

# MAINE STATE LEGISLATURE

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

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

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**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**  
**1997**

1. A person is guilty of possession or transfer of burglar's tools if that person:

A. Possesses or makes any tool, implement, instrument or other article that is adapted, designed or commonly used for advancing or facilitating crimes involving unlawful entry into property or crimes involving forcible breaking of safes or other containers or depositories of property, including, but not limited to, an electronic device used as a code grabber or a master key designed to fit more than one lock, with intent to use such tool, implement, instrument or other article to commit any such criminal offense; or

B. Transfers or possesses with the intent to transfer any device described in paragraph A that that person knows is designed or primarily useful for the commission of a crime described in paragraph A.

2. Possession or transfer of burglar's tools in violation of subsection 1, paragraph B is a Class D crime. Possession or transfer of burglar's tools in violation of subsection 1, paragraph A is a Class E crime.

**Sec. 2. 17-A MRSA §907**, as amended by PL 1991, c. 548, Pt. A, §9, is further amended to read:

**§907. Possession or transfer of theft devices**

1. A person is guilty of possession or transfer of theft of services devices if that person:

A. ~~He possesses~~ Possesses or makes any device, instrument, apparatus or other article which that is designed or primarily useful for advancing or facilitating the commission of the theft of services, with the intent to use such device, instrument, apparatus or other article to commit any such criminal offense; or

B. ~~He transfers~~ Transfers or possesses with the intent to transfer any device described in paragraph A that he the person knows is designed or primarily useful for the commission of the theft of services.

2. Possession or transfer of theft of services devices in violation of subsection 1, paragraph B is a Class D crime; otherwise it is a Class E crime. Possession or transfer of theft devices in violation of subsection 1, paragraph A is a Class E crime.

See title page for effective date.

**CHAPTER 373**

**S.P. 510 - L.D. 1572**

**An Act to Make Technical Changes  
in the Laws Relating to the Sale of  
Alcoholic Beverages**

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

**Sec. 1. 5 MRSA §281, last ¶**, as amended by PL 1991, c. 780, Pt. Y, §20, is further amended to read:

The department shall coordinate financial planning and programming activities of departments and agencies of the State Government for review and action by the Governor, prepare and report to the Governor and to the Legislature financial data and statistics and administer under the direction of the State Liquor and Lottery Commission the laws relating to legalized alcoholic beverages within this State. The department consists of the bureaus and organizations referenced in section 947-B, and the State Liquor and Lottery Commission, ~~except the Bureau of Liquor Enforcement and the State Lottery Commission.~~

**Sec. 2. 5 MRSA §283-A** is enacted to read:

**§283-A. State Liquor and Lottery Commission**

**1. Commission.** The State Liquor and Lottery Commission, established in Title 5, section 12004-G, subsection 14, consists of 5 members who must be residents of this State. Members are appointed by the Governor and are subject to review by the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs and to confirmation by the Legislature. No more than 3 members of the commission may be members of the same political party.

**2. Chair.** The commission shall elect a chair from among its members.

**3. Eligibility of members.** A person is not eligible for appointment as a member of the commission or as an employee of the commission if that person:

A. Has any official, professional or other connection with or owns any stock in a corporation interested either directly or indirectly in the manufacture or sale of liquor; or

B. Has been convicted or adjudicated guilty of violating any state or federal law regulating the manufacture, sale or transportation of liquor.

**4. Terms; vacancies.** Members of the commission serve 3-year terms. Vacancies must be filled for the unexpired term in the same manner as the original appointment.

**5. Meetings.** The commission shall meet at the call of the chair and at least once each month with the Director of the Bureau of Alcoholic Beverages and Lottery Operations.

**6. Quorum.** An action of the commission is not binding unless taken at a meeting at which at least 3 of the 5 members are present and vote in favor of the action.

**7. Compensation.** Members of the commission are entitled to compensation as provided in chapter 379. Members may not be compensated for more than 25 meetings per year, except for the chair who may be compensated for up to 30 meetings per year.

**8. Removal.** A member of the commission may be removed by the Governor on the address of both branches of the Legislature or by impeachment.

**Sec. 3. 5 MRSA §12004-E, sub-§3,** as enacted by PL 1987, c. 786, §5, is repealed.

**Sec. 4. 5 MRSA §12004-G, sub-§14,** as enacted by PL 1987, c. 786, §5, is amended to read:

14.	<u>State Liquor and Lottery Commission</u>	Legislative Per Diem	<del>8 MRSA §351</del> <u>5 MRSA §283-A</u>
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A. The ~~chairman shall~~ chair may receive no more than \$5,000 per year, including per diem and expenses.

B. The other board members shall may each receive no more than \$3,500 per year, including per diem and expenses.

**Sec. 5. 8 MRSA §371, sub-§2,** as enacted by PL 1987, c. 505, §2, is amended to read:

**2. Commission.** "Commission" means the State Liquor and Lottery Commission established in Title 5, section 283-A.

**Sec. 6. 8 MRSA §373,** as amended by PL 1989, c. 503, Pt. B, §49, is repealed.

**Sec. 7. 8 MRSA §374, sub-§5,** as enacted by PL 1995, c. 494, §4, is amended to read:

**5. Wildlife lottery game.** No later than January 30, 1996, the ~~Maine State Lottery Commission~~ commission, in consultation with the Maine Outdoor Heritage Fund Board, shall develop and initiate a wildlife lottery game designed to raise funds for the

Maine Outdoor Heritage Fund established pursuant to Title 12, chapter 714. ~~The Maine State Lottery Commission~~ commission shall provide the net proceeds of this wildlife lottery game to the Maine Outdoor Heritage Fund annually. ~~The Maine State Lottery Commission~~ commission shall change the wildlife game ticket periodically throughout the year.

**Sec. 8. 17 MRSA §324,** as amended by PL 1991, c. 426, §7, is further amended to read:

**§324. Games of chance prohibited at "Beano" locations**

No "Beano" game ~~shall may~~ be conducted at any location where any lottery or other game of chance is conducted, nor ~~shall may~~ any lottery or other game of chance be conducted during the period of one hour before the conduct of any "Beano" game at the specific location of ~~said the~~ "Beano" game, except that the following lotteries may be conducted during the period of one hour before the conduct of "Beano" games:

**1. State lottery tickets.** Lottery tickets issued by the ~~Maine State~~ Liquor and Lottery Commission may be sold when a valid license certificate issued by ~~said the~~ commission is properly displayed;

**2. Raffles.** Raffle tickets may be sold in accordance with chapter 14;

**3. Lucky seven.** Lucky seven or similar sealed tickets may be sold when that game of chance is licensed by the Chief of the State Police and when a valid license certificate is properly displayed. Notwithstanding the other provisions of this section and section 312, Lucky seven games may be conducted during the period beginning 2 hours before and ending 2 hours after any "Beano" game.

A. Notwithstanding any other rule, Lucky seven or other similar sealed tickets may be sold that have a sale value of \$1 or less.

For purposes of this section, "location" ~~shall mean~~ means that location specified in the location permit.

**Sec. 9. 25 MRSA §3901, sub-§3,** as amended by PL 1993, c. 730, §3, is further amended to read:

**3. Eligibility.** The chief and the employees of the bureau are subject to the eligibility requirements of Title 28-A, section ~~52~~ 87.

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

**2-A. Alcohol bureau.** "Alcohol bureau" means the Department of Administrative and Financial

Services, Bureau of Alcoholic Beverages and Lottery Operations.

**Sec. 11. 28-A MRSA §2, sub-§8,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**8. Certificate of approval holder.** "Certificate of approval holder" means an instate manufacturer, out-of-state manufacturer or out-of-state wholesaler licensed by the ~~commission~~ bureau.

**Sec. 12. 28-A MRSA §2, sub-§8-A,** as enacted by PL 1993, c. 730, §5, is amended to read:

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

**Sec. 13. 28-A MRSA §2, sub-§8-B** is enacted to read:

**8-B. Commission.** "Commission" means the State Liquor and Lottery Commission established in Title 5, section 12004-G, subsection 14.

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

**14. Licensee.** "Licensee" means the person to whom a license of any kind is issued by the ~~commission~~ bureau. "Licensee" includes, but is not limited to, agency liquor stores and certificate of approval holders.

**Sec. 15. 28-A MRSA §2, sub-§15-A,** as enacted by PL 1993, c. 730, §10, is amended 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~~ bureau.

**Sec. 16. 28-A MRSA §2, sub-§24,** as amended by PL 1993, c. 266, §2, is further amended to read:

**24. Premises.** "Premises" means all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest, ~~which that~~ the licensee uses in the operation of the licensed business and ~~which that~~ have been approved by the ~~commission~~ bureau as proper places for the exercise of the license privilege.

A. "Premises" includes the place where an incorporated civic organization sells or serves spirits, wine and malt liquor under a license obtained under section 1071.

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. 17. 28-A MRSA §2, sub-§25-A,** as enacted by PL 1989, c. 526, §§1 and 28, is amended to read:

**25-A. Retail employee.** "Retail employee" means any person employed by a retailer or by the ~~commission~~ alcohol bureau to sell liquor in a licensed establishment or state or agency liquor store. For the purposes of violations of this Title and rules of the ~~commission~~ bureau, a retail employee ~~shall be~~ is deemed an agent of the retailer or state or agency liquor store that employs that employee.

**Sec. 18. 28-A MRSA §2, sub-§27,** as amended by PL 1987, c. 342, §11, is further amended to read:

**27. Retailer.** "Retailer" means any person licensed by the ~~commission~~ bureau to engage in the purchase and resale of liquor in the original container or by the drink, for consumption on or off the premises where sold. "Retailer" does not include wholesalers as defined in subsection 35.

A. "Off-premise retail licensee" means a person licensed to sell liquor in sealed bottles, containers or original packages to be consumed off the premises where sold.

B. "On-premise retail licensee" means a person licensed to sell liquor to be consumed on the premises where sold.

**Sec. 19. 28-A MRSA §2, sub-§32,** as amended by PL 1993, c. 462, §4, is further amended to read:

**32. State liquor store.** "State liquor store" means a store operated by the ~~commission~~ alcohol bureau that sells spirits and fortified wines to be consumed off the premises.

**Sec. 20. 28-A MRSA §2, sub-§34,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**34. Wholesale licensee.** "Wholesale licensee" means a person licensed by the ~~commission~~ bureau as a wholesaler.

**Sec. 21. 28-A MRSA §3, sub-§1-A,** as amended by PL 1993, c. 730, §13, is further amended to read:

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

**Sec. 22. 28-A MRSA §3, sub-§2,** as repealed and replaced by PL 1993, c. 730, §13, is amended to read:

**2. Checks not honored on presentation; consequences.** If any check is not honored on presentation by the State, the ~~Bureau of Liquor Enforcement bureau~~ 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 alcohol bureau~~ or the ~~division bureau~~ may order that person to make all payments to the ~~commission alcohol bureau~~ or to the ~~division bureau~~ only by cash, certified check or money order for a period not to exceed one year.

**Sec. 23. 28-A MRSA §6, sub-§§1 and 2,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Advertising form subject to bureau authorization.** No person may advertise liquor within the State, except in the form specifically authorized by the ~~commission bureau~~. Radio, television, billboards, signs, newspapers, magazines and periodicals may carry advertising subject to the rules of the ~~commission bureau~~.

**2. Bureau may adopt rules governing advertising brand names in local option areas.** The ~~commission bureau~~ may adopt rules restricting the advertising of any type of liquor by brand names during the period when such sales are prohibited in any municipality ~~which that~~ has voted in any particular local option election against the sale of all types of liquor.

**Sec. 24. 28-A MRSA §§8 and 9,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

#### **§8. Entrances from premises**

The ~~commission bureau~~ may grant written permission to a licensee to maintain entrances, doorways or other apertures leading directly from the licensed premises.

#### **§9. Separation of areas**

The ~~commission bureau~~ shall establish rules for the separation of areas where the license privilege may be exercised from areas where it may not be exercised, but complete nonaccess between the areas controlled by the licensee need not be required.

**Sec. 25. 28-A MRSA §11, sub-§§1, 3 and 4,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Connection with other licensed premises.** Notwithstanding any other law or rule of the ~~commission bureau~~, any retailer's licensed premise may be connected with any other retailer's licensed premise by a doorway or other apertures that are not securely and permanently sealed.

**3. Premises operated by licensee identified.** An applicant for a license shall fully describe in the application the part of the premises ~~which that~~ the applicant owns, leases or rents. The ~~commission bureau~~ may require the licensee to identify on the premises by an appropriate marking, the area ~~which he owns, that the licensee owns,~~ rents or leases.

**4. Inspection of business premises under common roof of licensee.** All persons carrying on any business, except any bank or savings and loan institution, under the common roof and having common entraceways with a licensee shall agree in writing to allow reasonable inspection of their premises by authorized enforcement agents of the Department of Public Safety and authorized representatives of the ~~commission bureau~~.

