

# MAINE STATE LEGISLATURE

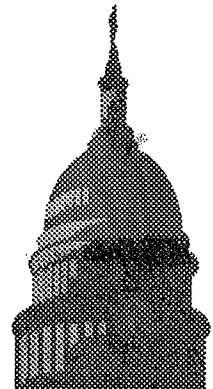
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# ***REPORT***



***STATE OF MAINE***  
***TASK FORCE ON ALCOHOLIC BEVERAGE SALES***  
***VOLUME II***  
***December 1, 1995***

DEC 7 1995

**REPORT**  
**TASK FORCE ON ALCOHOLIC BEVERAGE SALES**  
**VOLUME II**

*This volume contains Title 28-A with all of the substantive and housekeeping changes affecting that Title recommended by the Task Force. Additions are indicated by underscoring and deletions are indicated by ~~striking~~. Text that is neither underscored nor stricken is existing statutory language.*

*Appendix F of Volume I of this report contains a draft of legislation to accomplish the substantive recommendations of the Task Force as well as unallocated sections of law and changes to sections of law not included in Title 28-A.*

*The legislation submitted by the Task Force to implement its recommendations contain both the changes made in this volume and the changes made in Appendix F of Volume I.*

**(TITLE 28-A)**  
**(LIQUORS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 1)**  
**(GENERAL PROVISIONS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 1)**  
**(GENERAL PROVISIONS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1. Compliance required; penalty**

Any person who purchases, imports, transports, manufactures, possesses or sells alcohol in violation of law commits a Class E crime.

**28A § 2. Definitions**

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings.

**1. Agency liquor store.** "Agency liquor store" means a person who is licensed by the ~~commission~~ bureau to sell spirits to be consumed off the premises.

**2. Alcohol.** "Alcohol" means the substance known as ethyl alcohol, hydrated oxide of ethyl or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar, potatoes or other substances, and includes all dilutions and mixtures of these substances.

**2-A. Alcohol bureau.** "Alcohol bureau" means the Bureau of Alcoholic Beverages and Lottery Operations in the Department of Administrative and Financial Services.

**3. Bottle club.** "Bottle club" means a person operating on a regular, profit or nonprofit basis a facility for social activities in which members or guests provide their own liquor, where no liquor is sold on the bottle club premises, which maintains suitable facilities for the use of members on a regular basis or charges an admission fee to members or the general public and where members, guests or others are regularly permitted to consume liquor. As used in this definition, "regularly" includes daily, weekly or monthly, but does not include once a year or less often. A bottle club is not a public place, as defined in Title 17, section 2003-A.

A. "Bottle club premises" includes all parts of contiguous real estate occupied by the bottle club over which the bottle club owner has direct or indirect control or interest and which the bottle club owner uses in the operation of the bottle club.

**4. Bottler.** "Bottler" means a person who packages spirits, wine or beer for sale in containers, and is not engaged in distilling, brewing, fermenting or rectifying liquor.

**5. Brewer.** "Brewer" means a person who produces malt liquor by fermentation of malt, wholly or partially, or from any substitute for malt.

**6. Bureau.** "Bureau" means the Bureau of Liquor Enforcement, which includes the Liquor Licensing and Tax Division, within the Department of Public Safety.

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

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

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

**7. Catering.** "Catering" means service of liquor with or without food by a person to groups at a prearranged function.

A. "Off-premise catering" means service of liquor with or without food by a licensee to groups at prearranged functions located at a place other than the licensee's premises.

B. "On-premise catering" means service of liquor with or without food by a licensed club having the catering privilege to groups of nonmembers at prearranged functions.

**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.

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

**8-B. Commission.** "Commission" means the State Liquor and Lottery Commission established by Title 5, section xxx. This subsection is repealed February 1, 1998.

**9. Commission.**

**9-A. Commissioner.** "Commissioner" means the Commissioner of Public Safety.

**10. Corporation.** "Corporation" means a corporation organized and incorporated under the laws of the State or authorized to transact business within the State.

**10-A. Director.**

**11. Distiller.** "Distiller" means a person who produces spirits by the process of distillation.

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

**12. Fortified wine.**

**13. Imitation liquor.** "Imitation liquor" means any product containing less than 1/2 of 1% alcohol by volume which seeks to imitate by appearance, taste and smell liquor or which is designed to carry the impression to the purchaser that the beverage has an alcohol content. "Imitation liquor" includes, but is not limited to, products bearing the brand names "Near Beer," "Brew" or "Champagne-0."

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

**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.

**15. Licensed establishment.** "Licensed establishment" means premises to which a license for the sale of spirits, wine or malt liquor to be consumed on or off the licensed premises applies, and any person or organization which is licensed to sell spirits, wine or malt liquor in the times, places and manners as specified in the license. The following may be licensed establishments.

A. "Airline" means any person operating regularly scheduled intrastate or interstate passenger air transportation.

B. "Auditorium" means any commercially operated facility designed or used for the gathering of an audience for speeches and live performances of theater, music, dance or other performing arts, which charges a fee and which has adequate facilities for the sale and consumption of liquor.

B-1. "Bowling center" means an indoor facility operating at least 8 regulation lanes for the purpose of conducting the game of bowling which is open to the general public and which has suitable facilities for the sale and consumption of liquor.

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

C. "Civic auditorium" means a municipal, county or state or a quasi-municipal, quasi-county or quasi-state owned or operated auditorium or civic center.

D. "Club" means any reputable group of individuals incorporated and operating in a bona fide manner solely for purposes of recreational, social, patriotic or fraternal nature and not for pecuniary gain.

(1) "Club member" means a person who, whether as a charter member or admitted in accordance with the bylaws of the club, has become a bona fide member of that club and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with bylaws and whose name and address is entered on the list of members. No person who does not have full club privileges may be considered a bona fide member.

E. "Dining car" and "passenger car" mean cars in which food and liquor are served.

F.

G. "Golf club" means any commercially operated facility, whether publicly or privately owned, offering golfing facilities to the general public for a fee, which includes a regulation size golf course of not less than 9 holes and an average total of not less than 1,200 yards per 9 holes, which has a value of not less than \$100,000, which offers food for sale to the public and which has adequate facilities for the sale and consumption of liquor.



H. "Hotel" means any reputable place operated by responsible persons of good reputation, where the public obtains sleeping accommodations for a consideration and where meals may be served, whether or not under one roof.

(1) A hotel is considered to be serving meals when it provides on the premises one or more public dining rooms, open and serving food during the morning, afternoon and evening, and a separate kitchen in which food is regularly prepared for the public.

(2) Nothing in this paragraph may be held to prevent the ~~commission~~ bureau from issuing part-time licenses to bona fide part-time hotels.

(3) "Hotel guest" means a person whose name and address is registered on the registry maintained by the hotel and who is the bona fide occupant of a room of the hotel. A person registering solely for the purpose of obtaining liquor is not considered a hotel guest.

I. "Incorporated civic organization" means any charitable or nonprofit civic organization incorporated as a corporation without stock under Title 13, chapter 81.

J. "Indoor ice skating club" means any commercially operated indoor facility offering ice skating facilities to the general public, which charges a fee and which has adequate facilities for the sale and consumption of liquor.

