

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

**4. Issuance limit.** The authority may provide that it will not issue bonds if the capital reserve requirement established by the authority with respect to securities outstanding and then to be issued and secured by a capital reserve fund will exceed the amount of that fund, including the amount available under any letter of credit, insurance contract, surety bond or other similar financial undertaking given to secure the capital reserve requirement, at the time of issuance, unless the authority, at the time of issuance of the securities, deposits in that fund from proceeds of the securities to be issued, or from other sources, an amount that, together with the amounts then in that fund and amounts available under any letter of credit, insurance contract, surety bond or other similar financial undertaking will not be less than the capital reserve requirement.

**5. Appropriation.** On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund. In trust agreements or other pertinent documents between the authority and the Governor, it must be clearly stated that this subsection applies to the capital reserve requirement. The Governor shall pay from the Contingent Account to that fund as much of the amount as is available in the Contingent Account and shall transmit to the Legislature a certification and a statement of the amount, if any, remaining to be paid and the amount certified must be appropriated and paid to the authority during the then current state fiscal year.

**6. Securities outstanding.** The authority may not have at any one time outstanding bonds, which, in the trust agreement or other document, subsection 5 is stated to apply to, in principal amount exceeding an amount equal to \$20,000,000. The amount of bonds issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of bonds of the authority that may at any time be outstanding for any purpose, the amounts of outstanding bonds that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

See title page for effective date.

## CHAPTER 730

S.P. 614 - L.D. 1712

### An Act to Clarify the Licensing Authority of the Department of Public Safety

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

**Sec. 1. 17 MRSA §332, sub-§1**, as enacted by PL 1977, c. 350, §4, is amended to read:

**1. Organizations eligible.** Notwithstanding other provisions of law, the Chief of the State Police may issue a license to operate a game of chance to an agricultural society eligible for the state stipend under Title 7, section 62, or to a bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic or religious organization, or to a volunteer fire department or to an auxiliary of any of these organizations, any of which ~~shall have been~~ must be founded, chartered or organized in this State prior to its application before applying for a license.

**Sec. 2. 25 MRSA §3901, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §2, is repealed and the following enacted in its place:

**1. Bureau of Liquor Enforcement.** The Department of Public Safety, Bureau of Liquor Enforcement, as established in this chapter, is responsible for the enforcement of liquor laws and rules established governing the manufacture, importation, storage, transportation and sale of all liquor.

**Sec. 3. 25 MRSA §3901, sub-§§2 and 3**, as enacted by PL 1987, c. 45, Pt. A, §2, are amended to read:

**2. Chief.** The Commissioner of Public Safety shall appoint as ~~Director~~ chief of the bureau a person experienced in law enforcement or enforcement of liquor laws, who may be removed for cause by the commissioner.

A. The ~~director~~ chief, subject to the Civil Service Law, may appoint as many liquor enforcement officers as ~~may be found~~ necessary. The liquor enforcement officers ~~shall be~~ are under the direct supervision and control of the ~~director~~ chief.

**3. Eligibility.** The ~~director~~ chief and the employees of the bureau are subject to the ~~same~~ eligibility requirements of Title 28-A, section 52.

**Sec. 4. 28-A MRSA §2, sub-§6**, as amended by PL 1993, c. 410, Pt. ZZ, §1, is further amended to read:

**6. Bureau.** "Bureau" means the Bureau of Liquor Enforcement, which includes the Liquor Licensing and Tax Division, within the Department of Public Safety and ~~includes the functions of liquor licensing and taxation formerly under the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services.~~

**Sec. 5. 28-A MRSA §2, sub-§8-A** is enacted to read:

**8-A. Chief.** "Chief" means the Chief of the Bureau of Liquor Enforcement.

**Sec. 6. 28-A MRSA §2, sub-§9**, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

**Sec. 7. 28-A MRSA §2, sub-§10-A**, as amended by PL 1993, c. 410, Pt. ZZ, §3, is repealed.

**Sec. 8. 28-A MRSA §2, sub-§§11-A and 13-A** are enacted to read:

**11-A. Farm winery.** "Farm winery" means a facility that is fermenting, aging and bottling its own wine, not to exceed 50,000 gallons per year.