**Sec. 26. 28-A MRSA §12,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

#### **§12. Inspection of premises**

No licensee may refuse ~~the commission, its representatives or~~ representatives of the ~~Bureau of Liquor Enforcement bureau~~ the right at any time to inspect the entire licensed premises or to audit the books and records of the licensee.

**Sec. 27. 28-A MRSA c. 3,** as amended, is repealed.

**Sec. 28. 28-A MRSA c. 3-A** is enacted to read:

### **CHAPTER 3-A**

#### **ADMINISTRATION AND ORGANIZATION**

#### **§81. State Liquor and Lottery Commission**

**1. Oversight of Bureau of Alcoholic Beverages and Lottery Operations.** The commission shall monitor the operation of the alcohol bureau in its administration of the laws relating to the sale of spirits.

**2. Advice.** The commission shall advise the director of the alcohol bureau regarding the administration of the functions of the alcohol bureau. The commission may advise the Governor and the Legislature regarding issues relating to the operation of the alcohol bureau and the administration of the laws relating to the sale of spirits.

**3. Listing of items.** The commission shall determine which items may be listed for sale in the State. Products listed must be made available by the supplier at a warehouse designated by the commission.

**4. Notice to delist or stop purchases.** Before any item listed by the commission is discontinued or

delisted or before the commission issues any order to stop purchases of any item listed, the commission shall give the vendor of the items reasonable written notice of its intention to delist or stop purchase of the items.

### **§82. Bureau of Liquor Enforcement**

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

**1. General supervision.** Enforce the laws relating to the manufacture, importation, storage, transportation and sale of all liquor and administer those laws relating to licensing and the collection of taxes on malt liquor and wine;

**2. Rules.** Adopt rules consistent with this Title or other laws of the State for the administration, clarification, execution and enforcement of all laws concerning liquor and to prevent violations of those laws. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. 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 commission before May 1, 1993 are deemed adopted by the bureau;

**3. Licensing.** Issue and renew all licenses as provided 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. Appeals.** Review 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, after holding the hearing, shall file with the bureau all papers connected with the case and report the findings to the chief. The chief 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 service organizations.** Adopt rules permitting food service 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 service 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 service organizations are not subject to section 2, subsection 15;

**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;

**8. Publish laws and rules.** Publish a compilation containing this Title, other laws concerning liquor and all rules adopted under this Title every 4 years.

**A.** The bureau shall supply a copy of the compilation to every new licensee at no charge.

**B.** The bureau shall notify all licensees of changes in the law and rules within 90 days of adjournment of each regular session of the Legislature.

(1) The bureau shall supply a copy of the new laws and rules at no charge when requested by licensees.

(2) The bureau shall supply a copy of the new laws and rules to persons other than licensees for a reasonable fee.

**C.** The bureau may charge a reasonable fee for the compilation to cover the cost of producing the compilation to persons other than licensees; and

**9. Certification.** Certify monthly to the Treasurer of State and the Commissioner of Administrative and Financial Services a complete statement of revenues and expenses for licenses issued and for revenues collected by the bureau and submit, in conjunction with the alcohol bureau, an annual report that includes a complete statement of the revenues and expenses for the alcohol bureau and the bureau to the Governor and the Legislature, together with recommendations for changes in this Title.

### **§83. Bureau of Alcoholic Beverages and Lottery Operations**

**1. Bureau of Alcoholic Beverages and Lottery Operations; rules.** The alcohol bureau shall manage the sale, distribution and merchandising of spirits through state liquor stores, agency liquor stores and

licensees. The alcohol bureau may establish rules and procedures for the administration of the state liquor laws under its jurisdiction. The rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. The day-to-day activities of the alcohol bureau are under the supervision of the Commissioner of Administrative and Financial Services and the director of the alcohol bureau.

**2. Purchase.** The alcohol bureau may buy and have in its possession spirits for sale to the public. The alcohol bureau shall buy spirits directly and not through the State Purchasing Agent. All spirits must be free from adulteration and misbranding.

**3. Sell at retail.** The alcohol bureau may 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 of state liquor stores operated under the direction of the alcohol bureau.

**4. Enter into contracts.** Subject to any applicable laws relating to public contracts, the alcohol bureau may enter into contracts or agreements and establish contract performance standards for the wholesale purchase of alcoholic beverages.

**5. Investigate and recommend changes.** The alcohol bureau shall carry out a continuous study and investigation of the sale of alcoholic beverages throughout the State and the operation and administration of state activities and recommend to the Commissioner of Administrative and Financial Services any changes in the laws or rules and methods of operation that are in the best interest of the State.

**6. Certification; annual report.** The alcohol bureau shall certify monthly to the Treasurer of State, the commission and the Commissioner of Administrative and Financial Services a complete statement of the revenues and expenses for liquor sales for the preceding month. The alcohol bureau shall make an annual report to the Governor of its activities and of the amount of liquor license fees collected by the bureau, together with other information it considers advisable or that the Governor requires.

**7. Public meetings.** The alcohol bureau and the commission may hold public meetings each year at various locations within the State for the purpose of outlining operations under the liquor laws, receiving suggestions and disseminating information to the public.

#### **§84. Director of Bureau of Alcoholic Beverages and Lottery Operations**

The director of the alcohol bureau or the director's designee shall:

**1. Manage sale of alcoholic beverages.** Manage the sale of alcoholic beverages through state liquor stores, agency liquor stores and licensees in accordance with applicable laws and rules that provide for the operation of wholesale distribution of spirits;

**2. Act as chief administrative officer of alcohol bureau.** Act as chief administrative officer of the alcohol bureau, having general charge of the office and records and employ such personnel as necessary to fulfill the purpose of this Title. The personnel must be employed with the approval of the Commissioner of Administrative and Financial Services and are subject to the Civil Service Law;

**3. Act as executive secretary.** Act as executive secretary of the commission;

**4. Confer with commissioner.** Confer regularly as necessary or desirable and not less than once a month with the Commissioner of Administrative and Financial Services on the operation and administration of the alcohol bureau and make available for inspection by the Commissioner of Administrative and Financial Services, upon request, all books, records, files and other information and documents of the alcohol bureau; and

**5. Certification.** Certify monthly to the Treasurer of State and the Commissioner of Administrative and Financial Services a complete statement of revenues and expenses for liquor sales for the preceding month and submit, in conjunction with the alcohol bureau, an annual report that includes a complete statement of the revenues and expenses for the alcohol bureau and the bureau to the Governor and the Legislature, together with recommendations for changes in this Title.

#### **§85. Inventory and working capital**

**1. Net profits are general revenue.** The net profits of the alcohol bureau from operations pursuant to this Title are general revenue of the State.

**2. Inventory.** The alcohol bureau may keep and have on hand a stock of spirits and fortified wine for sale, the value of which, when priced for resale must be computed on the delivered case cost F.O.B. liquor warehouse designated by the commission filed by liquor suppliers. The inventory value must be based upon actual cost for which payment may be due and may not at any time exceed the amount of working capital authorized. Spirits and fortified wine may not be considered in the inventory until payment has been made for them.

**3. Authorized working capital.** The maximum permanent working capital of the alcohol bureau for operations pursuant to this Title is established at \$1,000,000 per fiscal year and permanent advances up



to this amount may be authorized by the Governor upon recommendation of the director of the alcohol bureau with the approval of the Commissioner of Administrative and Financial Services. The permanent working capital of the alcohol bureau may be supplemented by temporary loans from other state funds upon recommendation of the director of the alcohol bureau and by approval of the Commissioner of Administrative and Financial Services and the Governor.

#### **§86. Conflict of interest**

In addition to the limitations set forth in Title 5, section 18, any member of the commission or any employee of the commission, the bureau or the alcohol bureau may not accept directly or indirectly any samples, gratuities, favors or anything of value from a manufacturer, wholesaler, wholesale licensee or retail licensee or any representative of a manufacturer, wholesaler, wholesale licensee or retail licensee under circumstances that may reasonably be construed as influencing or improperly relating to past, present or future performance of official duties.

#### **§87. Eligibility of employees**

A person is not eligible for employment with the alcohol bureau or the bureau if that person:

1. Interest in corporation. Has any official, professional or other connection with or owns any stock in a corporation interest either directly or indirectly in the manufacture or sale of liquor; or

2. Violation of state or federal law. Has been convicted or adjudicated guilty of violating any state or federal law regulating the manufacture, sale or transportation of liquor.

**Sec. 29. 28-A MRSA §121, sub-§3,** as amended by PL 1993, c. 608, §3, is further amended to read:

**3. Conduct of election.** Except as provided in this section, the petition process and the voting at elections held in towns and plantations must be held and conducted in accordance with Title 30-A, sections 2528, 2529 and 2532, even if the town or plantation has not accepted the provisions of section 2528.

The voting at elections held in cities must be held and conducted in accordance with Title 21-A. No referendum questions except those set out in section 123 may be printed on the ballot. The municipal clerk shall make a return of the results, certify the results and send it to the office of the Secretary of State. The Secretary of State shall forward the results to the ~~commission~~ bureau.

**Sec. 30. 28-A MRSA §123,** as amended by PL 1991, c. 95, §§1 to 4, is further amended to read:

#### **§123. Local option questions**

Any one or more of the following questions may be voted on in a local option election held under section 121. Each question applies to both full-time and part-time licensed establishments.

**1. Sale of liquor for consumption on the premises on days other than Sunday.** Shall this municipality authorize the State ~~Liquor Commission~~ to issue licenses for the sale of liquor to be consumed on the premises of licensed establishments on days other than Sunday?

**2. Sale of liquor for consumption off the premises on days other than Sunday.** Shall this municipality authorize the State ~~Liquor Commission~~ to permit the operation of state liquor stores and agency liquor stores on days other than Sunday?

**2-A. Sale of malt liquor and wine for consumption off the premises on days other than Sunday.** Shall this municipality authorize the State ~~Liquor Commission~~ to issue licenses for the sale of malt liquor and wine to be consumed off the premises of licensed establishments on days other than Sunday?

**3. Sale of liquor for consumption on the premises on Sundays.** Shall this municipality authorize the State ~~Liquor Commission~~ to issue licenses for the sale of liquor to be consumed on the premises of licensed establishments on Sundays?

**4. Sale of liquor for consumption off the premises on Sundays.** Shall this municipality authorize the State ~~Liquor Commission~~ to permit the operation of state liquor stores and agency liquor stores on Sundays?

**4-A. Sale of malt liquor and wine for consumption off the premises on Sundays.** Shall this municipality authorize the State ~~Liquor Commission~~ to issue licenses for the sale of malt liquor and wine to be consumed off the premises of licensed establishments on Sundays?

**Sec. 31. 28-A MRSA §124, sub-§1,** as amended by PL 1991, c. 377, §15, is further amended to read:

**1. Determination vote.** If the results of an election held under section 121 or 122 show that:

A. A majority of the votes cast in any municipality or unincorporated place on any local option question is in the affirmative, the ~~commission~~ bureau may issue licenses of the type authorized by the affirmative vote in that municipality or unincorporated place;

B. A majority of the votes cast in any municipality or unincorporated place on any local option question is in the negative, the ~~commission bureau~~ may not issue licenses of the type denied by the negative vote in that municipality or unincorporated place; or

C. The vote is tied on any local option question, the law ~~shall remain~~ remains as it was before the voting.

**Sec. 32. 28-A MRSA §124, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**3. Existing licenses.** The holder of any license issued and outstanding on the effective date of the local option vote ~~which that~~ denies issuance of that type of license and specifically indicates that the existing privilege is to be voided shall immediately surrender it to the ~~Bureau of Alcoholic Beverages~~ bureau. The bureau shall refund that portion of the unused fee paid.

**Sec. 33. 28-A MRSA §161, sub-§1**, as amended by PL 1989, c. 815, §1, is further amended to read:

**1. Registration.** Each bottle club, as defined in section 2, subsection 3, shall register annually with the ~~commission bureau~~ on forms provided by the ~~commission bureau~~. Registration consists of submission of the information required in paragraph A and payment of the registration fee established in paragraph B.

A. The information each bottle club is required to submit consists of only the following:

- (1) The name and address of each owner of the bottle club;
- (2) The name and address of each operator of the bottle club; and
- (3) The regular hours of operation.

B. The annual fee for registration of a bottle club is \$50.

C. Any bottle club ~~which that~~ does not register with the ~~commission bureau~~ commits a Class E crime.

**Sec. 34. 28-A MRSA §161, sub-§1-A**, as enacted by PL 1989, c. 816, §2, is amended to read:

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

**Sec. 35. 28-A MRSA §161, sub-§1-B**, as amended by PL 1993, c. 730, §§23 and 24, is further amended to read:

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

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

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

The ~~commission bureau~~ 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 bureau~~ to approve or deny registration of a bottle club is final agency action.