K. "Indoor racquet club" means any commercially operated indoor facility with 4 or more courts or areas designed or used for the playing of any racquet sport, which is open to the general public, which charges a fee and which has adequate facilities for the sale and consumption of liquor. Racquet sports include tennis, squash, handball, paddleball and badminton.

K-1. "International air terminal" means an airport served by one or more bona fide international air carriers.

L. "Class A lounge" means a reputable place operated by responsible persons of good reputation, where food and liquor are sold at tables, booths and counters.

M. "Outdoor stadium" means any commercially operated outdoor facility with 5,000 or more seats designed or used for the playing of any sport or event, which is open to the general public, which charges a fee and which has adequate facilities for the sale and consumption of wine and malt liquor.

N. "Performing arts center" means any charitable or nonprofit corporation incorporated as a corporation without capital stock under Title 13, chapter 81, and which has as its primary purpose the encouragement, promotion and presentation of the arts for the benefit of the general public.

O. "Public service corporation" means an airline, railroad or vessel corporation operating in the State.

P. "Qualified catering service" means a catering establishment as defined in Title 22, chapter 562, and licensed by the Department of Human Services.

Q. "Restaurant" means a reputable place operated by responsible persons of good reputation, which is regularly used for the purpose of providing food for the public, and which has adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for the public.

R. "Class A restaurant" means a reputable place operated by responsible persons of good reputation that is regularly used for the purpose of providing full course meals for the public on the premises, that is equipped with a separate and complete kitchen, and that maintains adequate dining room equipment and capacity for preparing and serving full course meals upon the premises. A Class A restaurant/lounge is not a Class A restaurant.

(1) A full course meal consists of a diversified selection of food that ordinarily cannot be consumed without the use of tableware and that cannot be conveniently consumed while standing or walking.

R-1. "Class A restaurant/lounge" means a reputable place operated by responsible persons of good reputation that is regularly used for the purpose of providing full course meals for the public on the premises, that is equipped with a separate and complete kitchen, and that maintains adequate dining room equipment and capacity for preparing and serving full course meals upon the premises but that:

(1) After 9 p.m., serves liquor and does not serve full course meals; or

(2) Maintains a room or rooms, separate from the main restaurant space, in which full course meals are not regularly served and where liquor is sold at tables, booths and counters.

For purposes of this paragraph, the term "full course meals" means meals consisting of a diversified selection of food that ordinarily can not be consumed without the use of tableware and that can not be conveniently consumed while standing or walking.

S. "Ship chandler" means a retail establishment supplying provisions, including malt liquor and wine, to ships of foreign registry.

T.

T-1. "Tavern" means a reputable place operated by responsible persons where food may be sold and malt liquor may be sold at tables, booths and counters.

U.

V. "Vessel" means any ship, vessel or boat of any kind used for navigation of the water, licensed for carrying not less than 25 passengers under the requirements of the Public Utilities Bureau or the United States Coast Guard, and used only on waters other than inland waters.

**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.

**16. Liquor.** "Liquor" means spirits, wine or malt liquor, or any substance containing liquor, intended for human consumption, which contains more than 1/2 of 1% of alcohol by volume.

**16-A. Low-alcohol spirits product.** "Low-alcohol spirits product" means a product containing spirits that has an alcohol content of less than 6% by volume.

**17. Maine farm winery.**

**18. Malt liquor.** "Malt liquor" means liquor produced by the fermentation of malt, wholly or partially, or from any malt substitute, which contains 1/2 of 1% of alcohol or more by volume. "Malt liquor" includes, but is not limited to, ale, beer, porter and stout. "Malt liquor" includes beverages made with malt liquor, but to which no spirits are added.

**19. Manufacturer.** "Manufacturer" means a person who distills, rectifies, brews, ferments, bottles or otherwise produces liquor.

**20. Minor.** "Minor" means a person who has not reached the age of 21 years.

**21. Municipal officers.** "Municipal officers" means the mayor and aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of plantations.

**22. Municipality.** "Municipality" means a city, town or plantation.

**23. Person.** "Person" means an individual, partnership, corporation, firm, association or other legal entity.

**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 the licensee uses in the operation of the licensed business and which 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.

**25. Rectifier.** "Rectifier" means a person who produces spirits by combining spirits with other products.

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

**26. Retail sale.** "Retail sale" means any single sale of liquor of less than 20 gallons, or its metric equivalent, for consumption on or off the premises where sold and whether in the original package or as a mixed drink for immediate consumption.

**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.

**28. Sale or sell.** "Sale" or "sell" means any transfer or delivery of liquor for a consideration.

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

**30. Sparkling wine.** "Sparkling wine" means carbonated wine.

**31. Spirits.** "Spirits" means any liquor produced by distillation or, if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind, including low-alcohol spirits products.

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

**33. Unincorporated place.** "Unincorporated place" means a place which is not incorporated as a municipality.

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

**35. Wholesaler.** "Wholesaler" means a person who engages in the purchase and resale of malt or brewed beverages or wines, or both, in sealed bottles, containers or original packages, as prepared for the market by the manufacturer at the place of manufacture, but not for consumption, except when taste testing, on the premises of that wholesaler.

**36. Wine.** "Wine" means any liquor containing not more than 24% alcohol by volume that is produced by the fermentation of fruit or other agricultural products containing sugar or wine to which spirits have been added not to exceed 24% by volume. "Wine" includes, but is not limited to, wine coolers, table wine, still wine, sparkling wine, champagne and fortified wine, provided that the alcohol content is not above 24% by volume.

**37. Winery.** "Winery" means a facility which ferments, ages and bottles wine.

## **28A § 3. Payments by check**

- 1. ~~Commission~~ Alcohol bureau may accept payment by personal check.**

**1-A. Commission 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.

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

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

#### **28A § 4. Business days and hours**

No liquor may be sold except as provided in this section.

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

~~(CONFLICT: AS AMENDED BY PL 1995, c. 46, § 1) A. Licensees may not sell liquor on Sunday between the hours of 6 a.m. and 12 noon. A Class A restaurant or a Class A restaurant/lounge may commence selling liquor on Sunday at 9 a.m.~~

~~—— (CONFLICT: AS AMENDED BY PL 1995, c. 159, § 1)~~

**A. Licensees may not sell liquor on Sunday between the hours of 6 a.m. and 9 a.m.**

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

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

**C.**

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

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

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

**3. Regulation of bottle clubs.** Except as provided in paragraph A, municipalities may regulate the hours of operation of bottle clubs between the hours of 1 a.m. and 6 a.m.

A. Municipalities may regulate the hours of operation of bottle clubs between the hours of 2 a.m. and 6 a.m. on January 1st.

**4. Local option decisions govern.** Except as provided in subsection 1, paragraph B and section 353, nothing in this section may be construed to allow the sale of liquor in municipalities in violation of chapter 5.

**5. Illegal sales and purchases on Sunday.** The following acts are prohibited.

A. No person, except a law enforcement officer in performance of his duties, may purchase liquor on Sunday during the hours in which subsection 1 prohibits sales.

B. No licensee or licensee's employee or agent may sell liquor on Sunday during the hours in which subsection 1 prohibits sales, nor in any manner aid or assist in violating the law relating to Sunday sale of liquor.

