

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

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TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1993

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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## CHAPTER 266

S.P. 194 - L.D. 630

## An Act to Amend the Liquor Laws

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

**Sec. 1. 28-A MRSA §2, sub-§§6-A and 6-B** are enacted to read:

**6-A. B.Y.O.B. function.** "B.Y.O.B. function" means an event held by a B.Y.O.B. sponsor where:

- A. The general public is invited;
- B. Admission is or is not charged;
- C. A person brings liquor for personal consumption;
- D. No liquor is sold; and
- E. Entertainment is provided.

**6-B. B.Y.O.B. sponsor.** "B.Y.O.B. sponsor" means a person who conducts or holds a B.Y.O.B. function and is not required to register as a bottle club pursuant to section 161.

**Sec. 2. 28-A MRSA §2, sub-§24, ¶B** is enacted to read:

B. "Premises" includes the place where a B.Y.O.B. sponsor holds or conducts a B.Y.O.B. function under a permit obtained under section 163.

**Sec. 3. 28-A MRSA §4, sub-§1,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Hours for sale of liquor.** Except as provided in paragraphs A; ~~and B and C~~, licensees may sell or deliver liquor from 6 a.m. on any day until 1 a.m. of the following day.

A. Licensees may not sell liquor on Sunday between the hours of 6 a.m. and 12 noon.

B. Licensees may sell liquor on January 1st of any year from 12 midnight to 2 a.m.

(1) In areas in which liquor may be sold except on Sundays, if January 1st falls on a Monday, licensees may sell or deliver liquor between 9 p.m. Sunday, December 31st and 2 a.m. January 1st, notwithstanding any local option decisions to the contrary.

~~C. Licensees may not sell or deliver liquor on Memorial Day before 12 noon.~~

**Sec. 4. 28-A MRSA §161, sub-§§4 and 6,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**4. Consumption or possession on premises.** A bottle club may not permit consumption or possession of imitation liquor on the bottle club premises by minors. No A bottle club may not permit consumption of liquor on the bottle club premises by minors or visibly intoxicated persons.

**6. Civil violations and jurisdiction.** A bottle club ~~which that~~ violates subsection 3, 4 ~~or~~, 5 ~~or~~ 7 commits a civil violation for which a forfeiture may be adjudged of not less than \$100 nor more than \$300 for the first offense; not less than \$200 nor more than \$500 for the 2nd offense; and \$500 for the 3rd and subsequent offenses. The District Court has jurisdiction over the civil violations, defined in this section, under Title 17-A, section 9.

**Sec. 5. 28-A MRSA §163** is enacted to read:

**§163. B.Y.O.B. function permit**

**1. Permit required.** A person may not hold a B.Y.O.B. function unless a permit is obtained from the Bureau of Liquor Enforcement.

**2. Application.** A person must apply for a B.Y.O.B. function permit at least 24 hours prior to the proposed B.Y.O.B. function. The application must be on forms provided by the Bureau of Liquor Enforcement and must be accompanied by a permit fee of \$10 for each day the function is to be held. The application must be signed by the B.Y.O.B. sponsor and must contain the following information:

A. Name and address of each person responsible for the B.Y.O.B. function;

B. The date and the beginning and ending time of the B.Y.O.B. function;

C. The location where the B.Y.O.B. function is to be held;

D. The seating capacity of the location;

E. Written approval of the municipal officers or a municipal official designated by the municipal officers, for the B.Y.O.B. function to be held at the location within the municipality; and

F. Proof that the B.Y.O.B. sponsor is at least 21 years of age.

**3. Charges and fees.** Charges paid by the general public for admission, food, mixers or other supplies used with liquor or storage or handling of liquor that belongs to the general public are not sales or gifts.

**4. Minors prohibited at B.Y.O.B. function.** The B.Y.O.B. sponsor may not allow any minor not employed by the B.Y.O.B. sponsor or not accompanied by a parent, legal guardian or custodian, as defined in Title 22, section 4002, to remain at the premises of a B.Y.O.B. function.

A B.Y.O.B. sponsor may employ a minor only if the sponsor is present in a supervisory capacity.

**5. Possession or consumption by minors.** A B.Y.O.B. sponsor may not allow a minor to possess or consume liquor or imitation liquor on the premises of the B.Y.O.B. function.

**6. Consumption by intoxicated persons.** A B.Y.O.B. sponsor may not allow a visibly intoxicated person to consume liquor on the premises of the B.Y.O.B. function.

**7. Violation of the state law.** A B.Y.O.B. sponsor may not knowingly allow any violation of any state law on the premises of the B.Y.O.B. function.