**Sec. 36. 28-A MRSA §163, sub-§§1 and 2**, as enacted by PL 1993, c. 266, §5, are amended to read:

**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~~ bureau.

**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~~ bureau 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.

**Sec. 37. 28-A MRSA §201, last ¶**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

The ~~Bureau of Alcoholic Beverages~~ alcohol bureau shall compensate the Maine Turnpike Authority for the full cost of erecting the guidepost.

**Sec. 38. 28-A MRSA §351, sub-§1**, as amended by PL 1987, c. 342, §20, is amended to read:

**1. State or agency liquor store may not be located within 300 feet of school or church.** The ~~commission~~ alcohol bureau may not establish a state liquor store or the bureau may not license an agency liquor store within 300 feet of any public or private school, church, chapel or parish house.

A. The ~~commission~~ bureau, after holding a public hearing near the proposed location, may locate an agency liquor store within 300 feet of a church, chapel, parish house or ~~post secondary~~ postsecondary school ~~when the location has the unanimous approval of the members of the commission.~~

**Sec. 39. 28-A MRSA §352**, as amended by PL 1993, c. 615, §2 and 3, is further amended to read:

**§352. Purchase of liquor in state and agency liquor stores; purchase from alcohol bureau**

**1. Methods of payment.** This subsection governs the methods of payment permitted for purchases of liquor from state or agency liquor stores and for purchases of liquor from the ~~commission~~ alcohol bureau 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~~ alcohol bureau must pay in cash or by check.

D. In addition to the methods of payment permitted in paragraph C, an agency liquor store, when approved by the ~~commission~~ alcohol bureau, may pay for liquor purchased from the ~~commission~~ alcohol bureau by mailing a check for payment to the ~~commission~~ alcohol bureau when notified of the amount due or upon receiving a liquor delivery. Payments that are mailed must be received or postmarked within 3 days of receipt of a liquor delivery or notification of the amount due.

**2. Checks not honored on presentation; consequences.** If any check is not honored on presenta-

tion or if an agency liquor store fails to pay for liquor as prescribed in subsection 1, the bureau 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~~ alcohol bureau or bureau may order that person to make all payments to the ~~commission~~ alcohol bureau or bureau by cash, certified check or money order for a period not to exceed one year.

**Sec. 40. 28-A MRSA §353**, as amended by PL 1993, c. 266, §6, 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 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~~ 9 a.m. Sunday to 1 a.m. the next day. The ~~commission~~ alcohol bureau shall establish the hours of operation of each state liquor store.

**Sec. 41. 28-A MRSA §355**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§355. Closed in cases of riots; hurricanes; flood**

The Governor or the ~~commission~~ alcohol bureau may, in cases of riots, hurricanes and floods, order any or all state liquor stores or agency liquor stores to close.

**Sec. 42. 28-A MRSA §401-A, sub-§§1 to 4**, as enacted by PL 1991, c. 591, Pt. Z, §2, are amended to read:

**1. State store locations.** The ~~commission~~ alcohol bureau shall operate state liquor stores for the retail sale of liquor in the following municipalities. The ~~commission~~ alcohol bureau may not operate a state liquor store in any municipality not designated in this section.

A. In each of the following municipalities, the ~~commission~~ alcohol bureau shall operate one state liquor store:

- (1) ~~Ashland;~~
- (2) Auburn;
- (3) Augusta;
- (4) ~~Bar Harbor;~~

- ~~(5) Bath;~~
- (6) Belfast;
- ~~(7) Biddeford;~~
- ~~(8) Boothbay Harbor;~~
- (9) Brewer;
- (10) Bridgton;
- (11) Brunswick;
- ~~(12) Bucksport;~~
- (13) Calais;
- ~~(14) Camden;~~
- (15) Caribou;
- (16) Damariscotta;
- ~~(17) Dexter;~~
- (18) Dover-Foxcroft;
- (19) Ellsworth;
- ~~(20) Fairfield;~~
- ~~(21) Falmouth;~~
- (22) Farmington;
- ~~(23) Fort Fairfield;~~
- ~~(24) Fort Kent;~~
- ~~(25) Gardiner;~~
- ~~(26) Greenville;~~
- (27) Houlton;
- (28) Kennebunk;
- (29) Kittery;
- ~~(30) Limestone;~~
- ~~(31) Lincoln;~~
- ~~(32) Lisbon Falls;~~
- ~~(33) Livermore Falls;~~
- ~~(34) Machias;~~
- ~~(35) Madawaska;~~
- ~~(36) Madison;~~
- ~~(37) Mechanic Falls;~~

- (38) Mexico;
- ~~(39) Milbridge;~~
- ~~(40) Millinocket;~~
- ~~(41) Milo;~~
- ~~(42) Newport;~~
- (43) North Windham;
- (44) Old Orchard Beach;
- (45) Old Town;
- ~~(46) Patten;~~
- ~~(47) Pittsfield;~~
- (48) Presque Isle;
- ~~(49) Rangeley;~~
- (50) Rockland; and
- ~~(51) Sanford;~~
- (52) Skowhegan;
- ~~(53) South Paris;~~
- ~~(54) Stonington;~~
- ~~(55) Van Buren;~~
- ~~(56) Waldoboro;~~
- ~~(57) Winslow;~~
- ~~(58) Winthrop; and~~
- ~~(59) Woodland.~~

B. In each of the following municipalities, the ~~commission~~ alcohol bureau shall operate at least one state liquor store:

- (1) Lewiston;
- (2) Portland; and
- ~~(3) South Portland; and~~
- (4) Waterville.

C. In the following municipality, the ~~commission~~ alcohol bureau shall operate at least 2 state liquor stores:

- (1) Bangor.

**2. Location within municipality.** The ~~commission~~ alcohol bureau may determine the location of a store within each of the municipalities designated in

subsection 1. The ~~commission~~ alcohol bureau may relocate a store within a municipality in accordance with section 402.

**3. Temporary cessation of operations.** The ~~commission~~ alcohol bureau may temporarily close a state liquor store if the occurrence of an event beyond the control of the ~~commission~~ alcohol bureau renders the store inoperable. Events beyond the control of the ~~commission~~ alcohol bureau include natural disasters, other physical destruction or unanticipated termination of the lease for the store. If the event rendering the store inoperable occurs during a regular session of the Legislature, the temporary closing may extend until adjournment sine die of that legislative session. If the event rendering the store inoperable occurs while the Legislature is not in session, the temporary closing may extend until the adjournment sine die of the regular session of the Legislature beginning immediately after the event.

**4. Alcohol bureau may lease and equip facilities; location.** The ~~commission~~ alcohol bureau may lease and equip, in the name of the State, stores, warehouses and other merchandising facilities for the sale of liquor that are necessary to carry out the purposes of this Title. The ~~commission~~ alcohol bureau shall designate where the facilities will be located, in accordance with this section.

**Sec. 43. 28-A MRSA §402, sub-§§2, 4 and 5,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**2. Hearing.** If requested by the municipal officers, the alcohol bureau and the commission shall hold a public hearing in the affected municipality at least 10 days before designating that location or relocation.

**4. Notice to lessor to terminate or not renew.** If the ~~commission~~ alcohol bureau intends to terminate or not renew a lease or contract for occupancy of a building for a state liquor store, it shall give written notice of that intention to the lessor of the building. Notice must be given:

A. Within the time limits required by the lease or contract for the lessor to notify the ~~commission~~ alcohol bureau of ~~his~~ the lessor's intention to terminate or not renew; or

B. At least 30 days before the termination or nonrenewal if there is no lease or contract provision establishing the time period for the lessor to notify the ~~commission~~ alcohol bureau.

**5. Exception for certain leases.** If the ~~commission's~~ alcohol bureau's occupancy of a state liquor store location is terminated under a lease or contract in a manner that prevents compliance with subsection 1 or 3, the ~~commission~~ alcohol bureau shall immediately

notify the municipal officers of that termination. If requested by the municipal officers, the alcohol bureau and the commission shall hold a hearing within a reasonable time before designating a new location.

**Sec. 44. 28-A MRSA §451,** as amended by PL 1993, c. 509, §2, is further amended to read:

**§451. Agency liquor stores**

The ~~Bureau of Liquor Enforcement~~ bureau may license and regulate persons as agency liquor stores on an annual or temporary basis for the purposes of selling liquor in sealed bottles, containers or original packages to be consumed off the premises.

**Sec. 45. 28-A MRSA §452, first ¶,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

The ~~commission~~ bureau shall adopt rules for the selection, licensing and operation of agency liquor stores. These rules include, but are not limited to, the following:

**Sec. 46. 28-A MRSA §453,** as amended by PL 1993, c. 380, §§1 to 5 and affected by §7, is further amended to read:

**§453. Location of agency stores**

**1. Location requirements.** The ~~commission~~ bureau may license an agency liquor store only when the following requirements are met.

A. The proposed agency liquor store is located in a municipality or unincorporated place ~~which~~ that has voted in favor of the operation of state liquor stores under local option provisions.

C. The proposed agency liquor store is not within 3.5 miles of an existing state liquor store or an existing agency liquor store that was licensed before May 1, 1993.

D. If a state liquor store closes, the ~~commission~~ bureau may grant more than one agency store license in a municipality when the ~~commission~~ bureau considers it appropriate. Agency liquor stores licensed before May 1, 1993 that replace closed state liquor stores are exempt from the distance requirement in paragraph C.

**2. Replacement of state or agency liquor stores.** The ~~commission~~ alcohol bureau may not replace a state ~~or~~ liquor store and the bureau may not replace an existing agency liquor store that closes with ~~an~~ a new agency liquor store if there is another state or existing agency liquor store within 3.5 miles. This subsection does not prevent the ~~commission~~ bureau from locating a replacement agency liquor store within 3.5 miles of another replacement agency liquor store for the same town.

**2-A. Replacement of state liquor stores closed in fiscal year 1991-92.** The ~~commission~~ bureau may replace a state liquor store closed after July 1, 1990 with 3 agency liquor stores if:

A. The agency stores are within a 10-mile radius of the location of the closed state liquor store; and

B. The ~~commission~~ bureau does not issue to a person or corporation more than 2 of the 3 licenses issued to replace a state liquor store. For purposes of this restriction, each partner of a partnership, each corporation that owns an interest in another corporation and each person who owns 20% or more of the shares or other interest in a corporation is deemed to own a license granted to the partnership or corporation.

**Sec. 47. 28-A MRSA §453-A**, as amended by PL 1993, c. 509, §§3 and 4, is further amended to read:

**§453-A. Issuance of agency liquor store license**

The ~~commission~~ bureau shall issue a license for an agency liquor store within a municipality or unincorporated place by the following procedure.

**1. Bidding to replace state liquor stores.** The ~~Bureau of Liquor Enforcement~~ bureau shall solicit bids from the general public for each agency liquor store license to be issued. For an agency license to replace an existing state store, the ~~Bureau of Liquor Enforcement~~ bureau may not accept a bid lower than 1% of the taxable retail sales of the store being replaced, determined for the fiscal year that ended immediately before the closure of the store.

**1-A. Bidding to establish or replace agency liquor stores.** The ~~Bureau of Liquor Enforcement~~ bureau shall solicit bids from the general public for each agency liquor store license to be issued. For licenses to establish an agency liquor store or replace an existing agency liquor store, the ~~Bureau of Liquor Enforcement~~ bureau may not accept a bid lower than \$2,000.

**2. Public notice and solicitation of bids.** The ~~commission~~ bureau shall, in accordance with the Maine Administrative Procedure Act, give public notice that an agency liquor store may be established in a particular municipality or unincorporated place. The ~~commission~~ bureau shall summarize in the public notice the bidding requirements for the agency store license, including the minimum bid required. The ~~commission~~ bureau shall request all parties in the municipality or unincorporated place interested in bidding on a license to establish an agency liquor store there to submit bids and applications to the ~~commission~~ bureau.

**3. Information to applicants.** The ~~commission~~ bureau shall provide all applicants with the necessary information for the establishment of an agency liquor store.

**4. Notice to municipality.** Upon receipt of all applications for an agency liquor store license in a municipality and at least 15 days before the final selection of an applicant or applicants by the ~~commission~~ bureau, the ~~commission~~ bureau shall notify the municipal officers of that municipality of the proposed location of each applicant.

**5. Licensing decisions.** The ~~commission~~ bureau shall conduct an investigation to determine the feasibility of the location and type of facility for the agency liquor store and shall issue the license to one or more of the applicants, taking into consideration the bid offered and any other factors the ~~commission~~ bureau considers appropriate.

**5-A. Hearings on applications.** The ~~commission~~ bureau, in accordance with the provisions of the Maine Administrative Procedure Act, shall conduct a hearing to take testimony, consider comment and deliberate on applications. In addition to giving any notice required by the Maine Administrative Procedure Act, the ~~commission~~ bureau shall give notice of public hearing in writing to any existing agency liquor stores located within 5 miles of the applicant's proposed store location by regular mail at least 15 days prior to the hearing.

**6. Denial of application.** The ~~commission~~ bureau shall notify any applicant denied a license of the reasons for the denial by certified mail to the mailing address given by the applicant in the application for an agency liquor store license.