**6. Penalty.** Any person who violates subsection 5 commits a Class E crime.

**7. License or right to sell on Sunday suspended or revoked.**

**8. License suspended during appeal of conviction.**



## **28A § 5. Prevailing time**

The hours referred to in this Title are the legal time prevailing in the State on the day of the sale or other activity.

## **28A § 6. Form of advertising restricted**

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

**1-A. Advertising permitted.** Except as otherwise provided in this section, the bureau may not adopt rules prohibiting the advertising of spirits within the State.

**1-B. Advertising that is fraudulent, misleading, illegal or likely to encourage illegal behavior.** The bureau may adopt rules restricting advertising that is fraudulent, misleading, illegal or that the bureau determines is likely to encourage illegal behavior.

~~**2. Commission may adopt rules governing advertising brand names in local option areas.** The commission 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 has voted in any particular local option election against the sale of all types of liquor.~~

**3. Use of picture or representation of State House prohibited.** No person may use or display a picture or other form of representation of the State House for the advertising of liquor.

## **28A § 7. Action not maintainable upon promise to pay for liquor**

**1. No action maintainable for promises to pay for liquor.** Except as provided in paragraph A, no action may be maintained upon any claim or demand, promissory note or other security contracted or given for liquor sold in violation of any of the provisions of this Title, or for any liquor purchased out of the State with intent to sell all or any part in violation of this Title.

A. This section does not apply to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract.

#### **28A § 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.

#### **28A § 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.

#### **28A § 10. Class A restaurant and off-premise retail licensee on same premises**

**1. Class A restaurant and off-premise retail licensee on same premises not prohibited.** If a portion of a premise is licensed as an off-premise retail licensee, no provision within this Title may be construed to prohibit issuance of a Class A restaurant license to the same licensee for the remaining portion of the premises, provided that necessary qualifications are maintained for each separately licensed area.

**2. Access between the 2 licensed areas.** There may be access between the 2 licensed areas for the licensee or his employees if it is through areas open only to the licensee or his employees. There must be complete nonaccess between the 2 licensed areas by the public.

**3. Licensee to maintain separate records, supplies and inventory.** The licensee shall maintain records, supplies and inventory within each separate licensed establishment in accordance with the appropriate license privilege authorized for each separate area.

#### **28A § 11. Retailer on same premises as other businesses**

**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.

**2. Violation of public drinking law.** Any persons taking a drink of liquor to another, offering a drink of liquor to another or consuming liquor within the licensed premises of an off-premise retail licensee under the common roof shall be considered in violation of Title 17, section 2003-A and shall be punished accordingly.

**3. Premises operated by licensee identified.** An applicant for a license shall fully describe in the application the part of the premises which 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~~ 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 entranceways 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.

#### **28A § 12. Inspection of premises**

No licensee may refuse the ~~commission~~ alcohol bureau, 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.

**28A § 13. Low-alcohol spirits product sold by wine licensees**

Notwithstanding any provision of this Title, a person licensed to sell wine for consumption on or off the premises may also sell low-alcohol spirits products. All provisions of this Title applicable to wine, except chapters 65 and 67, apply to low-alcohol spirits products when sold by persons licensed to sell wine for consumption on or off the premises.

(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 1)  
(GENERAL PROVISIONS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 3)  
(ADMINISTRATION AND ORGANIZATION)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(SUBCHAPTER I)  
(GENERAL PROVISIONS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 51. Administration; enforcement**

———— **1. Administration by commission.** ~~The State Liquor Commission, as established by Title 5, section 12004-E, subsection 3, shall administer the state liquor laws.~~

———— **2. Enforcement by Bureau of Liquor Enforcement.** ~~The Bureau of Liquor Enforcement within the Department of Public Safety, as established by Title 25, section 3901, shall enforce the state liquor laws.~~

**28A § 52. Eligibility of members and employees**

———— ~~No person is eligible for appointment as a member of the State Liquor Commission, as an employee of the commission, the Bureau of Alcoholic Beverages or the Bureau of Liquor Enforcement, in any capacity, including the director, who:~~

———— **1. Interest in corporation.** ~~Has any connection with, official, professional or otherwise, or who owns any stock in a corporation interested 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.~~

**28A § 53. Conflict of interest**

~~———— In addition to the limitations of Title 5, section 18, any member of the commission or any employee of the commission, the bureau or the Bureau of Liquor Enforcement, 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 which might reasonably be construed as influencing or improperly relating to past, present or future performance of his official duties.~~

~~(TITLE 28-A)~~  
~~(LIQUORS)~~  
~~((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))~~

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~~(CHAPTER 3)~~  
~~(ADMINISTRATION AND ORGANIZATION)~~  
~~((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))~~

~~(SUBCHAPTER II)~~  
~~(THE STATE LIQUOR COMMISSION)~~  
~~((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))~~

**28A § 61. State Liquor Commission**

——— **1. Membership.** The State Liquor Commission shall consist of 5 members to be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and to confirmation by the Legislature. Not more than 3 members of the commission may belong to the same political party. The Governor shall designate one of the members to be the commission chairman.

——— **2. Term.** Each member of the commission is appointed to serve for 3 years. Any vacancy shall be filled by appointment for a like term.

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

——— **4. Meetings.** The commission shall meet at the call of the commission chairman and at least once a month.

——— **5. Public meetings.** 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.

~~———— 6. Expenses.~~ The expenses for the administration of the commission in carrying out the duties as set forth in this Title shall be paid from such amounts as the Legislature may allocate from the revenues derived from the operations of the commission. These amounts shall become available in accordance with Title 5, chapters 141 to 155.

~~———— 7. Salaries and expenses of members.~~ Each member of the commission is entitled to be compensated according to the provisions of Title 5, chapter 379, for up to 25 meetings per year, except for the chair of the commission who may be compensated for up to 30 meetings per year.

#### **28A § 62. Powers of the State Liquor Commission**

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

~~———— 1. Supervision of the Bureau of Alcoholic Beverages.~~ To supervise and direct the Director of the Bureau of Alcoholic Beverages relating to all phases of the merchandising of liquor through state liquor stores and agency liquor stores;

~~———— 2. General supervision.~~

~~———— 3. Rules and requirements.~~

~~———— 4. Purchase, transportation and sale of liquor.~~

~~———— 5. Spirits for sale.~~ To buy and have in its possession spirits for sale to the public. The commission shall buy spirits directly and not through the State Purchasing Agent. All spirits must be free from adulteration and misbranding; and



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

~~———— 7. Licensing.~~

~~———— 8. Prevent sale to minors and others.~~

~~———— 9. Act as review board.~~

~~———— 10. Hearings.~~

~~———— 11. Oaths; subpoenas; witnesses.~~

~~———— 12. Food servicing organizations.~~

#### **~~28A § 62-A. Duties of the Bureau of Liquor Enforcement~~**

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

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

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

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

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

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

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

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

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

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

**28A § 63. Duties of the State Liquor Commission**

~~1. Bureau of Alcoholic Beverages and Lottery Operations; rules.~~ The commission shall establish rules and procedures for the administration of the state liquor laws. The day-to-day activities of the bureau are under the supervision of the commissioner and the director.

~~2. 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;

~~3. Publish laws and rules.~~ The commission shall publish a compilation containing this Title, other laws concerning liquor and all rules adopted under this Title every 4 years.