**13-A. Law enforcement officer.** "Law enforcement officer" means any person who by virtue of public employment is vested by law with a duty to maintain public order, to prosecute offenders, to make arrests for crimes whether that duty extends to all crimes or is limited to specific crimes, to perform probation functions and to perform intensive supervision functions.

**Sec. 9. 28-A MRSA §2, sub-§15, ¶B-2** is enacted to read:

**B-2. Bed and breakfast.** "Bed and breakfast" means a place that advertises itself as a bed and breakfast where the public for a fee may obtain overnight accommodations that include a sleeping room or rooms and at least one meal per day.

**Sec. 10. 28-A MRSA §2, sub-§15-A** is enacted to read:

**15-A. Liquor Licensing and Tax Division.** "Liquor Licensing and Tax Division" means the Liquor Licensing and Tax Division within the Bureau of Liquor Enforcement.

**Sec. 11. 28-A MRSA §2, sub-§17**, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

**Sec. 12. 28-A MRSA §2, sub-§29**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**29. Small brewery.** "Small ~~Maine~~ brewery" means a facility that is brewing, lagering and kegging, bottling or packaging its own malt liquor ~~within the State~~, not to exceed 50,000 gallons per year.

**Sec. 13. 28-A MRSA §3**, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed and the following enacted in its place:

### **§3. Payments by check**

**1-A. Commission may accept payment by personal check.** The commission may accept payment by personal check from licensees for the purchase of liquor.

**1-B. Liquor Licensing and Tax Division may accept checks.** The Liquor Licensing and Tax Division may accept checks for license fees, application fees, permits, excise taxes, premiums and any other fees authorized by this Title.

**2. Checks not honored on presentation; consequences.** If any check is not honored on presentation by the State, the Bureau of Liquor Enforcement shall withhold the license if not issued, or immediately take back the license if issued, voiding it until the person who paid by personal check has paid all costs of check failure. The commission or the division may order that person to make all payments to the commission or to the division only by cash, certified check or money order for a period not to exceed one year.

**Sec. 14. 28-A MRSA §4, sub-§2**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**2. Consumption and possession of liquor.** Except as provided in paragraphs A and B, licensees may not permit the consumption or possession of liquor on their premises after 1:15 a.m.

A. Licensees may permit the consumption of liquor on their premises until 2:15 a.m. on January 1st.

B. This subsection does not apply to consumption or possession by bona fide hotel guests in their rooms.

**Sec. 15. 28-A MRSA §62, first ¶**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

The State Liquor Commission shall establish the policy and rules concerning the administration and ~~enforcement operation~~ of the state liquor laws stores. The commission has the following powers:

**Sec. 16. 28-A MRSA §62, sub-§§2 to 4**, as enacted by PL 1987, c. 45, Pt. A, §4, are repealed.

**Sec. 17. 28-A MRSA §62, sub-§§5 and 6,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**5. Spirits for sale.** To buy and have in its possession spirits for sale to the public. The commission shall buy spirits directly and not through the State Purchasing Agent. All spirits must be free from adulteration and misbranding. ~~In purchases of liquor the commission shall give priority, wherever feasible, to those products manufactured or bottled in the State; and~~

**6. Sell at retail.** To sell at retail in state liquor stores in original packages, either over the counter or by shipment to points within the State, spirits of all kinds for consumption off the premises at state liquor stores to be operated under the direction of the commission.

**Sec. 18. 28-A MRSA §62, sub-§§7 to 10,** as enacted by PL 1987, c. 45, Pt. A, §4, are repealed.

**Sec. 19. 28-A MRSA §62, sub-§11,** as amended by PL 1987, c. 769, Pt. A, §112, is repealed.

**Sec. 20. 28-A MRSA §62, sub-§12,** as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

**Sec. 21. 28-A MRSA §62-A** is enacted to read:

**§62-A. Duties of the Bureau of Liquor Enforcement**

The bureau shall establish policies and rules concerning the administration and the enforcement of the liquor laws. The bureau shall:

**1. General supervision.** Supervise the manufacture, importation, storage, transportation and sale of all liquor;

**2. Rules.** Adopt rules not inconsistent with this Title or other laws of the State for the administration, clarification, execution and enforcement of all laws concerning liquor and to help prevent violations of those laws. The observance of these rules is a condition precedent to the issuing or renewing of any license to sell liquor. The rules adopted by the State Liquor Commission prior to May 1, 1993 are adopted by the bureau;

**3. Licensing.** Issue and renew all licenses when provided for by this Title and hold licensing hearings;

**4. Prevent sale to minors and others.** Prevent the sale of liquor by licensees to minors and intoxicated persons;

**5. Act as a review board.** Act as a review board on all appeals from the decisions of municipal officers. The bureau shall appoint a hearings officer to conduct appeal hearings. Except as provided in section 805, the decision of the chief is final. The hearings officer for the bureau is the Director of the Liquor Licensing and Tax Division.

The hearings officer may conduct hearings in any licensing matter pending before the bureau. The hearings officer shall, after holding the hearing, file with the bureau all papers connected with the case and report the findings to the director. The director shall render a final decision based upon the record of the hearing.

The hearings officer may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any license question in dispute before the bureau or to any matter involved in a hearing. Witness fees in all proceedings are the same as for witnesses before the Superior Court and must be paid by the bureau, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur;

**6. Food servicing organizations.** Adopt rules permitting food servicing organizations that cater to passengers on international flights and cruises to purchase wine and malt liquor from wholesale outlets or distributors as long as the wine and malt liquor are resold for consumption during international travel. Food servicing organizations include ship chandlers as long as the wine and malt liquor are resold to vessels of foreign registry for consumption after those vessels have left port. Food servicing organizations are not subject to section 2, subsection 15; and

**7. Recommend revocation of licenses.** Recommend to the Administrative Court that it suspend or revoke, in accordance with sections 802, 803 and 1503, any license issued pursuant to this Title or the rules adopted under this Title.

**Sec. 22. 28-A MRSA §72-A, sub-§§1 and 6,** as enacted by PL 1991, c. 376, §49, are repealed.

**Sec. 23. 28-A MRSA §161, sub-§1-B, ¶A,** as enacted by PL 1989, c. 816, §2, is amended to read:

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

**Sec. 24. 28-A MRSA §161, sub-§1-B, ¶B,** as enacted by PL 1989, c. 816, §2, is repealed.

**Sec. 25. 28-A MRSA §161-A,** as enacted by PL 1989, c. 816, §3, is repealed.

**Sec. 26. 28-A MRSA §601, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Eligibility qualifications.** The ~~commission~~ bureau may not issue a license to an applicant unless that applicant meets the following qualifications.

A. If the applicant is an individual, ~~he~~ the applicant must be:

- (1) At least 21 years of age; and
- (2) A citizen of the United States; ~~and~~
- ~~(3) A resident of the State if applying for a full time license.~~

B. If the applicant is a partnership or association, ~~all persons~~ each person having an interest in the partnership or association must be:

- (1) At least 21 years of age; and
- (2) A citizen of the United States; ~~and~~
- ~~(3) A resident of the State if applying for a full time license.~~

C. If the applicant is a corporation, it must be incorporated under the laws of the State or authorized to transact business in the State.

**Sec. 27. 28-A MRSA §653**, as amended by PL 1989, c. 592, §§3 and 4, is further amended to read:

**§653. Hearings; bureau review; appeal**

**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 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~~ bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's pre-paid expense, stating the name and place of hearing, to 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 consecu-

tive weeks before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

**2. 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. A license 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 licensed premises or its use 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 licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises ~~which~~ that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises 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 on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

E. A violation of any provision of this Title; and

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601.

**3. Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the ~~commission~~ bureau. The ~~commission~~ bureau 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~~ bureau may consider all ~~of the licensure~~ requirements for ~~licensure~~ and findings referred to in subsection 2.

~~A. If the decision appealed from was to issue the license, the commission may reverse the decision if it was arbitrary or based on an erroneous finding.~~

B. If the decision appealed from ~~was to deny the~~ is an application denial, the ~~commission~~ bureau

may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

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

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

**Sec. 28. 28-A MRSA §704-A** is enacted to read:

**§704-A. Employment of law enforcement officers**

A retail licensee may not employ a law enforcement officer for the purpose of serving or selling liquor.