**7. Aggrieved applicants.** Any applicant aggrieved by a decision made by the ~~commission~~ bureau may appeal the decision by filing a complaint with the Administrative Court and serving a copy of the complaint upon the ~~commission~~ bureau. The complaint must be filed and served within 15 days of the mailing of the ~~commission's~~ bureau's decision.

**8. Measurement of distance.** All distances described in this section must be determined by the most reasonable direct route of travel.

**Sec. 48. 28-A MRSA §455**, as amended by PL 1991, c. 376, §51, is further amended to read:

**§455. Liquor for agency liquor stores**

Agency liquor stores must buy their liquor from the ~~commission~~ alcohol bureau under section 606.

**Sec. 49. 28-A MRSA §457**, as amended by PL 1987, c. 623, §6, is further amended to read:

**§457. Transfer of agency liquor store license**

If an agency liquor store license is transferred, the new licensee may operate the agency liquor store after notifying the commission bureau of the transfer until a new agent is selected by the commission bureau.

**Sec. 50. 28-A MRSA §458**, as enacted by PL 1991, c. 782, §1, is amended to read:

**§458. Renewal of agency liquor store license; selection of alternate licensee**

**1. Application by store.** The holder of an agency liquor store license shall apply annually to the commission bureau for renewal of that license. An application for renewal must be submitted on a form prepared by the bureau.

**2. Review by bureau.** In reviewing applications for renewal submitted under subsection 1, the commission bureau shall consider the following criteria:

- A. The applicant's sales and inventory of liquor;
- B. The applicant's sales and inventory of groceries and related items;
- C. Any changes in the location of or renovations to the applicant's premises;
- D. Any customer complaints of poor service against the applicant's store;
- E. Any violations of liquor laws by the applicant; and
- F. Records of any bad checks rendered to the commission bureau.

**3. Rejection of application; selection of alternate licensee.** If the commission bureau denies an application for renewal of an agency liquor store license, the commission bureau may select an alternate licensee in accordance with the criteria set forth in sections 453, 453-A and 453-B. If the alternate licensee held an agency liquor store license in the past, the commission bureau may consider any of the applicable criteria set forth in subsection 2 in considering whether to license the alternate agency liquor store.

**4. Purchase of store merchandise by State.** If the commission bureau does not renew the agency liquor store license, the commission alcohol bureau shall purchase from the agency liquor store all resalable spirits held in inventory by the agency liquor store. The purchase price is the cost at which that agency liquor store purchased the spirits from the commission alcohol bureau, minus 10% of that cost.

**5. Aggrieved applicant.** Any agency liquor store licensee aggrieved by a decision of the commission bureau not to renew an agency liquor store license may appeal the decision by filing a complaint with the Administrative Court and serving a copy of that complaint on the commission bureau. The complaint must be filed and served within 15 days of notification of the agency liquor store licensee by the commission bureau that the license will not be renewed.

**Sec. 51. 28-A MRSA §601, sub-§2**, as amended by PL 1995, c. 192, §1, is further amended to read:

**2. Disqualifications.** The commission bureau may not issue a license to an applicant if:

- A. Any of the principal officers of the corporation is not personally eligible because ~~he~~ that officer has had a license for sale of liquor revoked under chapter 33, if the applicant is a corporation;
- B. The applicant held a license ~~which~~ that was revoked for a specific period under chapter 33 and the applicant is applying for a license within that period since revocation;
- C. The applicant, who was not at the time of the offense the holder of a liquor license, was convicted of violating any laws of the State or the United States with respect to manufacture, transportation, importation, possession or sale of liquor within 5 years of applying for the license. For the purposes of this paragraph, any person who sells liquor of a greater alcohol content than authorized by ~~his~~ that person's license is not considered the holder of a license;
- D. The applicant was convicted of selling liquor illegally on Sunday while an employee or agent of a licensee within 5 years of applying for the license;
- E. The applicant's license expired pending an appeal from conviction of illegally selling liquor on Sunday within 5 years of applying for the license;
- F. A full-time law enforcement officer benefits financially either directly or indirectly;
- G. The applicant was denied a license within the 6 months before the application was filed, unless the commission's bureau's denial of the license is overruled by the court under an appeal provided by section 805;
- H. The applicant is the husband, wife, father, mother, child or other close relation of a person

whose license or application for a license for the same premises was revoked by the Administrative Court Judge or denied by the ~~commission bureau~~ within the 6 months before the application was filed;

I. The ~~commission bureau~~ determines that the purpose of the application is to circumvent the provisions of this section; or

J. The applicant is a golf club or a restaurant located on the property of a golf club and the Maine Human Rights Commission has found reasonable grounds to believe that the golf club has denied membership to a person in violation of Title 5, chapter 337, subchapter V, and has determined that conciliation efforts under Title 5, chapter 337, section 4612, subsection 3 have not succeeded. The Maine Human Rights Commission shall notify the ~~State Liquor Commission bureau~~ when the golf club has corrected its discriminatory membership practices, after which the applicant ceases to be disqualified under this paragraph.

**Sec. 52. 28-A MRSA §601-A**, as enacted by PL 1989, c. 526, §§2 and §28, is repealed.

**Sec. 53. 28-A MRSA §602, sub-§2**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**2. Bureau must notify licensee of expiration.**

The ~~commission bureau~~ shall notify the licensee by the most expedient means available that the license has expired and all sales of liquor must be suspended immediately and remain suspended until the license is properly renewed.

**Sec. 54. 28-A MRSA §605, first ¶**, as amended by PL 1987, c. 769, Pt. A, §113, is further amended to read:

Except as otherwise provided in this section, no license or any interest in a license may be sold, transferred, assigned or otherwise subject to control by any person other than the licensee. If the business, or any interest in the business, in connection with which a licensed activity is conducted is sold, transferred or assigned, the license holder shall immediately send to the ~~commission bureau~~ the license and a sworn statement showing the name and address of the purchaser. The ~~commission bureau~~ is not required to refund any portion of the licensee fee if the license is surrendered before it expires.

**Sec. 55. 28-A MRSA §605, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Transfer within same municipality.** Upon receipt of a written application, the ~~commission bureau~~ may transfer any retail liquor license from one

place to another within the same municipality. If the approval of the municipal officers was required for the original license, the transfer ~~can~~ may be made only with the approval of the municipal officers. No transfer may be made to premises for which the license could not have been originally legally issued.

**Sec. 56. 28-A MRSA §605, sub-§2, ¶¶A and B**, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

A. Personal representatives, receivers or trustees may operate the ~~premise~~ premises themselves or through a manager for a year from the date of their appointment for the benefit of the estate.

(1) The license must be renewed upon the expiration date at the regular license fee.

(2) If the license or renewed license is not transferred within one year from the date of appointment, it becomes void and must be returned to the ~~commission bureau~~ for cancellation.

(3) Any suspension or revocation of the license by the Administrative Court Judge for any violation applies against both the manager and the personal representative, receiver or trustee.

(4) No personal representative, receiver, trustee or duly appointed manager may operate under the license unless approved by the ~~commission bureau~~.

B. If a licensee dies, the following persons, with the written approval of the ~~commission bureau~~, may continue the operation of the license for not more than 60 days pending appointment of a personal representative of the estate:

(1) The surviving spouse;

(2) A person who has filed a petition for appointment as executor or administrator for the estate of the deceased licensee;

(3) Any sole heir of the deceased licensee; or

(4) Any person designated by all of the heirs of the deceased licensee.

**Sec. 57. 28-A MRSA §605, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**3. Guardians and conservators.** Duly appointed and qualified guardians and conservators of the estate of a licensee may take over, operate and renew licenses of their wards during their term of



office if they or their managers are approved by the ~~commission~~ bureau.

A. Guardians and conservators, except in the case of off-premise retail licensees approved by the municipal officers in their municipality, may not transfer their wards' licenses and must renew licenses each year.

B. Penalties for violations apply to both guardians or conservators and their managers in the same manner as executors or administrators and their managers in subsection 2.

**Sec. 58. 28-A MRSA §606**, as amended by PL 1997, c. 24, Pt. L, §§1 to 4, is further amended to read:

**§606. Liquor bought from commission; sale to government agencies**

**1. Purchase of liquor.** Subject to the restrictions provided in subsection 1-A, a person licensed to sell spirits must purchase liquor from a state or agency liquor store. This subsection does not apply to public service corporations operating interstate.

**1-A. On-premises licensees; purchase from agency store.** A person licensed to sell spirits for consumption on the premises may purchase spirits from an agency liquor store only in accordance with this subsection.

A. The sale price of spirits sold to a licensee under this subsection must equal the price for which a licensee would purchase liquor at a state store.

B. Upon completion of a transaction, the agency liquor store and the on-premise licensee shall each retain a copy of the licensee order form.

**1-C. Price of state liquor sales to licensees.** The commission may offer discounts below the list price to licensees.

**2. On-premise retailers must report purchases.** All persons licensed to sell liquor to be consumed on the premises shall report all liquor purchases to the commission on forms provided by the commission.

**3. Prospective licensees may order liquor in advance.** Upon approval of the ~~commission~~ bureau, persons who have been issued a license, effective at a future date, may order liquor in advance of the effective date of the license and may advertise the effective date.

**4. Discount for agency liquor stores.** The ~~commission~~ alcohol bureau shall sell spirits and fortified wines to agency liquor stores for a price of at

least 8% less than the list price established for the state liquor stores.

**5. Sale to government instrumentalities.** The ~~commission~~ alcohol bureau may ~~sell~~ authorize the sale of spirits to ~~approved~~ government instrumentalities within the State approved by the bureau. The ~~commission~~ alcohol bureau shall set the price ~~which must be approved by the Governor~~.

**6. Sale to airlines and ferry services for consumption outside the State.** The ~~commission~~ alcohol bureau may ~~sell~~ authorize the sale of spirits not for consumption within the State to airlines and ferry services or their agents as authorized by the ~~commission~~ bureau. The ~~commission~~ alcohol bureau shall set the price ~~which must be approved by the Governor~~.

**7. Premium must be collected.** Nothing in this section ~~may be construed to permit the commission to sell~~ permits the sale of spirits without collecting the entire premium assessed under chapter 65.

**8. Limits on price.** An agency liquor store may not sell spirits and fortified wine for less than 103% of the price paid by the agency liquor store. An agency liquor store may not sell spirits to persons other than on-premises licensees for more than the list price set in accordance with chapters 65 and 67.

**Sec. 59. 28-A MRSA §607**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§607. Licensees closed in case of riots, hurricanes or floods**

The Governor or the ~~commission~~ bureau may, in cases of riots, hurricanes and floods, order any or all licensees not to sell any liquor.

**Sec. 60. 28-A MRSA §651, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. File application with bureau.** An applicant for a liquor license shall file an application in the form required by the ~~commission~~ bureau.

**Sec. 61. 28-A MRSA §651, sub-§2, ¶¶A and B**, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

A. Each applicant shall disclose the entire ownership or any interest in the establishment for which a license is sought. If the applicant is a purchaser by contract, ~~he~~ the applicant shall also disclose the terms of the contract.

B. Every applicant for a license for sale of liquor to be consumed on the premises where sold shall include in the application a description of the premises to be licensed and ~~shall~~ provide any other material information, description or plan of

that part of the premises where the applicant proposes to keep or sell liquor as the ~~commission~~ bureau requires.

**Sec. 62. 28-A MRSA §652, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**3. Renewal.** Licenses may be renewed upon application for renewal and payment of the annual fee, subject to ~~commission~~ bureau rules.

**Sec. 63. 28-A MRSA §654**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§654. Additional considerations for licensure**

**1. Character; location; operation of business.**

In issuing or renewing licenses, the ~~commission~~ bureau, the municipal officers or the county commissioners, as the case may be, shall give consideration to:

- A. The character of any applicant;
- B. The location of the place of business;
- C. The manner in which ~~it~~ the business has been operated; and
- D. Whether the operation has endangered the safety of persons in or on areas surrounding the place of business.

**2. Qualifications of corporations.** The ~~commission~~ bureau, the municipal officers or the county commissioners, as the case may be, may refuse to issue licenses to corporations when any of its officers, directors or stockholders do not possess the qualifications required of unincorporated persons under this section.

**3. Areas primarily for minors.** Without limitation of its other powers, the ~~commission~~ bureau may not approve as a proper place for the exercise of the license privilege amusement areas primarily for minors, beaches or any other area designed primarily for use by minors.

**Sec. 64. 28-A MRSA §701**, as amended by PL 1987, c. 342, §33, is further amended to read:

**§701. Proximity to schools; exception**

**1. Location within 300 feet of churches and schools.** Except as provided in ~~paragraphs A and~~ paragraph B, the ~~commission~~ bureau may not issue a new license for the sale of liquor to be consumed on the premises to new premises within 300 feet of a public or private school, school dormitory, church, chapel or parish house in existence as such at the time the application for the new license is made.