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

~~B. The commission 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 commission shall supply a copy of the new laws and rules at no charge when requested by licensees.~~

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

~~C. The commission may charge a reasonable fee for the compilation to cover the cost of producing the compilation to persons other than licensees.~~

~~4. Annual report.~~ The commission shall make an annual report to the Governor of its activities and of the amount of liquor license fees collected, together with other information it considers advisable or that the Governor requires.

## **28A § 64. Inventory and working capital**

~~\_\_\_\_\_ 1. Net profits shall be general revenue. The net profits of the commission shall be general revenue of the State.~~

~~\_\_\_\_\_ 2. Inventory. The commission 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 filed by liquor vendors. 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 commission is established at \$1,500,000 and permanent advances up to this amount may be authorized by the Governor upon recommendation of the commission with the approval of the Commissioner of Administrative and Financial Services. The permanent working capital of the commission may be supplemented by temporary loans from other state funds upon recommendation of the commission and by approval of the Commissioner of Administrative and Financial Services and the Governor.~~

## **CHAPTER 3-A**

### **ADMINISTRATION AND ORGANIZATION**

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

~~\_\_\_\_\_ The State Liquor and Lottery Commission has the following duties.~~

~~\_\_\_\_\_ 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 under this Title.~~

~~\_\_\_\_\_ 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.~~

~~This section is repealed February 1, 1998.~~

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

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

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

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

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; and

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.

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

**1. Bureau of Alcoholic Beverages and Lottery Operations; rules.** The alcohol bureau shall manage the wholesale distribution of spirits to agency liquor stores and on-premises licensees. The alcohol bureau may establish rules and procedures for the administration of the state liquor laws under its jurisdiction. 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. Listing of items.** The alcohol bureau shall determine which items will be listed for sale in the State. Products listed must be made available by the supplier from wholesale inventory.

**3. Pricing.** The alcohol bureau shall determine the wholesale price of all spirits. Prices must be based on the F.O.B. warehouse price and shall be calculated to produce the revenue from the sale of spirits that is required by section 1651-A and section 1703. The alcohol bureau may provide price discounts to reselling agency liquor stores if it determines that discounts are necessary to provide adequate customer access. The alcohol bureau may adopt pricing strategies directed at discouraging out-of-state sales.

**4. Notice to delist or stop purchases.** Before any item listed by the alcohol bureau is discontinued or delisted or before the alcohol bureau issues any order to stop purchases of any item listed, the alcohol bureau shall give the vendor of the items reasonable written notice of its intention to delist or stop purchase of the items;

**5. 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:

**A. The wholesale purchase of alcoholic beverages; and**

**B. The operation of wholesale distribution of spirits, including but not limited to:**

**(1) Ordering;**

**(2) Storage;**

**(3) Merchandising;**

**(4) Transportation;**

**(5) Billing**

**(6) Handling of returnable containers; and**

**(7) Data management.**

**6. Investigate and recommend changes.** Carry on 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.

7. Annual report. 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.

8. Public meetings. The alcohol bureau 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.

9. Facilities. The alcohol bureau may lease and equip, in the name of the State, warehouses and other merchandising facilities for the sale of liquor that are necessary to carry out the purposes of this Title.

#### **§84. Director of the 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 to agency stores and licensees in accordance with applicable laws and rules and provide for the operation of wholesale distribution of spirits;

2. Act as chief administrative officer of bureau. Act as chief administrative officer of the alcohol bureau, having general charge of the office and records and employ such personnel as may be 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 subject to the Civil Service Law;

3. Act as executive secretary. Act as executive secretary of the commission. This subsection is repealed February 1, 1998;

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 Bureau of Alcoholic Beverages and Lottery Operations 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;

5. Certify revenues and expenses. Certify monthly to the Treasurer of State, and the Commissioner of Administrative and Financial Services a complete statement of the revenues and expenses for licenses issued by the Bureau of Liquor Enforcement and liquor sales for the preceding month and, subject to the approval of Commissioner of Administrative and Financial Services, submit an annual report that includes a complete statement of the revenues and expenses for licenses and liquor sales to the Governor and the Legislature, together with recommendations for changes in this Title.

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



1. Net profits shall be 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 filed by liquor vendors. 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. The alcohol bureau shall buy spirits directly and not through the State Purchasing Agent. All spirits must be free from adulteration and misbranding.

3. Authorized working capital. The maximum permanent working capital of the alcohol bureau for operations pursuant to this Title is established at \$1,500,000 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 of Title 5, section 18, any member of the commission or any employee of the commission, the Bureau of Alcoholic Beverages and Lottery Operations, or the 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 which might reasonably be construed as influencing or improperly relating to past, present or future performance of official duties.

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

No person is eligible for employment with the alcohol bureau or the bureau who:

1. Interest in corporation. Has any connection with, official professional or otherwise, or who owns any stock in a corporation interested 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.

**(TITLE 28-A)**  
**(LIQUORS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 1)**  
**(GENERAL PROVISIONS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 5)**  
**(LOCAL OPTION)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 121. Local option election in a municipality**

A local option election in a municipality shall be held in the following manner.

**1. Petition.** A petition for a local option election must be signed by a number of voters equal to at least 15% of the number of votes cast in that municipality in the last gubernatorial election. All petition signatures must have been signed since the last general election. The petition must be addressed to and received by the municipal officers at least 45 days before holding any primary, special statewide, general or municipal election or town meeting.

**2. Meeting.** Upon receipt of a petition, the municipal officers shall notify the inhabitants of their respective municipalities to meet in the manner prescribed by law. The meeting shall be held to vote upon any or all of the questions contained in section 123.

**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.

**28A § 122. Unincorporated places**

**1. No local option election.** No local option election may be held in unincorporated places.

**2. Authorization of sales.** The county commissioners may, after holding a public hearing:

A. Authorize or refuse to authorize the sale of liquor to be consumed on the premises where sold; and

B. Authorize or refuse to authorize the sale of liquor to be consumed off the premises where sold.

**3. Approval of licenses.** The county commissioners may refuse to approve a liquor license application on the ground that the license is not warranted for any substantial public convenience, necessity or demand.

**28A § 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?

**5. Operation of state liquor stores and agency liquor stores on Sunday.**

**6. Sale of spirits to be consumed on the premises on Sunday.**

**7. Sale of malt liquor and wine to be consumed on the premises on Sunday.**

**8. Sale of malt liquor and wine for consumption on the premises on Sunday.**

**9. Operation of bottle clubs.**

**28A § 124. Results of vote**

**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 as it was before the voting.

**2. Effective date.** The vote is effective on the first day of the month following the certification of the vote to the Secretary of State.

**3. Existing licenses.** The holder of any license issued and outstanding on the effective date of the local option vote which 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.

**4. Repeal or reconsideration.** When a municipality or unincorporated place has voted to accept or reject any local option question, the vote is effective until repealed by a new petition and vote as required by section 121 or 122. A negative vote on a question repeals existing privileges only if the petition clearly indicates an intent that it do so. No local option vote may be taken on the same question more than once in any one-year period.

(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 1)  
(GENERAL PROVISIONS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 7)  
(BOTTLE CLUBS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 161. Bottle clubs**

**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 does not register with the ~~commission~~ bureau commits a Class E crime.

**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.

**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

B.

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.