**Sec. 29. 28-A MRSA §705, sub-§5**, as enacted by PL 1993, c. 266, §15, is repealed.

**Sec. 30. 28-A MRSA §707, sub-§2**, as amended by PL 1987, c. 342, §40, is further amended to read:

**2. Licensee must not receive anything of value.** No licensee or applicant for a license may receive, directly or indirectly, any money, credit, thing of value, indorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person within or without the State, if the person is:

A. Engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor; or

B. Engaged in the manufacture, distribution, sale or transportation of any commodity, equipment, material or advertisement used in connection with the manufacture, distribution, wholesale sale, storage or transportation of liquor.

Nothing in this subsection prevents an affiliate of a licensee from receiving money for sponsorship of a transportation system for transporting the public or for sponsorship of specific sporting events and cultural events as long as the licensee does not receive any payment or thing of value from the public transportation system or the sporting and cultural events and as long as such an affiliate does not derive any portions of its revenues from the licensee. All spon-

sorships must have prior written approval of the bureau. The bureau shall adopt rules implementing this paragraph.

**Sec. 31. 28-A MRSA §708, sub-§2**, as repealed and replaced by PL 1987, c. 342, §44, is amended to read:

**2. Wholesale licensees.** ~~No~~ A wholesale licensee may not offer to retail licensees any special discounts, volume discounts, depletion allowances ~~or~~, other reduced prices or discounts, or refunds except bona fide price reductions under section 1408 offered to all retail licensees. ~~No~~ A wholesale licensee may not offer any free merchandise, rebate, refund or gift contingent on the purchase of malt liquor ~~or~~, wine or low-alcohol spirits.

**Sec. 32. 28-A MRSA §710, sub-§3** is enacted to read:

**3. Exception.** Subsection 1 does not prohibit the display of signs advertising sponsorship of specific sporting events and cultural events or sponsorship of a transportation system for transporting the public as long as the signs are not displayed on a licensed establishment as defined in section 2, subsection 15. Signs on a licensed establishment advertising sponsorship may be displayed with prior bureau approval.

The bureau shall adopt rules implementing this subsection.

**Sec. 33. 28-A MRSA §711**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§711. Advertising strength of malt liquor**

**1. Illegal to advertise or label.** ~~No~~ A licensee may not:

A. Issue, publish, post or cause to be issued, published or posted any advertisement of a malt liquor, ~~including a label which~~ that refers in any manner to the alcohol content of the malt liquor manufactured, sold or distributed by the licensee. This paragraph does not prohibit the inclusion of the alcoholic content of the malt liquor on the product label;

B. Use in any advertisement or label the words "full strength," "extra strength," "high test," "high proof," "prewar strength" or similar words or phrases ~~which would indicate or suggest level of alcohol content;~~ or

C. Use in any advertisement ~~or label~~ any numerals unless adequately explained in type of the same size, prominence and color.

**2. Illegal to purchase, transport, sell or distribute.** ~~No~~ A licensee may not purchase, transport, sell or distribute any malt liquor advertised or labeled contrary to this section.

**Sec. 34. 28-A MRSA §714, sub-§2,** as enacted by PL 1991, c. 543, is amended to read:

**2. Right of sale and purchase.** The ~~commission~~ bureau may not deny the wholesale and retail sale of malt liquor in a keg or any fraction of a keg to a purchaser entitled to purchase malt liquor.

**Sec. 35. 28-A MRSA §714, sub-§3, ¶¶A and B,** as amended by PL 1993, c. 266, §17, are further amended to read:

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

B. The retail seller of the keg shall complete a form designed and approved by the ~~Director of the Bureau of Liquor Enforcement~~ chief 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 or small brewer 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. 36. 28-A MRSA §1004, sub-§3, ¶B-2** is enacted to read:

B-2. Bed and breakfasts;

**Sec. 37. 28-A MRSA §1005, sub-§3, ¶B-2** is enacted to read:

B-2. Bed and breakfasts;

**Sec. 38. 28-A MRSA §1006, sub-§3, ¶A,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. Clubs without catering privileges; and

**Sec. 39. 28-A MRSA §1006, sub-§3, ¶B** is enacted to read:

B. Bed and breakfasts.

**Sec. 40. 28-A MRSA §1052, sub-§1,** as amended by PL 1993, c. 260, §1, is further amended to read:

**1. Off-premise catering license for sale of liquor off-premise.** Class A restaurants, Class A lounges, Class A restaurant/lounges, hotels and clubs licensed to sell spirits, wine and malt liquor may apply for an additional license to conduct off-premises catering of spirits, wine and malt liquor at planned events or gatherings to be held at locations other than the licensee's premises under this section.