B. The ~~commission~~ bureau may after holding a public hearing near the proposed location issue licenses to premises ~~which that~~ are either in or within 300 feet of a church, chapel, parish house or ~~post-secondary~~ postsecondary school ~~when the application has the unanimous approval of the members of the commission.~~

**2. Method of measurement.** The distance must be measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel.

**Sec. 65. 28-A MRSA §703**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§703. Employment of violators prohibited**

~~No~~ A licensee may not employ as a manager or leave in charge of the licensed premises any person who, by reason of conviction of violation of any liquor laws within the last 5 years or because of ~~having had his a revocation of that person's~~ license for sale of liquor ~~revoked~~ within the last 5 years, is not eligible for a liquor license.

**Sec. 66. 28-A MRSA §703-A, sub-§2**, as amended by PL 1993, c. 254, §1, is further amended to read:

**2. Affidavit required.** Retail licensees shall require a person applying for employment as a retail employee to furnish to the licensee an affidavit stating that the applicant has not been convicted of a first offense of violating section 2078 or section 2081, subsection 1, paragraph A or B, within 2 years of the date of the affidavit. Retail licensees shall require a person applying for employment as a retail employee to furnish to the licensee an affidavit stating that the applicant has not been convicted of a 2nd offense of violating section 2078 or section 2081, subsection 1, paragraph A or B, within 5 years of the date of the affidavit. The affidavit must be executed at the time of application. The ~~Bureau of Liquor Enforcement~~ bureau shall develop the affidavit required by this section and make single copies of that affidavit available to retailers.

**Sec. 67. 28-A MRSA §704, sub-§1**, as amended by PL 1993, c. 266, §7, is further amended to read:

**1. Licensee may not hire employee under 17; employees who are 17.** ~~No~~ A licensee for the sale of liquor to be consumed on licensed premises may not 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 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. 68. 28-A MRSA §707, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Licensee not indebted.** Except as provided by section 1363, the ~~commission~~ bureau may not issue any license to or renew the license of a person who is indebted in any manner, directly or indirectly:

- A. To any other person for liquor;
- B. To the State for any tax, other than property tax, assessed and considered final under Title 36 ~~which that~~ the State Tax Assessor certifies, in accordance with Title 36, section 172, as remaining unpaid in an amount exceeding \$1,000 for a period greater than 60 days after the applicant or licensee has received notice of the finality of that tax; or
- C. For any contributions assessed and considered final under Title 26, section 1225, when the Director of Unemployment Compensation certifies that the amount remains unpaid for a period greater than 60 days, after the applicant or licensee has received notice of the finality of that tax.

**Sec. 69. 28-A MRSA §710, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Advertising outside of licensed premises.** ~~No~~ A person, except wholesale licensees and certificate of approval holders, may not advertise or permit to be advertised, by more than one sign, on the outside of any licensed premises, or on any building, ground or premises under ~~his~~ that person's control and contiguous or adjacent to the licensed premises:

- A. The fact that the licensee has liquor or any brand of liquor for sale;
- B. The price at which liquor is sold by the licensee; or
- C. Any other advertisement ~~which that~~ indicates any reference to liquor.

**Sec. 70. 28-A MRSA §713, sub-§4**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**4. Sales or deliveries only to licensees.** Sales or deliveries ~~must~~ may be made only to licensees of the ~~commission~~ bureau.

**Sec. 71. 28-A MRSA §751, sub-§2**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**2. Retail licensee to keep separate records.** Except as provided in paragraph A, a retail licensee shall keep the records required by subsection 1 separate and apart from records relating to any other transactions in which ~~he~~ the licensee engages.

- A. Malt liquor, wine and soft drinks may be listed on the same wholesale licensee's invoice if each product is separately listed.

**Sec. 72. 28-A MRSA §754**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

#### **§754. Records open for inspection**

**1. Records open for inspection.** All records required to be kept under this chapter are open for inspection to the ~~commission~~ alcohol bureau, its representatives or representatives of the ~~Bureau of Liquor Enforcement~~ bureau at any time. The ~~commission~~ alcohol bureau, its representatives or representatives of the ~~Bureau of Liquor Enforcement~~ bureau may make copies of records ~~which that~~ may be used as evidence of violation of this chapter.

**2. Refusal of access.** ~~No~~ A licensee may not refuse to allow the ~~commission~~ alcohol bureau, its representatives or representatives of the ~~Bureau of Liquor Enforcement~~ bureau to audit the books and records of the licensee.

**Sec. 73. 28-A MRSA §801, sub-§1**, as amended by PL 1989, c. 526, §§5 and 28, is further amended to read:

**1. Jurisdiction.** The Administrative Court Judge, as designated in Title 5, chapter 375, shall conduct hearings on all matters concerning violations by licensees and their agents or employees of any federal or state law or regulation relating to liquor or violations of any rule ~~issued~~ adopted by the ~~commission~~ bureau. Notwithstanding Title 5, chapter 375, subchapter VI, the Administrative Court Judge has exclusive jurisdiction over all violations of this Title by licensees and their agents or employees when no criminal penalty is provided.

**Sec. 74. 28-A MRSA §802, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Violation of law or infraction of rule.** Violation of any federal or state law, rule or regulation relating to liquor or substantial infraction of any rule ~~issued~~ adopted by the ~~commission~~ bureau.

- A. This subsection does not require the Administrative Court Judge to hold licensees who sold liquor to minors who furnished fraudulent proof of age liable administratively;

**Sec. 75. 28-A MRSA §802, sub-§3, ¶A**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. For this offense the Administrative Court Judge may suspend licenses for an indefinite period of time until ~~he~~ the Administrative Court Judge is satisfied that the licensee has conformed to all qualifications required for licensing.

**Sec. 76. 28-A MRSA §803, sub-§1**, as amended by PL 1987, c. 342, §51, is further amended to read:

**1. Violation of law or rule.** Upon discovering a violation of federal or state law, rule or regulation relating to liquor, or an infraction of a rule ~~issued~~ adopted by the ~~commission bureau~~, the ~~Director of the Bureau of Liquor Enforcement chief~~, or the ~~director's chief's~~ designee, shall:

- A. Report the violation to the Administrative Court Judge in a signed complaint; or
- B. Issue warnings to the licensees involved.

**Sec. 77. 28-A MRSA §803, sub-§2**, as amended by PL 1987, c. 342, §52, is further amended to read:

**2. Notice and hearing.** Except as provided under subsection 6, upon receipt of a signed complaint prepared under subsection 1, paragraph A, the Administrative Court Judge shall notify the licensee and hold a hearing according to the following procedures.

A. The Administrative Court Judge shall notify the licensee by serving on ~~him~~ the licensee a copy of the complaint and a notice stating the time and place of the hearing and that ~~he~~ the licensee may appear in person or by counsel at the hearing. Service of the complaint and hearing notice is sufficient if sent by registered or certified mail at least 7 days before the date of the hearing to the address given by the licensee at the time of ~~his~~ the licensee's application for a license.

B. The Administrative Court Judge shall conduct a hearing limited to the facts, the law and rules of the ~~commission bureau~~, as specified in the complaint.

C. The Administrative Court Judge shall conduct the hearing in the following manner.

- (1) The Administrative Court Judge may subpoena and examine witnesses, administer oaths and subpoena and compel the attendance of parents and legal guardians of unemancipated minors.

(a) The ~~commission bureau~~ shall pay to the witnesses the legal fees for travel and attendance, except that, notwithstanding Title 16, section 253, the ~~commission bureau~~ is not required to pay the fees before the travel and attendance occur.

(2) Hearsay testimony is not admissible during the hearing. The licensees named in the complaint have the right to have all witnesses testify in person at the hearing.

(3) The Administrative Court Judge shall conduct hearings in one or more designated places ~~which~~ that are the most convenient and economical for all parties concerned in the hearing.

D. The Administrative Court Judge shall state in writing ~~his~~ the findings and decision in each case, based upon the facts, the law and the rules of the ~~commission bureau~~. The findings ~~shall~~ must specify the facts found and the law or rules found to be violated.

**Sec. 78. 28-A MRSA §803, sub-§5**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**5. Term of suspension or revocation.** Except as provided by section 802, subsection 3, suspensions must be for a definite period of time. If the Administrative Court Judge revokes a license, ~~he~~ the Administrative Court Judge shall specify that the ~~commission bureau~~ may not issue a license to the person whose license is revoked for a period of not less than one nor more than 5 years from the date of ~~such~~ revocation.

**Sec. 79. 28-A MRSA §803, sub-§6**, as amended by PL 1987, c. 342, §54, is further amended to read:

**6. Warnings.** Upon the written recommendation of the ~~Director of the Bureau of Liquor Enforcement chief~~, or the ~~director's chief's~~ designee, the Administrative Court Judge, instead of notifying a licensee against whom a complaint is pending to appear for hearing, may send the licensee a warning. Warnings must be sent by registered or certified mail and contain a copy of the complaint. A licensee to whom a warning is sent may demand a hearing by notifying the Administrative Court Judge by registered or certified mail within 10 days from the date the warning was mailed.

**Sec. 80. 28-A MRSA §804**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§804. Record of proceedings and transcript**

The Administrative Court Judge shall keep a full and complete record of all proceedings ~~before him~~ on the revocation and suspension of any license issued by the ~~commission bureau~~. The Administrative Court Judge is not required to have a transcript of the testimony prepared unless required for rehearing or appeal.

**Sec. 81. 28-A MRSA §805**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended by repealing and replacing the headnote to read:

**§805. Appeal from decision of Administrative Court Judge or bureau**

**Sec. 82. 28-A MRSA §805, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Aggrieved person may appeal within 30 days.** Any person aggrieved by the decision of the Administrative Court Judge in revoking or suspending any license issued by the ~~commission bureau~~ or by refusal of the ~~commission bureau~~ to issue any license applied for may, within 30 days of the decision or refusal, appeal to the Superior Court by filing a complaint.

A. The 30-day period for appeal begins on:

(1) In the case of license revocation or suspension, the effective date of the suspension or revocation; or

(2) In the case of refusal by the ~~commission bureau~~ to issue a license, on the day when the ~~commission bureau~~ sends by registered or certified mail notice to the applicant at the address of ~~his~~ the applicant's business given in ~~his~~ the applicant's application for a license.

B. Filing the complaint in the Superior Court stops the running of the limitation period.

**Sec. 83. 28-A MRSA §806**, as amended by PL 1989, c. 526, §§6 and 28, is further amended to read:

**§806. Records**

**1. Limitation on maintenance of records.** Except as provided in subsection 2, the ~~commission bureau~~ shall maintain a record of each violation, revocation or suspension for not more than 5 years.

**2. Records of Class A, B and C convictions.** The ~~commission bureau~~ shall maintain records of convictions for Class A, B and C crimes for at least 5 years, and may maintain them longer according to the policy of the ~~commission bureau~~.

**3. Notice of violators.** The Administrative Court clerk shall provide the ~~Bureau of Liquor Enforcement bureau~~ with the names and dates of final adjudication of all persons found in violation of this Title or the rules of the ~~commission bureau~~.

**Sec. 84. 28-A MRSA §1052, sub-§5**, as amended by PL 1987, c. 342, §78, is further amended to read:

**5. Ruling on application.** Upon receipt of the application, the ~~commission bureau~~ may immediately approve or deny the application. The ~~commission bureau~~ shall advise the applicant that the license and the off-premise sales license may be revoked and suspended under chapter 33.

**Sec. 85. 28-A MRSA §1052, sub-§6**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**6. Local option questions.** The ~~commission bureau~~ may not grant approval for the sale of liquor at events to be held in areas where the voters have voted in the negative concerning the pertinent local option questions.

**Sec. 86. 28-A MRSA §1052-A, sub-§§3 and 4**, as enacted by PL 1993, c. 259, §1, are amended to read:

**3. Application.** The licensee must apply for a special taste-testing festival license by filing a written application with the ~~commission bureau~~ at least 24 hours before the event. The application must include the following:

A. Name and address of the applicant;

B. Title and purpose of the event;

C. Date, time and duration;

D. Location; and

E. Approval by the municipal officers or a municipal official designated by the municipal officers of the municipality where the proposed special taste-testing festival will be located, which, notwithstanding section 653, may be granted without public notice.

**4. Ruling on application.** Upon receipt of the application, the ~~commission bureau~~ may immediately approve or deny the application. The ~~commission bureau~~ shall advise the applicant that the license may be revoked and suspended under chapter 33.

**Sec. 87. 28-A MRSA §1062, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of wine and malt liquor to be consumed on the premises to restaurants, as defined in section 2, subsection 15, paragraph Q.

**Sec. 88. 28-A MRSA §1062, sub-§3, ¶A,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. The ~~commission~~ bureau may not renew any license for the sale of wine or malt liquor unless the licensee furnishes proof to the ~~commission~~ bureau that the previous year's business conformed to the income requirement of this subsection.