**1-C. Penalty for operation after denial.** Notwithstanding subsection 1, paragraph C, a person who operates a bottle club after receipt of notice of denial of registration under subsection 1-B commits a Class D crime.

**2. Charges and fees.** Charges paid by the bottle club's members or the general public for membership, admission, food, mixers or other supplies used with liquor or storage or handling of liquor belonging to members or the general public are not sales, as defined in this Title, or gifts.

**3. Minors on the premises.** The bottle club may not allow any minor not employed by the bottle club nor accompanied by his parent, legal guardian or custodian, as defined in Title 22, section 4002, to remain on the bottle club premises, except on occasions when liquor is prohibited on the bottle club premises.

A. A bottle club may employ minors only if an employee of legal drinking age or older is present in a supervisory capacity.

**4. Consumption or possession on premises.** A bottle club may not permit consumption or possession of imitation liquor on the bottle club premises by minors. A bottle club may not permit consumption of liquor on the bottle club premises by minors or visibly intoxicated persons.

**5. Violation of state law.** No bottle club may knowingly allow any violation of any state law on the bottle club premises to occur or continue.

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

**7. Right of access.** Every bottle club shall allow liquor enforcement officers and other law enforcement officers to enter the premises at reasonable times for the purpose of investigating compliance with this Title.

A. Entry into the premises under this subsection must be conducted in a reasonable manner so as not to disrupt the operation of the bottle club.

B. The investigation must be limited to those areas involved in the actual operation of the bottle club, including storage areas.

**28A § 161-A. Local approval of bottle clubs  
(REPEALED)**

**(ENACTED BY PL1995, c. 140, §3 AND AMENDED BY PL 1995, c. 462, §D-4)  
28A §161-B Local approval of bottle clubs**

**1. Application to local authorities.** Prior to registration with the bureau 161, an owner or operator of a bottle club must apply to the municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, for permission to operate the bottle club or for transfer of location of an existing bottle club. The bureau prepare and supply application forms.

**2. Hearings.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located shall hold a public hearing for the consideration of applications for new bottle clubs and applications for transfer of location of existing bottle clubs. The municipal officers or the county commissioners shall provide public notice of a hearing held under this section. The notice, at the applicant's prepaid expense, must state the name and place of the hearing and must appear for at least 3 consecutive days before the date of the hearing in a daily newspaper having general circulation in the municipality or unincorporated place where the bottle club is located.

**3. Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. An application may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;



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

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

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

E. A violation of any provision of this Title;

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

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

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

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

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

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

## **28A § 162. Local authority for operation of bottle clubs**

**1. Question on bottle clubs.** A municipality may hold an election on the following question.

A. Bottle clubs are defined as persons operating, on a regular, profit or nonprofit basis, facilities for social activities in which members or guests provide their own liquor, where no liquor is sold on the bottle club premises, which maintain suitable facilities for the use of members on a regular basis or charge an admission fee to members or the general public and where members, guests or others are regularly permitted to consume liquor. Shall bottle clubs be operated in this municipality?

**2. Procedure for election.** The provisions of section 121 apply to elections under this section.

**3. Results of vote.** If the results of an election held under this section show that:

A. A majority of the votes cast in the municipality on the bottle club question is in the affirmative, bottle clubs may operate in that municipality;

B. A majority of the votes cast in the municipality on the bottle club question is in the negative, bottle clubs may not operate in that municipality; or

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

**4. Effective date.** The vote is effective on the first day of the month following the certification of the vote to the Secretary of State.

**5. Repeal or reconsideration.** When a municipality has voted to allow or not allow the operation of bottle clubs, the vote is effective until repealed by a new petition and vote as required by this section. No vote may be taken on the bottle club question more than once in any 2-year period.

**6. Unincorporated places.** The county commissioners, after holding a public hearing, may or may not allow the operation of bottle clubs in the unincorporated place.

#### **28A § 163. B.Y.O.B. function permit**

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

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

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

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

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

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

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

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

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

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

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

(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 1)  
(GENERAL PROVISIONS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 9)  
(PUBLIC INFORMATION)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 201. Erection of guidepost**

————— In order to increase state revenues and to attract more of the tourist trade to the state discount liquor store in Kittery, the Maine Turnpike Authority shall erect and maintain a guidepost no more than one mile north of the York toll station on the southbound side of the Maine Turnpike. The guidepost shall be worded as follows:

DISCOUNT LIQUOR STORE — KITTERY

YORK EXIT — U.S. ROUTE 1 SOUTH

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

**(CHAPTER 15)**  
**(STATE AND AGENCY LIQUOR STORES)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 351. Proximity to churches and schools**

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

A. The commission 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 school when the location 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 liquor store to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel.

**28A § 352. Purchase of liquor in state and agency  
liquor stores; purchase from commission**

**1. Methods of payment.** This subsection governs the methods of payment permitted for purchases of liquor from state or agency liquor stores and for purchases of liquor from the commission by agency liquor stores.

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

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

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

D. In addition to the methods of payment permitted in paragraph C, an agency liquor store, when approved by the commission, may pay for liquor purchased from the commission by mailing a check for payment to the commission 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 presentation 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 or bureau may order that person to make all payments to the commission by cash, certified check or money order for a period not to exceed one year.

#### **28A § 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 Sunday to 1 a.m. the next day. The commission shall establish the hours of operation of each state liquor store.

#### **28A § 354. Sales to minors or intoxicated persons**

No state liquor store or agency liquor store may sell liquor to a minor or to a visibly intoxicated person.

**28A § 355. Closed in cases of riots; hurricanes; flood**

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



~~(TITLE 28-A)~~  
~~(LIQUORS)~~  
~~((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))~~

~~(PART 2)~~  
~~(STATE AND AGENCY LIQUOR STORES)~~  
~~((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))~~

~~(CHAPTER 17)~~  
~~(STATE LIQUOR STORES)~~  
~~((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))~~

**28A § 401. Location of facilities**  
~~———— (REPEALED)~~

**28A § 401-A. Location of facilities**

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

~~———— A. In each of the following municipalities, the commission 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;
- \_\_\_\_\_ (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 shall operate at least one state liquor store:~~

~~\_\_\_\_\_ (1) Lewiston;~~

~~\_\_\_\_\_ (2) Portland;~~

~~\_\_\_\_\_ (3) South Portland; and~~

~~\_\_\_\_\_ (4) Waterville.~~

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

~~\_\_\_\_\_ (1) Bangor.~~

~~\_\_\_\_\_ 2. Location within municipality. The commission may determine the location of a store within each of the municipalities designated in subsection 1. The commission may relocate a store within a municipality in accordance with section 402.~~

~~\_\_\_\_\_ 3. Temporary cessation of operations. The commission may temporarily close a state liquor store if the occurrence of an event beyond the control of the commission renders the store inoperable. Events beyond the control of the commission 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. Commission may lease and equip facilities; location. The commission 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 shall designate where the facilities will be located, in accordance with this section.~~

~~\_\_\_\_\_ 5. Attorney General must approve contract or lease before effective. The Attorney General must approve any contract or lease made under this section before it is effective.~~

~~\_\_\_\_\_ 6. Seasonal occupancy.~~

**28A § 402. Notice on locating state liquor stores**

~~\_\_\_\_\_ 1. Notice. At least 30 days before designating the location or relocation of a state liquor store, the commission shall give written notice of the designation to the municipal officers of:~~