**8. Right of access.** A B.Y.O.B. sponsor shall allow a law enforcement officer to enter the premises of the B.Y.O.B. function at reasonable times for the purpose of investigating compliance with this Title.

Entry into the premises must be conducted in a reasonable manner so as not to disrupt the operation of the B.Y.O.B. function.

The investigation must be limited to those areas involved in the actual operation of the B.Y.O.B. function, including storage areas.

**9. Violations.** A violation of this section is a civil violation for which a forfeiture may be adjudged of not less than \$100 nor more than \$300 for the first offense; not less than \$200 nor more than \$500 for the 2nd offense; and \$500 for the 3rd and subsequent offenses.

**Sec. 6. 28-A MRSA §353,** as amended by PL 1991, c. 591, Pt. PP, §2, is further amended to read:

### §353. Business hours

State liquor stores and agency liquor stores may be open for the sale and delivery of liquor between the hours of 6 a.m. and ~~midnight~~ 1 a.m. in municipalities and unincorporated places that have voted in favor of the operation of state liquor stores under local option provisions. Notwithstanding any local option decisions to the contrary, state liquor stores and agency liquor stores may be open from noon ~~Sunday to 5 p.m. on Sundays~~ 1 a.m. the next day. The commission shall establish the hours of operation of each state liquor store.

**Sec. 7. 28-A MRSA §704, sub-§1,** as amended by PL 1987, c. 342, §35, is further amended to read:

**1. Licensee may not hire employee under 17; employees who are 17.** No licensee for the sale of liquor to be consumed on licensed premises may employ any person under the age of 17 years in the serving or selling of liquor on the premises where the liquor is sold. The licensee may employ a person who is 17 years of age in the serving or selling of liquor on the premises where the liquor is sold only if an employee who is at least 18 years of age is present in a supervisory capacity. Effective January 1, 1994, an employee who is at least 17 years of age but less than 21 years of age may serve or sell liquor only in the presence of an employee who is at least 21 years of age and is in a supervisory capacity or who was at least 18 years of age as of January 1, 1994 and was employed in a supervisory capacity by the employer before that date.

**Sec. 8. 28-A MRSA §704, sub-§2,** as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

**Sec. 9. 28-A MRSA §705, sub-§1, ¶A,** as amended by PL 1989, c. 140, is further amended to read:

A. Credit may be extended:

- (1) By a hotel or club to bona fide registered guests or members;
- (2) By a hotel or Class A restaurant to the holder of a credit card ~~which~~ that authorizes the holder to charge goods or credits; and
- (3) ~~By a hotel or Class A restaurant an on-premise licensee~~ to the host of a private, pre-arranged function without a credit card.

**Sec. 10. 28-A MRSA §705, sub-§2,** as amended by PL 1987, c. 342, §37, is further amended to read:

**2. Prohibited sales of liquor or imitation liquor to be consumed off the premises.** ~~No~~ A licensee or licensee's employee or agent may ~~not~~ sell, furnish, give or deliver malt liquor, imitation liquor or wine to be consumed off the premises to:

~~A. A person who is visibly intoxicated;~~

~~D. A person of known intemperate habits; or~~

E. A minor. Any licensee who accepts an order or receives payment for liquor or imitation liquor from a minor violates this paragraph.

**Sec. 11. 28-A MRSA §705, sub-§2-A** is enacted to read:

**2-A. Prohibited sales of liquor to be consumed off the premises.** A licensee or licensee's employee or agent may not sell, furnish, give or deliver malt liquor or wine to be consumed off the premises to a person who is visibly intoxicated.

**Sec. 12. 28-A MRSA §705, sub-§3,** as amended by PL 1987, c. 342, §38, is further amended to read:

**3. Prohibited sales of liquor or imitation liquor to be consumed on the premises.** No licensee or licensee's employee or agent may sell, furnish, give, serve or permit to be served any liquor or imitation liquor to be consumed on the premises where sold to:

~~A. A person who is visibly intoxicated;~~

~~D. A person of known intemperate habits; or~~

E. A minor. Any licensee who accepts an order or receives payment for liquor or imitation liquor from a minor violates this paragraph.

**Sec. 13. 28-A MRSA §705, sub-§3-A** is enacted to read:

**3-A. Prohibited sales of liquor to be consumed on the premises.** A licensee or licensee's employee or agent may not sell, furnish, give, serve or permit to be served any liquor to be consumed on the premises where sold to a person who is visibly intoxicated.

**Sec. 14. 28-A MRSA §705, sub-§4,** as amended by PL 1989, c. 526, §§4 and 28, is further amended to read:

**4. Permitting consumption or possession by a minor on the premises.** No licensee, or agent or employee of a licensee, may permit a minor to consume or possess liquor or imitation liquor on the premises.