**Sec. 89. 28-A MRSA §1062, sub-§4,** as enacted by PL 1987, c. 342, §87, is amended to read:

**4. Bureau determines who would probably qualify.** The ~~commission~~ bureau may issue the license if it determines that the applicant for a new license would probably meet the requirements of subsection 3.

**Sec. 90. 28-A MRSA §1065, sub-§1,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to Class A lounges as defined in section 2, subsection 15, paragraph L.

**Sec. 91. 28-A MRSA §1066-A, sub-§1,** as enacted by PL 1987, c. 342, §93, is amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of malt liquor to be consumed on the premises to taverns as defined in section 2, subsection 16, paragraph T-1.

**Sec. 92. 28-A MRSA §1068, sub-§1,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to performing arts centers as defined in section 2, subsection 15, paragraph N.

**Sec. 93. 28-A MRSA §1069-A, sub-§1,** as enacted by PL 1989, c. 158, §9, is amended to read:

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

**Sec. 94. 28-A MRSA §1070, sub-§1,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to civic auditoriums as defined in section 2, subsection 15, paragraph C.

**Sec. 95. 28-A MRSA §1070, sub-§4,** as amended by PL 1987, c. 342, §95, is further amended to read:

**4. Licensee must notify bureau.** The civic auditorium licensee shall give written notice to the ~~Bureau of Liquor Enforcement~~ bureau at least 24 hours before a function or event.

**Sec. 96. 28-A MRSA §1071, sub-§1,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to incorporated civic organizations, as defined in section 2, subsection 15, paragraph I.

**Sec. 97. 28-A MRSA §1071, sub-§3,** as repealed and replaced by PL 1987, c. 151, §2, is amended to read:

**3. Length of licenses.** One license issued under this section to each incorporated civic organization is valid for up to 7 consecutive days. The other 4 licenses for which the incorporated civic organization is eligible are valid for one day each. The ~~commission~~ bureau may not issue separate licenses under this section to the same incorporated civic organization for events or gatherings held on consecutive days.

**Sec. 98. 28-A MRSA §1071, sub-§5,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**5. Ruling on application.** The ~~commission~~ bureau shall approve or deny the application and ~~shall~~ immediately notify the applicant of its decision. The ~~commission~~ bureau shall advise the applicant that the license may be revoked and suspended under chapter 33.

**Sec. 99. 28-A MRSA §1072, sub-§§1 and 4,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to clubs, as defined in section 2, subsection 15, paragraph D.

**4. Register of club members.** Every club shall keep and maintain a register of the name, identity and address of each member of the club. The club shall allow any liquor enforcement officer or other authorized agent of the ~~commission~~ bureau to inspect the register at any reasonable time.

**Sec. 100. 28-A MRSA §1073, sub-§3,** as amended by PL 1989, c. 244, §6, is further amended to read:

**3. Separate area for sale of food and liquor.** The licensee shall set aside a separate area for the sale and consumption of food and liquor in accordance with the rules of the ~~commission~~ bureau. For bowling centers, that separate area may not include the area in which the game of bowling is conducted.

**Sec. 101. 28-A MRSA §1074, sub-§1,** as amended by PL 1995, c. 558, §6, is further amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of wine and malt liquor to be consumed on the premises to outdoor stadiums, as defined in section 2, subsection 15, paragraph M. A concessionaire or lessee may be issued a license under this section, regardless of whether it controls the premises, as long as that concessionaire or lessee complies with the notice provisions applicable to qualified catering services in section 1076, subsection 7 prior to exercising the license.

**Sec. 102. 28-A MRSA §1077, sub-§1,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of spirits, wine and malt liquor by vessel, railroad and airline corporations in their boats, cars and aircraft.

**Sec. 103. 28-A MRSA §1077, sub-§2, ¶¶A and B,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

A. The ~~commission~~ bureau may not require that the vessels be equipped to supply food or provide food service.

B. Except as provided in ~~sub-paragraph~~ sub-paragraph (1), licenses issued under this section to vessel companies operating boats within the State authorize the licensees to sell liquor in the boats after leaving and before reaching ports within the State.

(1) A licensee may sell liquor for consumption on board a vessel ~~which~~ that is in port, only if prior approval for the sale is

obtained from the ~~commission~~ bureau under the license application procedure in section 653. A separate approval must be obtained for each port location from which on-board sales of liquor are to be made.

**Sec. 104. 28-A MRSA §1079, sub-§1,** as repealed and replaced by PL 1987, c. 342, §101, is amended to read:

**1. Issuance of license to operators of air terminals.** The ~~commission~~ bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to operators of international air terminals, as defined in section 2, subsection 15, or their agent or concessionaire.

**Sec. 105. 28-A MRSA §1201, sub-§§1 and 2,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Licenses for sale of malt liquor and table wine.** The ~~commission~~ bureau may issue licenses under this section for the sale and distribution of malt liquor or wine to off-premise retail licensees, as defined in section 2, subsection 27, paragraph A.

**2. Ineligible as licensee.** The ~~commission~~ bureau may not issue a license for the sale of malt liquor or wine to any person who is not engaged in a bona fide retail business other than the sale of malt liquor or wine at retail.

**Sec. 106. 28-A MRSA §1201, sub-§3-A,** as enacted by PL 1993, c. 266, §21, is amended 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~~ 82.

**Sec. 107. 28-A MRSA §1201, sub-§5,** as amended by PL 1987, c. 342, §102, is further amended to read:

**5. Qualifications.** The ~~commission~~ bureau may not issue any licenses for new premises unless:

A. The ~~premise has~~ premises have been in operation for a period of at least 3 months immediately before the date of the application; or

B. The applicant proves to the satisfaction of the ~~commission~~ bureau that all proper standards and requirements of laws and rules of the ~~commission~~ bureau have been met and ~~he~~ that the applicant is a resident of the State.

**Sec. 108. 28-A MRSA §1202, sub-§2**, as amended by PL 1993, c. 266, §22, is further amended to read:

**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's establishment in a supervisory capacity. Effective January 1, 1994, an~~ 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. 109. 28-A MRSA §1204, sub-§1**, as enacted by PL 1987, c. 342, §106, is amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale of malt liquor and table wine to be consumed off the premises to ship chandlers, as defined in section 2, subsection 15, paragraph S.

**Sec. 110. 28-A MRSA §1205, sub-§1**, as amended by PL 1995, c. 30, §4, is further amended to read:

**1. Taste testing on off-premise retail licensee's premises; fine wine stores.** Subject to the conditions in subsection 2, the ~~commission~~ bureau may authorize an off-premise retail licensee, 50% or more of whose gross income is derived from the sale of wine or malt liquor, or a fine wine store to conduct taste testings of wine on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited.

**Sec. 111. 28-A MRSA §1205, sub-§2, ¶G**, as enacted by PL 1989, c. 488, is amended to read:

G. The retail licensee must obtain the written permission of the ~~commission~~ bureau before conducting any taste-testing activity;

**Sec. 112. 28-A MRSA §1351**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§1351. Certificate of approval**

**1. Certificate of approval required.** All in-state manufacturers, out-of-state manufacturers and out-of-state wholesalers must obtain a certificate of approval from the ~~Bureau of Alcoholic Beverages~~ bureau.

**Sec. 113. 28-A MRSA §1355, sub-§3, ¶C**, as amended by PL 1993, c. 730, §46, is further amended to read:

C. A holder of a farm winery license, upon application to and approval of the ~~commission~~ bureau 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 permitted by this section at the winery.

**Sec. 114. 28-A MRSA §1356, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Illegal manufacture; penalty.** Any person not licensed by the ~~commission~~ bureau who manufactures for sale any liquor, and any person who sells any liquor manufactured by ~~him~~ that person without a license in the State, commits a Class E crime.

**Sec. 115. 28-A MRSA §1361, sub-§§1 and 3**, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Certificate of approval required.** No manufacturer or foreign wholesaler of malt liquor or wine may hold for sale, sell or offer for sale in intrastate commerce, or transport or cause to be transported into the State for resale, any malt liquor or wine unless the manufacturer or foreign wholesaler has obtained from the ~~commission~~ bureau a certificate of approval.

**3. Conditions on certificate of approval.** The certificate of approval is subject to the laws of the State and the rules of the ~~commission~~ bureau.

A. Any violation of the rules of the ~~commission~~ bureau is ground for suspension or revocation of the certificate at the discretion of the Administrative Court Judge.

**Sec. 116. 28-A MRSA §1361, sub-§4**, as amended by PL 1993, c. 507, §1, is further amended to read:

**4. No sales of malt liquor or wine to person without wholesale license.** No certificate of approval holder, except a small Maine brewery or Maine farm winery licensee allowed to sell directly to retailers, may sell or cause to be transported into the State any malt liquor or wine to any person to whom a Maine wholesale license has not been issued by the ~~commission~~ bureau. Malt liquor or wine must be delivered to the place of business of the wholesaler as shown in the wholesaler's license, must be unloaded and inventoried at the wholesaler's premises upon the wholesaler's receipt of the shipment and must come to rest before delivery is made to any retailer to enable the bureau to inspect and inventory wholesale warehouses for the purpose of verifying taxes that are required to be paid on malt liquor and wine purchased by importers.



**Sec. 117. 28-A MRSA §1362**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§1362. Disposal of fees**

The ~~commission bureau~~ shall deposit the fees collected under section 1361 to the credit of the General Fund.

**Sec. 118. 28-A MRSA §1363, sub-§2, ¶B**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

B. A manufacturer or holder of a certificate of approval may furnish a wholesale licensee materials and equipment for the use of the wholesale licensee or ~~his~~ the wholesale licensee's employees, such as:

- (1) Painting the wholesale licensee's vehicles;
- (2) Supplying legal advertising signs used by the wholesale licensee in the course of ~~his~~ the wholesale licensee's business; and
- (3) Supplying uniforms for the employees of the wholesale licensee.

**Sec. 119. 28-A MRSA §1364**, as amended by PL 1991, c. 591, Pt. VV, §5, is further amended to read:

**§1364. Invoices and reports**

**1. Furnish invoices.** All certificate of approval holders shall promptly file with the ~~commission bureau~~ a copy of every invoice sent to wholesale licensees and the original copy of the Maine purchase order. The invoice must include the licensee's name and the purchase number.

**2. File monthly reports.** All certificate of approval holders shall furnish a monthly report on or before the 10th day of each calendar month in the form prescribed by the ~~commission bureau~~.

**3. Certification that excise tax paid.** No certificate of approval holder may ship or cause to be transported into the State any malt liquor or wine until the ~~commission bureau~~ has certified that:

- A. The excise tax has been paid; or
- B. The Maine wholesale licensee, to whom shipment is to be made, has filed a bond to guarantee payment of the excise tax as provided in section 1405.

**4. Reports of low-alcohol spirits products.** Each certificate of approval holder that manufactures low-alcohol spirits products shall submit to the

~~commission bureau~~, on or before the 10th day of each calendar month, a form specifying the number of gallons of low-alcohol spirits product sold to wholesale licensees in the State with a copy of each invoice relating to each such sale.

**Sec. 120. 28-A MRSA §1365**, as enacted by PL 1991, c. 591, Pt. VV, §6, is amended to read:

**§1365. Low-alcohol spirits product tax**

In addition to any tax or premium paid under section 1652 or section 1703, each certificate of approval holder that manufactures low-alcohol spirits products shall pay a tax of 30¢ on each gallon of low-alcohol spirits product sold to a wholesale licensee in the State. In addition to the forms filed pursuant to section 1364, a certificate of approval holder that manufactures low-alcohol spirits products shall file with the ~~commission bureau~~ a monthly report on the number of gallons of low-alcohol spirits product sold to wholesale licensees in the State. The certificate of approval holder must enclose payment for the tax due under this section on the reported sales.

**Sec. 121. 28-A MRSA §1371, sub-§1**, as amended by PL 1989, c. 183, is further amended to read:

**1. Certificate of approval for special storage facilities.** Notwithstanding the importation restrictions of sections 2073 and 2077, the ~~commission bureau~~ may issue certificates of approval authorizing the direct importation of malt liquor, wine or spirits from suppliers located in foreign countries or other states into special warehouse storage facilities located within the State that are under the direct supervision and control of the certificate of approval holder or into a public warehouse with the approval of the ~~commission bureau~~.

**Sec. 122. 28-A MRSA §1371, sub-§3, ¶¶B and C**, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

B. The ~~State Liquor Commission~~ alcohol bureau may withdraw spirits from special warehouse storage facilities.

C. Out-of-state purchasers authorized by the ~~commission bureau~~ may withdraw spirits, wine and malt liquor from special warehouse storage facilities. The authorization allows the out-of-state purchasers to directly transport the spirits, wine and malt liquor to the state border for delivery out-of-state. Products withdrawn by authorized out-of-state purchasers for delivery outside of the State are not subject to the state excise tax or premium.

**Sec. 123. 28-A MRSA §1401, sub-§§1, 4 and 5,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

**1. Issuance of licenses.** The ~~commission~~ bureau may issue licenses under this section for the sale and distribution of malt liquor or wine at wholesale.