~~\_\_\_\_\_ A. The municipality in which the store is presently located; and~~

~~\_\_\_\_\_ B. The municipality in which it is proposed to locate or relocate the store.~~

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

~~\_\_\_\_\_ 3. Findings. The commission shall designate the location of a state liquor store in writing and shall include findings of fact supporting the designation.~~

~~\_\_\_\_\_ 4. Notice to lessor to terminate or not renew. If the commission 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 of his 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.~~

~~———— 5. Exception for certain leases. If the commission'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 shall immediately notify the municipal officers of that termination. If requested by the municipal officers, the commission shall hold a hearing within a reasonable time before designating a new location.~~

~~———— 6. Notice to Legislature of closure.~~

#### **28A § 403. Discount state liquor stores**

~~———— 1. Discount store. Notwithstanding the provisions of section 1651, the commission, with the approval of the Commissioner of Administrative and Financial Services, may reduce the price of liquor in 2 state liquor stores.~~

~~———— 2. Location. One store must be located to be convenient to the southbound lanes of the Maine Turnpike near Exit 1 of the Maine Turnpike.~~

~~———— 3. Licensees may purchase liquor; price. Licensees may purchase liquor for resale from the state discount liquor stores at the same price they are permitted to purchase liquor for resale from any state store which does not offer a retail discount.~~

(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 2)  
(~~STATE AND AGENCY LIQUOR STORES~~)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 19)  
(AGENCY LIQUOR STORES)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 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.

**28A § 452. Rules governing agency liquor stores**

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

1. **Location.** Location of agency stores, subject to section 453;
2. **Storage facilities.** Storage facilities for liquor;
3. **Handling and sale.** The handling and sale of liquor;
4. **Hours.** The hours of operation;
5. **Separation from other merchandise.** The separation of liquor from other merchandise in the agency liquor stores;
6. **Size and nature of facilities.** The size and nature of the facilities of agency liquor stores for different quantities of liquor to be sold; and

7. **Other.** Any other rules necessary to carry out the purposes of this chapter.

**§452-A. Requirements for agency liquor store license**

In addition to other requirements provided by law and by rule of the bureau, the following requirements apply to agency liquor stores.

1. **Location.** The bureau may not license an agency store:

A. In a municipality or unincorporated place unless the municipality or unincorporated place has voted in favor of the operation of agency liquor stores under local option provisions; or

B. Within 300 feet of any public or private school, church, chapel or parish house. The Distance must be measured from the main entrance of the agency liquor store to the main entrance of the school, school dormitory, church, chapel or parish house.

2. **Liquor inventory.** The agency liquor store shall maintain a minimum inventory of spirits of at least 100 codes. In municipalities with a population of 6,000 or more, the minimum inventory of spirits is \$10,000.

3. **Other inventory.** The agency liquor store shall maintain an inventory of edible merchandise, not including alcohol or tobacco products, with a wholesale value of at least \$5,000.

4. **Reselling agency liquor stores.** Agency liquor stores that have a federal wholesale registration must register with the bureau as reselling agency liquor stores.

**28A § 453. Location of agency stores**

~~1. **Location requirements.** The commission 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 has voted in favor of the operation of state liquor stores under local option provisions.~~

~~B.~~

~~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 may grant more than one agency store license in a municipality when the commission 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 may not replace a state or existing agency liquor store that closes with an agency liquor store if there is another state or existing agency liquor store within 3.5 miles. This subsection does not prevent the commission from locating a replacement agency liquor store within 3.5 miles of another replacement agency liquor store for the same town.~~



\_\_\_\_\_A.

\_\_\_\_\_ **2-A. Replacement of state liquor stores closed in fiscal year 1991-92.** The commission 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 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.~~

~~———— 3. Measurement of distances.~~

~~———— 4. Procedure for selection of agency liquor store location.~~

~~———— 5. Aggrieved applicants.~~

#### **28A § 453-A. Issuance of agency liquor store license**

~~———— The commission 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 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 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 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 may not accept a bid lower than \$2,000.~~

~~——— 2. Public notice and solicitation of bids. The commission 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 shall summarize in the public notice the bidding requirements for the agency store license, including the minimum bid required. The commission 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.~~

~~——— 3. Information to applicants. The commission 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, the commission shall notify the municipal officers of that municipality of the proposed location of each applicant.~~

~~——— 5. Licensing decisions. The commission 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 considers appropriate.~~

~~——— 5 A. Hearings on applications. The commission, 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 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 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 may appeal the decision by filing a complaint with the Administrative Court and serving a copy of the complaint upon the commission. The complaint must be filed and served within 15 days of the mailing of the commission's decision.~~

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

#### **28A § 453-B. Annual license fee**

~~———— 1. Agency liquor store.~~

~~———— 2. Seasonal agency liquor stores.~~

~~———— The annual license fee for an agency liquor store is \$300. The fee must be paid on renewal of the license.~~

#### **§453-C. Issuance of agency liquor store license**

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

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

2. Notice to municipality. Upon receipt of an application for an agency liquor store license in a municipality and at least 15 days before issuing a license, the bureau shall notify the municipal officers of that municipality of the proposed location of each applicant.

3. Investigation. The bureau shall conduct an investigation of each applicant to determine whether the proposed facility meets the requirements for licensing under this Title.

4. Issuance. The bureau shall issue a license to each applicant that the bureau determines meets the requirements of this Title.

5. Denial of application. The 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.

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

**§453-D. Prices charged by a reselling agency liquor store**

A reselling agency liquor store must use the same pricing structure for all sales to agency liquor stores and to on-premise licensees.

**§453-E. License fees**

License fees for agency liquor stores are as follows.

1. Basic agency liquor store; fewer than 3 cash registers. The initial fee for a basic agency liquor store license for a store with fewer than 3 cash registers is \$2,000.

2. Basic agency liquor store; 3 or more cash registers. The initial fee for a basic agency liquor store license for a store with 3 or more cash registers is \$3,000.

3. Reselling agency liquor stores. The initial fee for a reselling agency liquor store license is \$4,000.

4. Renewals. The fee for renewal of any agency liquor store license is \$1,000 less than the initial fee.

**28A § 454. Agency liquor store in former state liquor store**  
**location.**

Within 72 hours of opening for business, an agency liquor store, occupying premises previously occupied by a state liquor store, shall remove all signs on the premises of that store which identify those premises as a state liquor store.

**28A § 455. Liquor for agency liquor stores**

Agency liquor stores must buy their liquor from the commission as directed by the alcohol bureau under section 606.

**28A § 456. Special seasonal agency liquor stores  
(REPEALED)**

**28A § 456-A. Special seasonal agency liquor stores  
(REPEALED)**

**28A § 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.

**28A § 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 ~~commission~~ 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 or bureau.

**3. ~~Rejection of application; selection of alternate licensee.~~** ~~If the commission denies an application for renewal of an agency liquor store license, the commission 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 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 arrange for the purchase from the agency liquor store of all resalable spirits held in inventory by the agency liquor store. The purchase price is the cost at which that agency liquor store could purchase the spirits from the alcohol bureau ~~purchased the spirits from the commission~~, 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.

## **28A § 459. Delivery of liquor by agency liquor stores**

Agency liquor stores may deliver liquor to establishments that are licensed to serve liquor on premises.