**Sec. 41. 28-A MRSA §1061-A** is enacted to read:

§1061-A. Bed and breakfasts

**1. Issuance of licenses.** The bureau may issue to a bed and breakfast, as defined in section 2, subsection 15, paragraph B-2, a license under this section for the sale of spirits, wine and malt liquor to be consumed on the premises.

**2. Service restricted.** The service of spirits, wine and malt liquor at a bed and breakfast is restricted to bona fide registered patrons of that bed and breakfast and the patrons' guests.

**Sec. 42. 28-A MRSA §1063, sub-§§2 and 4,** as amended by PL 1993, c. 410, Pt. ZZ, §18, are further amended to read:

**2. Income from sale of food requirement.** At least a minimum amount of the gross annual income must be from the sale of food for each Class A restaurant or Class A restaurant/lounge. The income from sale of food requirement is based on the population of the municipality in which the Class A restaurant or Class A restaurant/lounge is located. ~~For purposes of this section, "year round" means operated for more than 6 months in a year.~~

A. In municipalities having a population of more than 50,000 persons:

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$50,000 per year from the sale of food to the public on their premises; ~~and.~~

~~(2) Part-time Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of:~~

~~(a) Thirty thousand dollars from the sale of food to the public on their premises if the Class A restaurant or Class A restaurant/lounge operates for~~



~~more than 3 months but no more than 6 months in a year; and~~

~~(b) Twenty thousand dollars from the sale of food to the public on their premises if the Class A restaurant or Class A restaurant/lounge operates for no more than 3 months in any year;~~

B. In municipalities having a population of more than 30,000 but not more than 50,000 persons:

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$40,000 per year from the sale of food to the public on their premises; ~~and~~.

~~(2) Part time Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of:~~

~~(a) Twenty five thousand dollars from the sale of food to the public on their premises as a requirement if the Class A restaurant or Class A restaurant/lounge operates for more than 3 months and no more than 6 months in a year; and~~

~~(b) Twenty thousand dollars from the sale of food to the public on their premises if the Class A restaurant or Class A restaurant/lounge operates for no more than 3 months in a year;~~

C. In municipalities having a population of more than 20,000; but not more than 30,000 persons:

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$30,000 per year from the sale of food to the public on their premises; ~~and~~.

~~(2) Part time Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$20,000 from the sale of food to the public on their premises if the Class A restaurant or Class A restaurant/lounge operates for more than 3 months and no more than 6 months in a year; and~~

D. In municipalities having a population of not more than 20,000 persons:

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a

minimum gross annual income of \$20,000 per year in sale of food to the public on their premises; ~~and~~.

~~(2) Part time Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$15,000 from the sale of food to the public on their premises if the Class A restaurant or Class A restaurant/lounge operates for no more than 6 months in a year.~~

**4. Licensee for renewal must show proof of meeting income requirement.** The bureau may not renew any license for the sale of liquor under this subsection unless the licensee furnishes the bureau with proof that the previous year's business conformed to the income requirement of this subsection. The bureau shall prorate food requirements for licensees who operate during only part of an annual license period.

**Sec. 43. 28-A MRSA §1065, sub-§3,** as amended by PL 1987, c. 342, §89, is repealed.

**Sec. 44. 28-A MRSA §1072, sub-§3,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**3. Exception to one-year requirement.** Any ~~veterans'~~ organization in the State having a charter from a national ~~veterans'~~ organization is exempt from the one-year requirement of subsection 2; if it has been established for not less than 3 months.