**4. Temporary permits.** The ~~commission~~ bureau may issue special permits, upon application in writing, for the temporary storage of malt liquor or wine under terms and upon conditions prescribed by the ~~commission~~ bureau.

**5. Qualifications.** The ~~commission~~ bureau may not issue a wholesale license to an applicant unless:

A. If the applicant is a person, the applicant has been a resident of the State for at least 6 months; or

B. If the applicant is a corporation, the applicant has conducted business in this State for at least 6 months.

**Sec. 124. 28-A MRSA §1402, sub-§§1 and 2,** as amended by PL 1987, c. 342, §110, are further amended to read:

**1. Taste testing on wholesale licensee's premises.** With the ~~commission's~~ bureau's written permission, a wholesale licensee may designate a special area or room on the wholesale licensee's premises for the specific purpose of taste testing wine or malt liquor products.

**2. Taste testing on retail licensee's premises.** With the ~~commission's~~ bureau's written permission, a wholesale licensee may rent or lease an area or room from an on-premise retail licensee for the purpose of inviting retail licensees to taste test wine or malt liquor products.

**Sec. 125. 28-A MRSA §1403, sub-§1,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. No purchases other than from certificate of approval holder.** No wholesale licensee may purchase or cause to be transported into the State any malt liquor or wine from any person to whom the ~~commission~~ bureau has not issued a certificate of approval.

**Sec. 126. 28-A MRSA §1403, sub-§1-A,** as enacted by PL 1987, c. 342, §111, is amended to read:

**1-A. Wholesale licensee may purchase from wholesale licensee.** The ~~commission~~ bureau may give written permission to a wholesale licensee to purchase malt liquor or wine from another wholesale licensee.

**Sec. 127. 28-A MRSA §1403, sub-§4,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**4. Monthly report.** By the 10th day of each calendar month, each wholesale licensee shall furnish to the ~~commission~~ bureau, in the form prescribed by the ~~commission~~ bureau, a monthly report of all malt liquor or wine purchased and sold during the preceding month.

**Sec. 128. 28-A MRSA §1404, sub-§1, ¶¶A to F,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

A. The ~~commission~~ bureau shall furnish all purchase order forms.

B. The unbonded wholesale licensee shall complete the forms in ~~quintuplet~~ quintuplicate.

C. The unbonded wholesale licensee ordering malt liquor or wine shall mail 3 copies of the form to the ~~commission~~ bureau with a check for the amount of excise taxes required to cover the amount of the order.

D. The unbonded wholesale licensee may mail the original copy of the order to the brewery or winery or wholesaler with whom ~~he~~ the licensee wishes to place the order.

E. On receipt of the 3 copies and a check for excise taxes, the ~~commission~~ bureau shall promptly process the copies and return one copy to the wholesale licensee and send one to the brewery, winery or foreign wholesaler designated to receive the order. The ~~commission~~ bureau shall keep the 3rd copy on file.

F. No brewery, winery or foreign wholesaler may ship or release malt liquor or wine for delivery in Maine until notified by the ~~commission~~ bureau that the excise tax has been paid in accordance with this section.

**Sec. 129. 28-A MRSA §1405, sub-§1, ¶¶A and D,** as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

A. The ~~commission~~ bureau shall furnish all purchase order forms.

D. The bonded wholesale licensee shall then mail to the ~~commission~~ bureau one copy of the form and retain one copy for ~~his~~ the licensee's files.

**Sec. 130. 28-A MRSA §1405, sub-§2,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**2. Corporate security bond.** To secure payment of the excise tax and premium, each wholesale licensee shall file with the ~~commission bureau~~ a corporate surety bond guaranteeing payment of the proper excise tax and premium due the State ~~from him~~.

A. The ~~commission bureau~~ shall fix the amount and terms of the bond, subject to the following ~~restrictions~~ restrictions.

(1) The bond must be equal to the highest monthly excise tax and premium paid by the wholesale licensee during the period of ~~his~~ the prior year license, plus 10% of the highest month.

(2) New licensees desiring to furnish bond under this section shall furnish a corporate surety bond in an amount to be determined by the ~~commission bureau~~.

(3) All bonds ~~shall~~ must be provided and effective only for each licensed year.

B. Failure to pay the excise tax and premium when due is grounds for suspension of the license of the wholesale licensee.

**Sec. 131. 28-A MRSA §1405, sub-§3, ¶B,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

B. At the time of payment of the excise tax and premium, each Maine wholesale licensee shall file with the ~~commission bureau~~ in the form prescribed by the ~~commission bureau~~:

(1) A verified monthly report of all malt liquor or wine purchased or imported based on the date of shipment invoice during the preceding calendar month; and

(2) Any additional information the ~~commission bureau~~ requires to compute and ensure the accuracy of the excise tax and premium payment accompanying the report.

**Sec. 132. 28-A MRSA §1406,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§1406. Report of changes in wholesale licensees and certificate of approval holders to bureau**

**1. Certificate of approval holders must list wholesale licensees with bureau; changes.** Each certificate of approval holder shall:

A. File with the ~~commission bureau~~ a list of the wholesale licensees who distribute their products in the State; ~~and~~

B. ~~Certificate of approval holders shall give~~ Give written notice to the ~~commission bureau~~ and the wholesale licensee affected at least 90 days before any change in:

(1) Its wholesale licensees; or

(2) The territory of its wholesale licensee in the State.

**2. Wholesale licensees must list certificate of approval holders with bureau; changes.** Each wholesale licensee shall:

A. File with the ~~commission bureau~~:

(1) A list of the certificate of approval holders for whom it distributes malt liquor or wine in the State; and

(2) A statement of the boundaries of its territories; ~~and~~

B. ~~Wholesale licensees shall give~~ Give written notice to the ~~commission bureau~~ and the certificate of approval holder affected at least 90 days before any change in:

(1) Its territory; or

(2) The distribution of its products.

**3. Shortened waiting period before change.**

The ~~commission bureau~~ may shorten the waiting period before a change is made in the following situations.

A. A certificate of approval holder or a wholesale licensee may request a hearing before the ~~commission bureau~~ to shorten the waiting period before a change is made. The ~~commission bureau~~ may, for cause, shorten the waiting period before approving a change in either the wholesale licensee or the wholesale licensee's territory.

B. If both the certificate of approval holder and the wholesale licensee affected waive the 90-day waiting period by giving the ~~commission bureau~~ written notice, then the ~~commission bureau~~ may immediately approve a change in either the wholesale licensee or the wholesale licensee's territory.

**Sec. 133. 28-A MRSA §1408, sub-§4, ¶A,** as enacted by PL 1987, c. 342, §113, is amended to read:

A. The ~~commission~~ bureau may give written permission to certificate of approval holders, manufacturers or wholesale licensees to reduce the notice period for price changes in specific instances.

**Sec. 134. 28-A MRSA §1501**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§1501. Lists of officers, partners and sales representatives**

All persons selling liquor to the State shall furnish to the ~~commission~~ alcohol bureau and the bureau a list of all officers and directors, if a corporation, or a list of all partners, if a partnership, and the name of the sales representatives of the person within the State.

**Sec. 135. 28-A MRSA §1502, first ¶**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

The sales representatives shall apply to the ~~commission~~ bureau for a license disclosing the person, firm or corporation represented.

**Sec. 136. 28-A MRSA §1503**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§1503. Revocation of license**

Licenses issued by the ~~commission~~ bureau under this chapter ~~shall~~ must be revoked for the violation of the liquor laws or any rule adopted by the ~~commission~~ bureau.

**Sec. 137. 28-A MRSA §1652, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**3. General Fund.** The ~~commission~~ bureau shall immediately deposit all money received under this section to be credited to the General Fund.

**Sec. 138. 28-A MRSA §1652, sub-§4**, as amended by PL 1991, c. 791, §3, is further amended to read:

**4. Excise tax accounts and adjustments.** The ~~commission~~ bureau shall open an excise tax account with all manufacturers, wholesale licensees and certificate of approval holders and make the following adjustments when appropriate.

A. The ~~commission~~ bureau may grant credits and make tax adjustments that it determines the wholesale licensee or certificate of approval holder is entitled to upon the filing of affidavits in the form prescribed by the ~~commission~~ bureau.

B. The ~~commission~~ bureau shall refund all excise tax and premium paid by the wholesale licensee or certificate of approval holder on all malt liquor or wine caused to be destroyed by a supplier as long as the quantity and size are verified by the bureau and the destruction is witnessed by an authorized representative of the bureau.

C. If a wholesale licensee's inventories are destroyed by fire, flood or other natural disaster, the ~~commission~~ bureau may refund the excise tax and premium on the wholesale licensee's inventories.

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~~ bureau. The ~~commission~~ bureau 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~~ bureau 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~~ bureau.

(2) The ~~commission~~ bureau 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 that are destined for a foreign port.

(3) The ~~commission~~ bureau 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 international flights.

**Sec. 139. 28-A MRSA §1703, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Spirits.** The ~~commission~~ alcohol bureau shall sell all spirits, at a price ~~which that~~ that will produce, in addition to any other tax or charge imposed under state or federal law, a premium in the amount specified in subsection 3.

**Sec. 140. 28-A MRSA §1703, sub-§2, ¶A,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. The ~~commission~~ bureau shall open a premium account with all manufacturers and importing wholesalers.

**Sec. 141. 28-A MRSA §1703, sub-§2, ¶C,** as amended by PL 1991, c. 591, Pt. VV, §9, is further amended to read:

C. Premiums must be paid to the ~~commission~~ bureau by the Maine manufacturer or importing wholesaler.

**Sec. 142. 28-A MRSA §1703, sub-§2, ¶E,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

E. The ~~commission~~ bureau shall grant credits and make adjustments under this subsection on the same terms and conditions as provided in section 1652.

**Sec. 143. 28-A MRSA §1703, sub-§4,** as amended by PL 1989, c. 934, Pt. C, §4, is further amended to read:

**4. Payment to General Fund.** The ~~commission alcohol bureau and bureau~~ shall immediately pay all premiums ~~it collects~~ they collect under this section to the Treasurer of State to be credited to the General Fund.

**Sec. 144. 28-A MRSA §1703, sub-§5,** as enacted by PL 1989, c. 934, Pt. C, §5, is amended to read:

**5. Appropriation.** The amount of funds appropriated from the General Fund to the Office of Substance Abuse, as established in Title 5, chapter 521, may not be less than the dollar amount collected or received by the ~~commission~~ alcohol bureau and bureau under this section.

**Sec. 145. 28-A MRSA §1704,** as amended by PL 1989, c. 700, Pt. A, §116 and repealed by c. 934, Pt. C, §6, is repealed.

**Sec. 146. 28-A MRSA §2051, sub-§2, ¶A,** as amended by PL 1987, c. 426, is further amended to read:

A. When a person is adjudged to have committed ~~his~~ a first offense under this section, the judge shall inform that person that the forfeitures for the 2nd and subsequent offenses are mandatory and cannot be suspended, except as provided in paragraph B. Failure to inform the first offender that subsequent forfeitures are manda-

tory is not a ground for suspension of any subsequent forfeiture.

**Sec. 147. 28-A MRSA §2051, sub-§4,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**4. Illegal possession and illegal transportation.** If a minor is charged with illegal possession under this section, ~~he~~ the minor may not be charged with illegal transportation under section 2052.

**Sec. 148. 28-A MRSA §2052, sub-§1, ¶A,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. A minor may transport liquor or permit liquor to be transported in a motor vehicle if in the scope of ~~his~~ the minor's employment, or at the request of ~~his~~ the minor's parent, legal guardian or custodian, as defined in Title 22, section 4002.

**Sec. 149. 28-A MRSA §2052, sub-§2,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**2. No conviction if liquor not within minor's section.** No minor may be found in violation of any offense under this section if liquor is found outside the passenger or driver's section of a motor vehicle under ~~his~~ the minor's control, unless the minor has actual knowledge of the presence of the liquor. The trunk or locked glove compartment of any vehicle ~~shall~~ may not be construed under this section to be within the passenger or driver's section of the motor vehicle.

**Sec. 150. 28-A MRSA §2054,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§2054. Execution of suspension stayed during appeal**

If any person adjudicated to be in violation of section 2052 appeals from the judgment of the trial court, the execution of any suspension imposed on ~~his~~ that person's license, right to obtain a license, and right to operate a motor vehicle in the State ~~shall be~~ is stayed pending appeal and ~~shall begin~~ begins when and if the judgment is upheld or the appeal is withdrawn.

**Sec. 151. 28-A MRSA §2071,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended by repealing and replacing the headnote to read:

**§2071. Failure to appear before the bureau**

**Sec. 152. 28-A MRSA §2071, sub-§1,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Failure to appear when summoned.** It is illegal for a person who is summoned as a witness by ~~a member of the commission the bureau~~ to appear before the ~~commission bureau~~, to fail to appear without reasonable cause at the time and place designated in the subpoena or summons.