## **28A § 460. Purchase of liquor in-state and agency** **liquor stores; purchase from ~~commission~~ alcohol bureau**

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

C. In addition to the methods of payment permitted in paragraph C, an agency liquor store, when approved by the alcohol bureau, may pay for liquor purchased as required by the alcohol bureau by mailing a check for payment as required by the 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 presentation 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 alcohol bureau or the bureau may order that person to make all payments to the alcohol bureau or to bureau by cash, certified check or money order for a period not to exceed one year.

#### **28A § 461. Business hours**

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 agency liquor stores under local option provisions. Notwithstanding any local option decisions to the contrary, agency liquor stores may be open from noon Sunday to 1 a.m. the next day

#### **28A § 462. Sales to minors or intoxicated persons**

No agency liquor store may sell liquor to a minor or to a visibly intoxicated person.

#### **28A § 463. Closed in cases of riots; hurricanes; flood**

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



(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 3)  
(LICENSES FOR SALE OF LIQUOR)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(SUBPART 1)  
(GENERAL PROVISIONS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 25)  
(GENERAL PROVISIONS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 601. Eligibility**

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

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

- (1) At least 21 years of age; and
- (2) A citizen of the United States.

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

- (1) At least 21 years of age; and
- (2) A citizen of the United States.

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

**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 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 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; (AS AMENDED BY PL 1995, c. 192, §1)

G. The applicant was denied a license within the 6 months before the application was filed, unless the ~~commission's~~ bureau 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.

#### **~~28A § 601-A. Examination of new applicants~~**

~~—————The Bureau of Liquor Enforcement shall investigate the feasibility of developing an examination to be administered to new applicants for retail liquor licenses that will enable the applicants to demonstrate knowledge of the liquor laws and rules. The bureau shall report its findings to the joint standing committee of the Legislature having jurisdiction over legal affairs no later than January 31, 1990.~~

#### **28A § 602. Notification of license expiration**

1. **Seven-day grace period upon license expiration.** Except as provided in subsection 3, a license holder who unintentionally fails to renew any license upon its expiration date and continues to make sales of liquor is not chargeable with illegal sales under section 2078 for a period of 7 days following the expiration date.

**2. ~~Commission 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.

**3. Illegal sales after expiration of grace period or after notice.** A licensee that continues to make sales of liquor after having been properly notified of the expired license shall be charged with illegal sales under section 2078.

**28A § 603. Part-time 7-month license  
(REPEALED)**

**28A § 604. Display of licenses**

All licensees shall publicly display their licenses on the premises to which they apply.

**28A § 605. Transfer of licenses; death; bankruptcy;  
receivership; guardianship; corporations**

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.

**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 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.

**2. Death, bankruptcy or receivership.** In the case of death, bankruptcy or receivership of any licensee, the executor or administrator of the deceased licensee or the trustee or receiver of the bankrupt licensee or licensee in receivership may retain the license for the remaining term of the license or transfer the license without additional fee.

A. Personal representatives, receivers or trustees may operate the premise 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.

C. When no administration of the estate of a deceased licensee is contemplated, the surviving spouse or person designated by all of the heirs of the deceased licensee may take over the license under the same conditions as are provided for operation and transfer by executors and administrators.

**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.

**4. Sale of stock of a corporate licensee.** Any sale or transfer of stock of a corporate licensee which results in the sale or transfer of more than 10% of the shares of stock of the corporate licensee shall be considered a transfer within the meaning of this section and a new license must be purchased.

**5. Incorporation of licensee's business.** The incorporation of a licensee's business or a change in the form of incorporation of a licensee's business are transfers within the meaning of this section. This subsection does not apply to agency liquor stores as long as the licensed agent retains control of the corporate stock.

**6. Change in partnership.** Addition or deletion of a partner in a partnership is a transfer within the meaning of this section.

7. **Corporate merger or acquisition.** The merger or acquisition of a licensee which is incorporated is a transfer within the meaning of this section.

8. **Application.** This section does not apply to certificate of approval holders .

**28A § 606. ~~Liquor bought from commission~~ Purchase of spirits; 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.~~

~~\_\_\_\_\_ A.~~

~~\_\_\_\_\_ 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.~~

~~\_\_\_\_\_ C.~~

~~\_\_\_\_\_ D.~~

~~\_\_\_\_\_ 1-B. **Price of sales to agency liquor stores.** The commission shall sell spirits to agency liquor stores for 92% of the retail sales price set in accordance with chapters 65 and 67.~~

**1-C. Purchase of spirits. Agency liquor stores and on-premise licensees must buy spirits from the alcohol bureau or from a reselling agency liquor store..**

**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 bureau on forms provided by the commission bureau.

**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 shall sell spirits to agency liquor stores for a price of 8% less than the real price established for the state liquor stores.~~

**5. Sale to government instrumentalities.** The ~~commission bureau~~ may ~~sell~~ authorize ~~the sale of~~ spirits to approved government instrumentalities within the State. 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 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. No maximum limit on price.** An agency store may sell liquor at any price equal to or higher than the retail sales price set in accordance with chapters 65 and 67. (ENACTED PL 1995, c. 53, §1)~~

**28A § 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.

(TITLE 28-A)

(LIQUORS)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 3)

(LICENSES FOR SALE OF LIQUOR)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(SUBPART 1)

(GENERAL PROVISIONS)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 27)

(APPLICATION PROCEDURE)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 651. Applications**

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

**2. Contents of application.** The application must contain the following.

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.

C. The owner or the bona fide prospective purchaser must sign the application. If the owner or bona fide prospective purchaser is:

(1) A natural person, then that person must sign;

(2) A partnership, then the partners of the partnership must sign; or

(3) A corporation, then a principal officer of the corporation or any person specifically authorized by the corporation must sign.

**3. False answer given intentionally.** Any person who intentionally gives an untruthful answer in an application for a liquor license violates Title 17-A, section 453.

#### **28A § 652. Application procedure**

**1. License fee.** The applicant must enclose the fee prescribed by chapter 41 with the application for the license.

**2. Effective date and term of license.** All full-year licenses are effective for one year from the date of issuance. All part-time licenses are effective for the term of the license from the date of issuance.

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

**4. Multiple licenses.** Any licensee applying for a license to operate more than one premise shall pay the fee prescribed for the type of license to be exercised at each premise.

**5. Filing fee.** Except as provided in paragraph A, every applicant for an original or renewal license shall pay a filing fee of \$10 when filing the application.

A. In unincorporated places, the applicant shall pay the filing fee of \$10 to the county treasurer of the county in which the unincorporated place is located. All applications for a license in unincorporated places must be accompanied by evidence of payment of the filing fee to the county treasurer.

**6. Public service license.** One public service license is sufficient to cover all steamboats, cars and aircraft operated by any one public service corporation.

**28A § 653. Hearings; bureau review; appeal**

**1. Hearings.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing. (AS AMENDED BY PL 1995, c. 10, §1)

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 6 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all application pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. (AS ENACTED PL 1995, c. 140, §5)

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. (AS ENACTED BY PL 1995, c. 140, §5)

**2. Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

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

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with



or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

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

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

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

**3. Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2. (AS AMENDED BY PL 1995, c. 140, §6)

A.

