

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

January 8, 1992 to March 31, 1992

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SECOND REGULAR SESSION
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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
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

tion of any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

(2) Has engaged in conduct that is prohibited or penalized by state law as murder or a Class A, Class B, Class C or Class D crime or by any provision of the Maine Criminal Code, chapter 15, 19, 25 or 45;

(3) Has been found guilty of conduct specified in subparagraph (2) in another state or other jurisdiction, unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred;

(4) Has engaged in conduct specified in subparagraph (2) in another state or other jurisdiction, unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred; or

(5) Has falsified or misrepresented material facts in obtaining or maintaining the certificate; and

Sec. 2. 25 MRSA §2806, sub-§1-A is enacted to read:

1-A. Investigation and notice of complaints. Before proceeding with a hearing to suspend or revoke a law enforcement officer's certification under subsection 1, paragraph B, subparagraph (2) or (4), the board shall notify the chief administrative officer of the agency employing the officer that the board is contemplating suspension or revocation of the officer's certification. The chief administrative officer shall investigate that alleged conduct and shall report its findings to the board within 30 days of receiving notice of the board's contemplation of suspension or revocation. The board shall proceed with any suspension or revocation action it determines appropriate after receiving the chief administrative officer's report. This subsection does not prevent a chief administrative officer from investigating conduct that may give rise to grounds for suspension or revocation before receiving a request for an investigation from the board, provided the chief administrative officer notifies the board following that investigation if the investigation reveals reasonable cause to believe that an officer has engaged in conduct described in subsection 1, paragraph B, subparagraph (2) or (4). Nothing in this subsection prevents the board from investigating conduct of a law enforcement officer on its own or referring a matter of such conduct to another agency for investigation.

Sec. 3. 25 MRSA §2806, sub-§2, ¶A, as repealed and replaced by PL 1983, c. 244, §7, is amended to read:

A. For paragraph A and paragraph B, subparagraph (2), (4) or (5), in accordance with Title 5, chapter 375, subchapter IV;

Sec. 4. 25 MRSA §2806, sub-§2, ¶B, as amended by PL 1991, c. 451, is further amended to read:

B. For paragraph B, subparagraph (1) or (3), if the officer is employed as a law enforcement officer, in accordance with Title 5, section 10004; and

Sec. 5. 25 MRSA §2806, sub-§7 is enacted to read:

7. Recertification. A person whose certificate has been revoked under subsection 1, paragraph B, may apply to the board for reinstatement of certification if:

A. The certificate was revoked for a cause other than engaging in conduct that is prohibited or penalized by state law as murder; or as a Class A, Class B or Class C crime; or for equivalent conduct in another state or other jurisdiction;

B. At least 3 years have elapsed since revocation of the certificate; and

C. A law enforcement agency has indicated a commitment to hire the officer if the officer is certified.

The granting of certification under this subsection is governed by Maine Criminal Justice Academy rules relating to certification. The officer is subject to all training requirements applicable to persons whose certification has lapsed.

See title page for effective date.

CHAPTER 791

S.P. 890 - L.D. 2283

An Act Regarding the Purchase of Spirits at Agency Liquor Stores

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

Sec. 1. 28-A MRSA §352, as repealed and replaced by PL 1991, c. 376, §50 and amended by c. 591, Pt. VV, §4 is repealed and the following enacted in its place:

§352. Purchase of liquor in state and agency liquor stores; purchase from commission

1. Methods of payment. This subsection governs the methods of payment permitted for purchases of li-

quor from state or agency liquor stores and for purchases of liquor from the commission by agency liquor stores.

A. An agency liquor store may accept payment for liquor purchases by cash, check or major credit card.

B. A person, other than a licensee, buying liquor at a state liquor store must pay in cash or by major credit card.

C. A licensee buying liquor at a state liquor store or from the commission must pay in cash or by check.

D. In addition to the methods of payment permitted in paragraph C, an agency liquor store may pay for liquor purchased from the commission within 10 days if the agent has deposited cash in escrow with the commission to cover those purchases.

2. Checks not honored on presentation; consequences. If any check is not honored on presentation or if an agency liquor store fails to pay for liquor in the allotted 10-day period, the commission shall withhold any license not issued or immediately take back the license if already issued, voiding that license until such time as the check or invoice is paid in full, together with the cost of the check failure or collection procedure. The commission may order that person to make all payments to the commission by cash, certified check or money order for a period not to exceed one year.

Sec. 2. 28-A MRSA §606, sub-§1-A, as enacted by PL 1991, c. 227, §2, is amended to read:

1-A. Exception. Notwithstanding subsection 1, a restaurant person licensed to sell spirits for consumption on the premises, whose premises are located at least 15 miles from ~~a~~ the nearest state liquor store may purchase spirits from an agency liquor store in accordance with this subsection.

A. Before purchasing spirits from an agency liquor store, ~~a restaurant~~ the licensee must obtain written approval from the Bureau of Alcoholic Beverages. The bureau shall grant approval for the ~~restaurant~~ licensee to purchase spirits at one or more identified agency liquor stores for as long as the locations of the ~~restaurant~~ licensee and the agency liquor stores remain the same, if the ~~restaurant~~ licensee is at least 15 miles from the nearest state liquor store.

B. Before selling to a ~~restaurant~~ licensee under this subsection, an agency liquor store must obtain written approval from the Bureau of Alcoholic Beverages. Approval of the agency liquor store permits that store to sell spirits to any ~~restaurant~~ licensee that has written approval to purchase from that identified agency liquor store.

C. The sale price of spirits sold to ~~restaurants~~ licensees under this subsection must equal 104% of the retail sales price set by the State Liquor Commission for sales of those spirits ~~plus an amount equal to the difference between the wholesale price of those spirits and the retail selling price.~~

D. ~~When an agency liquor store purchases spirits from the commission or from a state liquor store~~ Upon completion of each transaction, the agency liquor store must deliver to the commission ~~or the state liquor store, for each sale made pursuant to this subsection since the previous purchase of spirits, a copy of the licensee order form and the amount added to the retail sales price pursuant to paragraph C~~ an amount equal to 8% of the regular retail sales price of each item of spirits sold to a licensee pursuant to this subsection. ~~The commission or the state liquor store must pay the amount added to the retail sales price pursuant to paragraph C to the Bureau of Alcoholic Beverages.~~

Sec. 3. 28-A MRSA §1652, sub-§4, ¶D, as amended by PL 1991, c. 591, Pt. VV, §8, is further amended to read:

D. Any wholesale licensee selling malt liquor or wine to an instrumentality, a licensee for resale to an airline, a training site or a ship chandler shall present proof of that sale to the commission. The commission shall grant to the wholesale licensee a credit of all state excise tax and premium paid in connection with that sale under the following conditions.

(1) The commission shall grant a credit for the excise tax and premium on malt liquor or wine sold by wholesale licensees to any instrumentality of the United States or any Maine National Guard state training site exempted by the commission.

(2) The commission shall grant a credit for the excise tax and premium on malt liquor or wine sold to any ship chandler, provided that the malt liquor and wine are resold to vessels of foreign registry for consumption after that vessel has left port or are resold for consumption on board vessels of United States registry ~~which~~ that are destined for a foreign port.

(3) The commission shall grant a credit for the excise tax and premium on malt liquor and table wine sold to a licensee registered with the bureau for resale to licensed airlines or to unlicensed airlines for their ~~inter-~~ inter-state and international flights.

See title page for effective date.