**Sec. 153. 28-A MRSA §2072, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Illegal deposit or possession.** No person may deposit or have in ~~his~~ that person's possession any liquor:

- A. With intent to sell the liquor in the State in violation of law;
- B. With intent that the liquor ~~shall~~ be sold in the State in violation of law by any person; or
- C. With intent to aid or assist any person in an illegal sale.

**Sec. 154. 28-A MRSA §2073, sub-§3, ¶¶A, E and F**, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

A. Upon application, the ~~commission bureau~~ may grant to an individual a permit to transport liquor purchased for ~~his~~ that person's own personal use.

E. The ~~commission bureau~~ may permit in writing the importation of liquor into the State and the transportation of liquor from place to place within the State to the following destinations for the specified purposes:

- (1) To hospitals and state institutions, for medicinal purposes only, liquor made available to them from stocks of liquor seized by the Federal Government;
- (2) To industrial establishments in the State for industrial uses;
- (3) To schools, colleges and state institutions for laboratory use only;
- (4) To any licensed pharmacist in the State for use in the compounding of prescriptions and other medicinal use, but not for sale by pharmacists unless compounded with or mixed with other substances; or
- (5) To any physician, surgeon, osteopath, chiropractor, optometrist, dentist or veterinarian for medicinal use only.

F. The ~~commission bureau~~ may authorize hospitals and state institutions to purchase liquor, for

medicinal purposes only, from wholesale licensees and state liquor stores. ~~Such~~ This authorization must be in writing.

**Sec. 155. 28-A MRSA §2075, sub-§1**, as amended by PL 1993, c. 730, §47, is further amended to read:

**1. Only the commission may import spirits; exception.** Except as provided in this section, no person other than the ~~commission~~ alcohol bureau 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 the individual's personal use in a quantity not greater than 4 quarts.

**Sec. 156. 28-A MRSA §2076, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**1. Delivery of liquor.** Except with the ~~commission's~~ bureau's written permission, no person may knowingly transport to or cause to be delivered to any person other than the ~~commission~~ alcohol bureau any spirits not purchased from a state liquor store or the ~~commission~~ alcohol bureau.

**Sec. 157. 28-A MRSA §2077-A, sub-§1**, as enacted by PL 1993, c. 60, §2, is amended to read:

**1. Receipt.** Notwithstanding section 2077, a person may apply to the ~~commission bureau~~ and be issued a permit to receive, for personal use and not for resale, a shipment of malt liquor or wine from another state. For receipt of each shipment the following requirements must be satisfied.

- A. The receiver may not be under 21 years of age.
- B. The total amount of malt liquor received may not exceed 2.4 gallons per month per individual, and the total amount of wine received may not exceed 2.4 gallons per month per individual.
- C. The receiver may not be a licensee or licensed establishment.
- D. The receiver must obtain a \$5 permit for every shipment of malt liquor that is received and a \$10 permit for every shipment of wine that is received.

**Sec. 158. 28-A MRSA §2077-A, sub-§2, ¶F**, as enacted by PL 1993, c. 60, §2, is amended to read:

F. Shipments must be made in accordance with rules adopted by the ~~commission~~ bureau.

**Sec. 159. 28-A MRSA §2079**, as amended by PL 1987, c. 342, §122, is further amended to read:

**§2079. Aiding children in illegal possession or sale**

Any person who personally or by ~~his~~ that person's employee or agent, directly or indirectly, employs or permits any child under the age of 16 years to assist ~~him~~ that person in the illegal possession or the illegal sale of liquor commits a Class E crime, and ~~shall~~ must be punished accordingly in addition to the penalties otherwise provided against the illegal possession for sale or illegal sale of liquor.

**Sec. 160. 28-A MRSA §2202**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§2202. Bail after failure to comply with terms of bond**

In any prosecution for violation of the laws relating to manufacture or sale of liquor, a defendant who has failed to comply with the term of any bond entered into by ~~him~~ the defendant in that case may not again be admitted to bail in that case or upon arrest on any warrant issued in that case, except by a justice of the court in which that prosecution is pending.

**Sec. 161. 28-A MRSA §2221-A, sub-§5, ¶D**, as enacted by PL 1987, c. 342, §128, is amended to read:

D. The Department of Public Safety is responsible for maintaining a centralized record of property seized, held by an order to the department. At least quarterly, the department shall provide a report of the disposition of property previously held by the department and ordered by the court to any governmental entity to the Commissioner of ~~Finance~~ Finance Administrative and Financial Services and the Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized.

**Sec. 162. 28-A MRSA §2229**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§2229. Disposal of forfeited liquors**

**1. Court or judge to order forfeited liquor to be turned over to the alcohol bureau.** All liquors spirits declared forfeited by a court under this Title ~~shall~~ must, by order of the court rendering the final judgment, be turned over to the ~~commission~~ alcohol bureau. All malt liquor or wine declared forfeited by a court under this Title must, by order of the court rendering final judgment, be turned over to the bureau. Liquor forfeited under this section must be disposed of in the same manner as abandoned liquor under section 2230.

**2. Sale of forfeited liquor by alcohol bureau.**

Except as provided in paragraph A, the ~~commission~~ alcohol bureau shall sell forfeited liquor in the state liquor stores throughout the State.

A. If any liquor is determined by the court to be unfit or unsatisfactory for consumption or retail sale, the court may order the liquor to be destroyed by any officer competent to serve the process on which it was forfeited. The officer shall make the return accordingly to the court.

(1) The liquor ~~shall~~ must be destroyed by pouring it upon the ground or into a public sewer.

**Sec. 163. 28-A MRSA §2230, sub-§2, ¶B**, as enacted by PL 1993, c. 730, §51, is amended to read:

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~~ alcohol bureau for sale at state liquor stores or disposal.

**Sec. 164. 28-A MRSA §2507, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**3. Reckless conduct.** Service of liquor is reckless if a server intentionally serves liquor to an individual when the server knows that the individual being served is a minor or is visibly intoxicated and the server consciously disregards an obvious and substantial risk that serving liquor to that individual will cause physical harm to the drinker or to others.

For purposes of this Act, the disregard of the risk, when viewed in light of the nature and purpose of the server's conduct and the circumstances known to ~~him~~ the server, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.

**Sec. 165. 28-A MRSA §2518**, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

**Sec. 166. 28-A MRSA §2519, sub-§1**, as amended by PL 1993, c. 266, §34, is further amended to read:

**1. Approval of alcohol server education courses.** The ~~Commissioner of Public Safety~~ commissioner shall approve alcohol server education courses 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. 167. 28-A MRSA §2519, sub-§5**, as amended by PL 1993, c. 266, §35, is further amended to read:

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

**Sec. 168. 28-A MRSA §2519, sub-§§6 and 7**, as amended by PL 1993, c. 730, §52, are further 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~~ bureau. There is a \$5 fee for the seminar to offset expenses incurred in carrying out this subsection. The instructor of each course provided shall supply the ~~Bureau of Liquor Enforcement~~ bureau with the name, address and telephone number of each attendant.

**7. Course accountability.** The 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~~ bureau shall maintain a record of the participants who have completed an alcohol server training course. Each instructor of an approved course shall provide the 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 enrollment fee to the ~~Bureau of Liquor Enforcement~~ bureau for every name submitted. The amounts collected must be retained by the ~~Bureau of Liquor Enforcement~~ bureau to cover costs incurred in carrying out this subsection.

**Sec. 169. 28-A MRSA §2519, sub-§8**, as enacted by PL 1993, c. 266, §36, is amended to read:

**8. Alcohol server education courses; approval; suspension; revocation.** The ~~Commissioner of Public Safety~~ commissioner may refuse to issue or renew approval for an alcohol server education course. The ~~Commissioner of Public Safety~~ commissioner 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~~ commissioner to refuse to issue or renew approval or to suspend or revoke approval for an alcohol server education course may, within 30 days of receipt of that decision, appeal the decision to the Administrative Court.

**Sec. 170. 28-A MRSA §2520**, as amended by PL 1991, c. 837, Pt. A, §60, is further amended to read:

#### **§2520. Liquor service education**

The ~~Bureau of Liquor Enforcement~~ bureau shall provide educational services regarding retail liquor sales as follows.

**1. Seminars.** The ~~Bureau of Liquor Enforcement~~ bureau shall, from time to time, conduct seminars throughout the State to provide retailers and their employees with information on changes in the laws governing retail sales of liquor.

**2. Informational signs.** The ~~Bureau of Liquor Enforcement~~ bureau shall develop informational signs which may be located in retail establishments. These signs ~~shall~~ must outline requirements of state law regarding proper identification for retail sales and other information to enhance compliance with state liquor laws.

**3. Legal pamphlet.** The ~~Bureau of Liquor Enforcement~~ bureau shall prepare a pamphlet summarizing state laws governing retail liquor sales. The bureau shall make single copies of this pamphlet available to retailers.

**Sec. 171. 36 MRSA §172, sub-§1**, as amended by PL 1987, c. 45, Pt. B, §6, is further amended to read:

**1. Liquor licensee.** If the taxpayer is a liquor licensee, to the ~~State Liquor Commission~~ Department of Public Safety, Bureau of Liquor Enforcement, which shall construe that liability and lack of cooperation to be a ground for denying, suspending or



revoking the taxpayer's liquor license in accordance with Title 28-A, section 707 and chapter 33; or

See title page for effective date.

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## CHAPTER 374

H.P. 1123 - L.D. 1579

### An Act to Ensure Stable Funding of Pollution Abatement Programs Administered by the Department of Environmental Protection

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

**Sec. 1. 38 MRSA §352, sub-§2-A** is enacted to read:

**2-A. Fee adjustment.** The commissioner may adjust the fees established in this subchapter on an annual basis according to the United States Consumer Price Index established by the federal Department of Labor, Bureau of Labor Statistics.

**Sec. 2. 38 MRSA §352, sub-§3**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §11, is further amended to read:

**3. Maximum fee.** ~~Except as provided in this subsection, no fee may exceed the maximum established in Table I.~~ The commissioner shall set the actual fees and shall publish a schedule of all fees by August 1st of each year. If the commissioner determines that a particular application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on Table I, the commissioner may designate that application as subject to special fees. A special fee may not exceed \$40,000. Such a designation must be made at, or prior to, the time the application is accepted as complete and may not be based solely on the likelihood of extensive public controversy. All department staff who have worked on the review of the application ~~must~~ shall submit quarterly reports to the commissioner detailing the time spent on the application and all expenses attributable to the application. The processing fee for that application must be the actual cost to the department. The applicant shall ~~must~~ be billed quarterly and all fees paid prior to receipt of the permit.

**Sec. 3. 38 MRSA §353-A, sub-§2**, as enacted by PL 1991, c. 384, §8 and affected by §16, is amended to read:

**2. Fee adjustment.** The commissioner may adjust the per ton fees, the annual fee surcharge set forth in subsection 1-A and the maximum and minimum

fees set forth in subsection 4 on an annual basis according to the United States Consumer Price Index established by the federal Department of Labor, Bureau of Labor Statistics.

**Sec. 4. 38 MRSA §568-A, sub-§1, ¶B-2** is enacted to read:

B-2. An applicant is not eligible for coverage for any discharge discovered or reported to the commissioner after October 1, 1998 if the discharge is from an underground oil storage facility or tank that is not constructed of fiberglass, cathodically protected steel or other noncorrosive material approved by the department or from an aboveground oil storage facility that has underground piping that is not constructed of fiberglass, cathodically protected steel or other noncorrosive material approved by the department. An applicant who would otherwise not be eligible for coverage pursuant to this paragraph is not subject to this exclusion from coverage for such a discharge discovered or reported to the commissioner on or before October 1, 1999 if the facility or tank was not operated or used to store oil after the applicable compliance date under section 563-A and the applicant:

(1) Can not secure financing to remove the facility or tank as evidenced by letters from 3 financial institutions; or

(2) Can not obtain the services of a certified underground oil storage tank installer or remover required pursuant to section 566-A as evidenced by letters from 3 certified underground oil storage tank installers or removers.

**Sec. 5. 38 MRSA §568-A, sub-§7** is enacted to read:

**7. Repeal date.** This section is repealed December 31, 2005.

**Sec. 6. 38 MRSA §569-A, sub-§5, ¶A**, as amended by PL 1993, c. 553, §3 and affected by §8, is further amended to read:

A. Until December 31, ~~1999~~ 2005, a fee is assessed of 44¢ per barrel of gasoline; 25¢ per barrel of refined petroleum products and their by-products other than gasoline, liquid asphalt and #6 fuel oil, including #2 fuel oil, kerosene, jet fuel and diesel fuel; and 4¢ per barrel of #6 fuel oil. The fee is assessed on the first transfer of those products by oil terminal facility licensees, as defined in section 542, subsection 7, and on a person required to register with the commissioner under section 545-B who first transports oil into the State. The fee is not assessed on pe-