**Sec. 15. 28-A MRSA §705, sub-§5** is enacted to read:

**5. Sale of imitation liquor to minors.** A licensee or an agent or employee of a licensee may not sell, furnish, give, deliver, serve or permit to be served any imitation liquor to be consumed on or off the premises where sold to a minor. Any licensee who accepts an order or receives payment for imitation liquor from a minor violates this subsection.

**Sec. 16. 28-A MRSA §709, sub-§1, ¶A,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. No licensee or employee or agent of a licensee may:

(1) Offer or deliver any free drinks to any person or group of persons;

(2) Deliver more than 2 drinks, or a pitcher of malt liquor or carafe of wine containing more than one liter or 33.8 ounces, to one person at one time;

(3) Sell, offer to sell or deliver to any person or group of persons an unlimited number of drinks for a fixed price, except at private functions not open to the public;

(4) Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes; or

(5) Any other practice the specific purpose of which is to encourage customers of the licensee to drink to excess; and

**Sec. 17. 28-A MRSA §714, sub-§3, ¶¶A and B,** as enacted by PL 1991, c. 543, are amended to read:

A. Every keg of malt liquor offered for sale by an off-premises licensee must be tagged in a manner and with a label of a type approved by the Director of the Bureau of Liquor Enforcement identifying the keg. The tag must be supplied ~~and affixed to~~ for each keg, without fee, by the wholesaler of the keg.

B. The retail seller of the keg shall ~~require the purchaser to~~ complete a form designed and approved by the Director of the Bureau of Liquor Enforcement and affix the label to each keg supplied to the retail seller by the distributor of the keg. The form must be printed and distributed, without fee, by the wholesaler of the keg. The form must include the name, address and date of birth of the purchaser and the identification number of the keg. The form must summarize the requirements of this section, the penalties for violating any provision of this section and the penalties for providing alcohol to a minor. The seller shall retain the form as a record subject to chapter 31.

**Sec. 18. 28-A MRSA §751, sub-§1, ¶C,** as amended by PL 1987, c. 342, §48, is further amended to read:

C. The fact that the licensee paid by cash or check for all liquor bought by ~~him~~ the licensee at the time of or before delivery of the liquor as evidenced by invoices, which must be retained by the licensee; ~~and~~

**Sec. 19. 28-A MRSA §751, sub-§1, ¶D,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

D. The name and address of every person from whom the liquor was purchased: and

**Sec. 20. 28-A MRSA §751, sub-§1, ¶E** is enacted to read:

E. In the case of an on-premise licensee, records of food purchases.

**Sec. 21. 28-A MRSA §1201, sub-§3-A** is enacted to read:

**3-A. Sale of liquor for off-premise consumption to retailer prohibited.** A person licensed under this section, or an agent or employee of the person, may not knowingly sell liquor to another retailer licensed under this section for resale except as provided in section 606 and the rules adopted pursuant to section 62.

**Sec. 22. 28-A MRSA §1202, sub-§§1 and 2,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Employees under 17.** No employee under 17 years of age may accept payment for the sale of malt liquor or wine at the check-out counter of an off-premise retail licensee licensee's establishment.

**2. Employees who are 17.** An employee who is 17 years of age may accept payment only if an employee who is at least 18 years old is present in the off-premise retail licensee licensee's establishment in a supervisory capacity. Effective January 1, 1994, an employee who is at least 17 years of age but less than 21 years of age may accept payment only in the presence of an employee who is at least 21 years of age and is in a supervisory capacity or who was at least 18 years of age on January 1, 1994 and was employed in a supervisory capacity by the employer before that date.

**Sec. 23. 28-A MRSA §1206** is enacted to read:

**§1206. Consumption prohibited on off-premise retail premises**

A person may not consume liquor on the premises of an off-premise licensee licensed under this chapter except as provided in section 1205.

**Sec. 24. 28-A MRSA §2051, sub-§1,** as amended by PL 1987, c. 342, §§118 and 119, is further amended to read:

**1. Prohibited acts.** A minor may not:

A. Purchase any liquor or imitation liquor;

B. Consume any liquor or imitation liquor, except in his own a home in the presence of his a parent, legal guardian or custodian, as defined in Title 22, section 4002;

C. Have on his the minor's person any liquor or imitation liquor in any premises licensed for the sale of liquor to be consumed on the premises;

D. Present or offer to any licensee, the licensee's agent or employee any written or oral evidence of age which that is false, fraudulent or not actually his the minor's own, for the purpose of:

(1) Ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any liquor or imitation liquor; or

(2) ~~To gain~~ Gaining access to a licensed premise when minors are not allowed;

D-1. Have in his the minor's possession a false identification card;

D-2. Sell, furnish or give a false identification card to a minor; or

E. Have any liquor or imitation liquor in his the minor's possession except:

(1) In the scope of his the minor's employment; or

(2) In his the minor's own home in the presence of his the minor's parent, legal guardian or custodian, as defined in Title 22, section 4002.