**Sec. 45. 28-A MRSA §1075, sub-§1,** as amended by PL 1993, c. 410, Pt. ZZ, §19, is further amended to read:

**1. Licenses.** The bureau may issue one auxiliary license under this section for additional premises to any Class A restaurant or Class A restaurant/lounge ~~licensee located at a ski area, lounge~~ or any hotel licensee located at a ski area if the following requirements are met:

A. The additional premises are located at the same ski area where the Class A restaurant, Class A restaurant/lounge, lounge or hotel is licensed;

B. Food is for sale at the additional premises, although not necessarily prepared there;

C. The additional premises are properly equipped, including tables and chairs; and

D. The Department of Human Services licenses the additional premises.

**Sec. 46. 28-A MRSA §1355**, as amended by PL 1993, c. 60, §1, is further amended to read:

**§1355. Manufacturer licenses**

**1. Issuance of licenses.** The ~~commission~~ bureau 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~~ must be kept separate from the records of the retail licensee.

**2. Small 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.

A-1. A holder of a small ~~Maine~~ brewery license may permit sampling of the malt liquor product on the premises for the following purposes.

(1) Employees may sample the product for the purpose of quality control of the product.

(2) Wholesalers and retailers may sample the product for the purpose of determining whether to carry the product as a wholesale or retail product, provided that the holder of the small ~~Maine~~ brewery license pays the excise tax on the product sampled according to section 1652.

(3) The public may sample the product in conjunction with a tour of the brewery's facilities, provided that:

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

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

B. A holder of a small ~~Maine~~ brewery license may sell, on the premises during regular busi-

ness 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. 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. 47. 28-A MRSA §2075, sub-§§1, 2 and 3,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Only the commission may import spirits; exception.** Except as provided in this section, no person other than the commission may import spirits into the State.

A. An individual may transport into the State and may transport from place to place within the State spirits for ~~his~~ the individual's personal use in a quantity not greater than 4 quarts.

**2. Transportation of spirits within the State.** No person may transport or cause to be transported any spirits within the State in a quantity greater than 4 quarts unless the spirits were purchased from a state or agency liquor store.

**3. Importation and transportation of spirits for special purposes.** The ~~commission~~ bureau may, in writing, permit and authorize the importation of spirits into the State and the transportation of spirits from place to place within the State to the following destinations for the specified purposes:

A. To industrial establishments for use as an ingredient in the manufacture of food products, or for use as an ingredient in the manufacture of commodities ~~which that~~ by reason of their nature ~~cannot~~ can not be used for beverage purposes, or for use in the manufacture of commodities unfit for beverage purposes;

B. To licensed distillers and manufacturers of spirits in the State for use as an ingredient in distilling or manufacturing spirits and other spirituous products ~~which that~~ are authorized by ~~Federal Regulations~~ 27, Code of Federal Regulations; and

C. To churches or to the pastor of any church for sacramental purposes or similar religious rites.

**Sec. 48. 28-A MRSA §2075, sub-§4,** as amended by PL 1993, c. 266, §25, is further amended to read:

**4. Penalties.** ~~Any~~ A person who illegally imports ~~up to 5~~ less than 10 gallons of spirits or causes ~~up to 5~~ less than 10 gallons of spirits to be shipped into the State commits a civil violation for which a forfeiture not to exceed \$500 must be adjudged. ~~Any~~ A person who illegally imports ~~6 10~~ 6 10 or more gallons of spirits or causes ~~6 10~~ 6 10 or more gallons of spirits to be shipped into the State commits a Class E crime.

**Sec. 49. 28-A MRSA §2077, sub-§1**, as amended by PL 1987, c. 342, §121, is further amended to read:

**1. Importation of malt liquor or wine into the State.** No person other than a wholesale licensee, small brewery licensee or farm winery licensee may transport or cause to be transported malt liquor or wine into the State in a quantity greater than 3 gallons for malt liquor and 4 quarts for wine, unless it was legally purchased in the State.

A. All shipments of malt liquor or wine transported or caused to be transported by wholesale licensees, small brewery licensees or farm winery licensees into the State must be accompanied by an invoice, including the wholesale licensee's, small brewery licensee's or farm winery licensee's name and purchase number.

**Sec. 50. 28-A MRSA §2077, sub-§4**, as amended by PL 1993, c. 266, §27, is further amended to read:

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

**Sec. 51. 28-A MRSA §2230** is enacted to read:

**§2230. Abandonment of liquor**

The following provisions govern the procedures for handling abandoned liquor.

