. 1. 28-A MRSA §2075, sub-§2-A** is enacted to read:

2-A. Evidence. The possession of more than 8 quarts of spirits in one or more containers that are not labeled in accordance with Title 32, section 1865, is prima facie evidence of a violation of this section.

**Sec. 2. 28-A MRSA §2077, sub-§2-A** is enacted to read:

2-A. Evidence. The possession of more than 6 gallons of malt liquor or 8 quarts of wine in one or more containers that are not labeled in accordance with Title 32, section 1865, is prima facie evidence of a violation of this section.

**Sec. 3. 32 MRSA §1865, sub-§2,** as amended by PL 1989, c. 427, §2, is further amended to read:

2. Brand name. Glass beverage containers having a refund value of not less than 5¢ and having a brand name permanently marked thereon, shall not be required to comply with the provisions of subsection 1. The exception provided by this subsection does not apply to glass beverage containers that contain spirits, wine or malt liquor as those terms are defined by Title 28-A, section 2.

**Sec. 4. Applicability.** Section 2 of this Act as it applies to wine, defined in the Maine Revised Statutes, Title 28-A, section 2, is effective September 1, 1990.

See title page for effective date, unless otherwise indicated.

---

## CHAPTER 818

S.P. 818 - L.D. 2094

### An Act to Amend Vital Statistics Provisions Pertaining to Adoptions

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

**Sec. 1. 19 MRSA §532-A,** as amended by PL 1979, c. 325, §2, is further amended by adding at the end a new paragraph to read:

Before the parent or parents execute the surrender and release, the court shall ensure that they are informed of the existence of the adoption registry and the services available under Title 22, section 2706-A.