**Sec. 25. 28-A MRSA §2075, sub-§4,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**4. Penalties.** Any person who illegally imports up to 5 gallons of spirits; or causes up to 5 gallons of spirits to be shipped into the State commits a ~~Class E crime~~ civil violation for which a forfeiture not to exceed \$500 must be adjudged. Any person who illegally imports 6 or more gallons of spirits or causes 6 or more gallons of spirits to be shipped into the State commits a Class E crime.

**Sec. 26. 28-A MRSA §2075, sub-§5** is enacted to read:

**5. Forfeiture of spirits.** Notwithstanding section 2221-A, if a person fails to appear in court on the date and time specified in response to a Uniform Summons and Complaint issued for a violation of this section, either in person or by counsel, the court shall order the spirits imported or transported in excess of that allowed by subsection 1 or 2 to be forfeited to the State. As part of every adjudication and forfeiture imposed under this section the court shall order the spirits imported or transported in excess of that allowed by subsection 1 or 2 to

be forfeited to the State. Spirits forfeited under this subsection must be disposed of as prescribed in section 2229.

**Sec. 27. 28-A MRSA §2077, sub-§4**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**4. Penalties.** Any person who illegally transports ~~malt liquor or up to 5 gallons of wine or up to 9 gallons of malt liquor~~ into or within the State commits a ~~Class E crime~~ civil violation for which a forfeiture not to exceed \$500 must be adjudged. Any person who illegally transports ~~6 or more gallons of wine or 10 or more gallons of malt liquor into or within the State~~ commits a Class E crime.

**Sec. 28. 28-A MRSA §2077, sub-§5** is enacted to read:

**5. Forfeiture of malt liquor or wine.** Notwithstanding section 2221-A, if a person fails to appear in court on the date and time specified in response to a Uniform Summons and Complaint issued for a violation of this section, either in person or by counsel, the court shall order the malt liquor or wine imported or transported in excess of that allowed by subsection 1 or 2 to be forfeited to the State. As part of every adjudication and forfeiture imposed under this section the court shall order the malt liquor or wine imported or transported in excess of that allowed by subsection 1 or 2 to be forfeited to the State. Malt liquor or wine forfeited under this subsection must be disposed of as prescribed in section 2229.

**Sec. 29. 28-A MRSA §2081, sub-§1**, as amended by PL 1989, c. 293, §§1 to 3, is further amended to read:

**1. Offense.** Except as provided in subsection 2, no person may knowingly:

A. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver liquor for or to a minor;

B. Allow any minor under that person's control, or in any place under that person's control, to possess or consume liquor; or

C. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver liquor to a visibly intoxicated person; or

D. Procure, or in any way assist in procuring, furnish, give, sell or deliver imitation liquor for or to a minor, or allow a minor under that person's control or in a place under that person's control to possess or consume imitation liquor.

**Sec. 30. 28-A MRSA §2081, sub-§2**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**2. Exceptions.** This section does not apply to a person who serves liquor or imitation liquor to a minor in a home in the presence of the minor's parent, legal guardian or custodian, as defined in Title 22, section 4002.

**Sec. 31. 28-A MRSA §2081, sub-§3**, as amended by PL 1991, c. 797, §13, is further amended to read:

**3. Penalties.** Any person who violates subsection 1, paragraph A or B; commits a Class D crime. Any person who violates subsection 1, paragraph C; or D commits a Class E crime, for which a forfeiture of not more than \$500 may be adjudged. In the case of a person who has one previous conviction of a violation of subsection 1, paragraph A or B; within a 6-year period, the fine may not be less than \$500, which penalty may not be suspended. In the case of a person who has 2 or more previous convictions of a violation of subsection 1, paragraph A or B; within a 6-year period, the fine may not be less than \$1,000. In the case of a person who has no previous conviction of subsection 1, paragraph A or B; within a 6-year period, the fine may not be less than \$500, which penalty may not be suspended if that person is convicted of a violation of subsection 1, paragraph A or B; involving a minor less than 14 years old.

**Sec. 32. 28-A MRSA §2082, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**3. Violation.** Any person who violates this section ~~is guilty of a Class E crime~~ commits a civil violation for which a forfeiture of not more than \$500 may be adjudged.