**1. Bureau as repository.** Notwithstanding any other provisions of law, the bureau acts as a repository for all liquor found abandoned in this State.

**2. Procedure.** A law enforcement agency that takes custody of abandoned liquor shall:

A. Notify the bureau that the agency has taken custody of the abandoned liquor and forward to the bureau the reason for taking custody and a complete list of the quantities and types of liquor in the agency's custody the day the law enforcement agency takes custody or the next regular business day; and

B. Secure the liquor for a period of 30 days, after which time the agency shall transfer the liquor to the bureau. The bureau shall dispose of any malt liquor or wine and shall transfer any

spirits to the commission for sale at state liquor stores.

**3. Filing a claim.** A person who wishes to file a claim for abandoned liquor must notify the bureau in writing within the 30-day period prescribed in subsection 2, paragraph B and identify the abandoned liquor. If a claim is not made within the 30-day period, the abandoned liquor becomes the property of the State.

**Sec. 52. 28-A MRSA §2519, sub-§§6 and 7**, as enacted by PL 1993, c. 266, §36, are amended 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~~ course 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~~ chief 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~~ chief 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.

**Sec. 53. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

**1994-95**

**PUBLIC SAFETY,  
DEPARTMENT OF**

**Liquor Enforcement**

All Other	\$25,000
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Provides for the appropriation of funds for a computer system

up-grade of hardware and software to improve liquor license tracking.

See title page for effective date.

## CHAPTER 731

H.P. 1323 - L.D. 1785

### An Act Concerning Alewives

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

**Sec. 1. 12 MRSA §6131, sub-§3**, as repealed and replaced by PL 1981, c. 433, §3, is amended to read:

**3. Closed period in rivers and streams not under lease agreement.** In any river or stream not managed under a lease agreement, there is a ~~24 hour~~ 72-hour closed period on the taking of alewives and obstruction of the watercourse to allow the free passage of fish from 6 a.m. on ~~Saturday~~ Thursday to 6 a.m. the following Sunday.

See title page for effective date.

## CHAPTER 732

H.P. 1302 - L.D. 1757

### An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Hazardous Materials and Solid Waste Control

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

**Whereas**, this legislation amends the municipal landfill closure and remediation program; and

**Whereas**, the changes will improve the use of landfill closure money and will give municipalities a better understanding of their obligations and enable them to more readily complete those obligations; and

**Whereas**, the amendment makes numerous changes in solid and hazardous waste management programs, which would be of benefit to the people of the State if effective immediately; 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:**

## PART A

**Sec. A-1. 38 MRSA §348, sub-§4** is enacted to read:

**4. Settlement.** A person who has resolved that person's liability to the State in an administrative or judicially approved settlement and is implementing or has fully implemented that settlement pursuant to its terms is not liable for claims by other potentially liable persons regarding response actions, response costs or damages, including without limitation natural resource damages, addressed in the settlement. The settlement does not discharge any other potentially liable persons unless its terms so provide. The protection afforded by this subsection includes protection against contribution claims and all other types of claims under state law that may be asserted against the settling party for recovery of response costs or damages incurred or paid by another potentially liable person, if those actions, costs or damages are addressed in the settlement, but does not include protection against claims based on contractual indemnification or other express contractual agreements to pay the costs or damages. A potentially liable person who commences an action against a person who is protected from suits under this subsection is liable to the person against whom the claim is brought for all reasonable costs of defending against the claim, including all reasonable attorney's and expert witness fees. This section is not intended to create a right to contribution or other cause of action or to make a person liable to pay a portion of another person's response costs, damages or civil penalties.

**Sec. A-2. 38 MRSA §564, sub-§2-A, ¶H**, as amended by PL 1993, c. 355, §14, is further amended to read:

H. Reporting to the commissioner any of the following indications of a possible leak or discharge of oil:

- (1) Unexplained differences in daily inventory reconciliation values that, over a 30-day period, exceed 1.0% of the product ~~delivered~~ throughput;
- (2) Unexplained losses detected through statistical analysis of inventory records;
- (3) Detection of product in a monitoring well or by other leak detection methods;