**Sec. 33. 28-A MRSA §2084**, as amended by PL 1987, c. 623, §18, is repealed.

**Sec. 34. 28-A MRSA §2519, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Approval of alcohol server education courses.** The Commissioner of Public Safety shall approve alcohol server education courses which for a period of 2 years that meet the criteria developed under this section. The commissioner may renew approval provided the course meets the criteria applicable at the time of renewal.

Course providers may request renewal by submitting current course material at least 60 days prior to the date of expiration.

**Sec. 35. 28-A MRSA §2519, sub-§5**, as enacted by PL 1991, c. 591, Pt. L, §8, is amended to read:

**5. Fee.** The fee for enrollment in ~~an~~ a Bureau of Liquor Enforcement alcohol server education course is \$25 ~~\$28~~ per participant.

**Sec. 36. 28-A MRSA §2519, sub-§§6 to 8** are enacted to read:



**6. Instructor training.** Each instructor providing instruction in an approved alcohol server education course shall biennially attend a seminar on the liquor laws of the State provided by an employee of the Bureau of Liquor Enforcement. There is a \$5 fee for the seminar to offset expenses incurred in carrying out this subsection. The instructor of each seminar provided shall supply the Bureau of Liquor Enforcement with the name, address and telephone number of each attendant.

**7. Course accountability.** The Director of the Bureau of Liquor Enforcement may appoint an employee of the bureau to monitor each alcohol server education course to ensure that the course presents proper training and meets the approved criteria. The Bureau of Liquor Enforcement shall maintain a record of the participants who have completed an alcohol server training course. Each instructor of an approved course shall provide the Director of the Bureau of Liquor Enforcement with the names, addresses, dates of birth and social security numbers of students who complete the course and the date of completion. The instructors shall forward \$3 of the \$28 enrollment fee to the Bureau of Liquor Enforcement for every name submitted. The amounts collected must be retained by the Bureau of Liquor Enforcement to cover costs incurred in carrying out this subsection.

**8. Alcohol server education courses; approval; suspension; revocation.** The Commissioner of Public Safety may refuse to issue or renew approval for an alcohol server education course. The Commissioner of Public Safety may suspend or revoke approval for an alcohol server education course upon the recommendation of the advisory committee after reviewing the report of the monitor. The following are grounds for an action to refuse to issue or renew approval or to suspend or revoke approval.

A. The advisory committee finds that an alcohol server education course does not meet the criteria listed in subsection 3 or specific criteria determined by the committee.

B. The course, when presented, does not follow specific criteria determined by the advisory committee before issuance of approval.

C. The instructor of the course does not provide information or access to the monitor as required by subsection 7.

D. Fraud or deceit is used to obtain course approval or in providing the course or issuing certificates.

A person aggrieved by a decision of the Commissioner of Public Safety to refuse to issue or renew approval or to suspend or revoke approval for an alcohol server edu-

cation course may, within 30 days of receipt of that decision, appeal the decision to the Administrative Court.

See title page for effective date.

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## CHAPTER 267

S.P. 184 - L.D. 620

### An Act to Clarify What Constitutes an Emergency Regarding Disconnection of Utility Service for the Emergency Assistance Program

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

**Sec. 1. 22 MRSA §3761, 2nd ¶,** as enacted by PL 1983, c. 477, Pt. E, sub-pt. 9, §1, is amended to read:

This program shall provide benefits to needy families with children in emergency situations in which the family is deprived of the basic necessities essential to their support, including, but not limited to, utility terminations, lack of adequate shelter, fire and other natural disasters. In determining what constitutes an emergency with respect to utility terminations, the department shall grant assistance when an otherwise qualified family has received a disconnection notice and has exhausted their ability to negotiate and pay the terms of a reasonable payment arrangement. The program shall may not be used to supplant local responsibility for operating or funding a general assistance program.

See title page for effective date.

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## CHAPTER 268

S.P. 177 - L.D. 591

### An Act Related to Mortgage Companies

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

**Sec. 1. 9-A MRSA §6-203, sub-§2,** as amended by PL 1987, c. 590, is further amended to read:

2. Persons required to file notification who are sellers, lessors or lenders shall pay an additional fee, at the time and in the manner stated in subsection 1, of \$25 for each \$100,000, or part thereof, of the original unpaid balances arising from consumer credit transactions, ~~except those secured by an interest in land in which the rate of finance charge disclosed is 12 1/4% or less, and which are not variable rate transactions in which the annual percentage rate has the capacity to exceed 12 1/4%~~