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

**4. No license to person who moved to obtain a license.**

**5. Appeal to Administrative Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the Administrative Court within 30 days of receipt of the written decision of the bureau. (AS AMENDED BY PL 1995, c. 140, §7)

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

## **28A § 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 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.

**(TITLE 28-A)**

**(LIQUORS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 3)**

**(LICENSES FOR SALE OF LIQUOR)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 1)**

**(GENERAL PROVISIONS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 29)**

**(LICENSE RESTRICTIONS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 701. Proximity to churches and schools; exception**

**1. Location within 300 feet of churches and schools.** Except as provided in paragraphs A and 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.

A.

B. The ~~commission~~ bureau may issue licenses to premises which are either in or within 300 feet of a church, chapel, parish house or post-secondary 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.

**28A § 702. Certain clubs ineligible  
(REPEALED)**

## **28A § 703. Employment of violators prohibited**

No licensee may 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~~ that person's license for sale of liquor revoked within the last 5 years, is not eligible for a liquor license.

## **28A § 703-A. Prohibition of employment of violators as retail employees**

**1. Employment prohibited.** A retail licensee may not employ a person as a retail employee if that person, within 2 years of the date of that person's application for employment, has been convicted of a first offense of violating section 2078 or section 2081, subsection 1, paragraph A or B. A retail licensee may not employ a person as a retail employee if that person, within 5 years of the date of that person's application for employment, has been convicted of a 2nd offense of violating section 2078 or section 2081, subsection 1, paragraph A or B.

**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.

## **28A § 704. Employment of minors**

**1. Licensee may not hire employee under 17; employees who are 17.** No licensee for the sale of liquor to be consumed on licensed premises may employ any person under the age of 17 years in the serving or selling of liquor on the premises where the liquor is sold. ~~The licensee may employ a person who is 17 years of age in the serving or selling of liquor on the premises where the liquor is sold only if an employee who is at least 18 years of age is present in a supervisory capacity. Effective January 1, 1994, an~~ 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.

**2. Penalty.**

**28A § 704-A. Employment of law enforcement officers**

REPEALED BY PL 1995, c. 16, §1

**28A § 705. Sales for cash; sales to certain persons  
restricted**

**1. Sales for cash.** Except as provided in paragraph A, no licensee or licensee's employee or agent may sell or offer to sell any liquor except for cash, by check or by major credit card.

A. Credit may be extended:

(1) By a hotel or club to bona fide registered guests or members;

(2) By a hotel or Class A restaurant to the holder of a credit card that authorizes the holder to charge goods or credits; and

(3) By an on-premise licensee to the host of a private, prearranged function without a credit card.

B. A right of action does not exist to collect claims for credits extended contrary to this section.

C. This section does not prohibit a licensee from giving credit to a purchaser for the actual price charged for the beverage container deposit on the packages or original containers, as defined in Title 32, chapter 28, as a credit on any sale, or from paying the amount actually charged for such deposit on the packages or original containers.

D. Except as provided in subparagraph (1), no licensee or licensee's employee or agent may sell, offer to sell or furnish any liquor to any person on a passbook or store order, or receive from any person any goods, wares, merchandise or other articles in exchange for liquor.

(1) This paragraph does not apply to beverage container deposits on packages or original containers that were originally purchased from that licensee by the person returning the packages or original containers.

**2. Prohibited sales of liquor or imitation liquor to be consumed off the premises.** A licensee or licensee's employee or agent may not sell, furnish, give or deliver malt liquor, imitation liquor or wine to be consumed off the premises to:

A.

B.

C.

D.

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

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

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

A.

B.

C.

D.

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

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

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

**5. Sale of imitation liquor to minors.**

## **28A § 706. Identification cards**

**1. Acceptable identification.** A licensee may refuse to serve liquor to any person who fails to display upon request an identification card issued under Title 5, section 88-A, or a motor vehicle operator's license bearing the photograph of the operator and issued under Title 29-A, chapter 11. (AS AMENDED BY PL 1995, c. 65, §A-79)

**28A § 707. Licensee not to be indebted, obligated or involved**

**1. Licensee must not be 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 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.

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

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

Nothing in this subsection prevents an affiliate of a licensee from receiving money for sponsorship of a transportation system for transporting the public or for sponsorship of specific sporting events and cultural events as long as the licensee does not receive any payment or thing of value from the public transportation system or the sporting and cultural events and as long as such an affiliate does not derive any portions of its revenues from the licensee. All sponsorships must have prior written approval of the bureau. The bureau shall adopt rules implementing this paragraph.

**3. Retail licensee; interest in wholesaler or certificate of approval.** No retail licensee may have any financial interest, direct or indirect, in any:

- A. Maine manufacturer's or wholesaler's license; or
- B. Certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor or wine.

**4. Certificate of approval holder or Maine manufacturer; interest in wholesaler or retail license.** No certificate of approval holder or in-state manufacturer may have any financial interest, direct or indirect, in any:

A. Maine wholesale license; or

B. Maine retail license.

**5. Wholesale licensee; interest in certificate of approval holder, Maine manufacturer or retail license.** No wholesale licensee may have any financial interest, direct or indirect, in any:

A. Certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor;

B. Maine manufacturer license; or

C. Maine retail license.

**6. Minor investment.** Minor investment in securities of a corporation engaged in liquor business not amounting to more than 1% shall not be held to be an interest forbidden by this subsection.

**7. Application.** This section does not prohibit a wholesale licensee from receiving normal credits for the purchase of malt liquor or wine from the manufacturer located within or without the State.

#### **28A § 708. Prohibited discounts and rebates**

**1. Certificate of approval holders.** No certificate of approval holder may offer to wholesale licensees any special discounts, volume discounts, depletion allowances or other reduced prices or discounts, except bona fide price reductions under section 1408 offered to all wholesale licensees. No certificate of approval holder may offer any free merchandise, rebate or gift contingent on the purchase of malt liquor or wine.

**2. Wholesale licensees.** A wholesale licensee may not offer to retail licensees any special discounts, volume discounts, depletion allowances, other reduced prices or discounts, or refunds except bona fide price reductions under section 1408 offered to all retail licensees. A wholesale licensee may not offer any free merchandise, rebate, refund or gift contingent on the purchase of malt liquor, wine or low-alcohol spirits.

**3. Retail licensees.** A retail licensee may not offer any free merchandise, rebate or gift contingent on the purchase of malt liquor or wine. A retail licensee may not offer any free merchandise, rebate or gift contingent on the purchase of spirits, except for mail-in rebate coupons redeemed by the manufacturer.

**4. Special package plans or price premiums.**

**5. Combination packages.** Notwithstanding subsection 3, agency liquor store licensees may offer for sale any package or combination of packages of spirits that the commission has approved for sale in state liquor stores.

**28A § 709. Prohibition of certain practices**

**1. Certain practices prohibited.** The following practices are prohibited.

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

- (1) Offer or deliver any free drinks to any person or group of persons;
- (2) Deliver more than 2 drinks, or a pitcher of malt liquor or carafe of wine containing more than one liter or 33.8 ounces, to one person at one time;
- (3) Sell, offer to sell or deliver to any person or group of persons an unlimited number of drinks for a fixed price, except at private functions not open to the public;
- (4) Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes; or
- (5) Any other practice the specific purpose of which is to encourage customers of the licensee to drink to excess; and

B. No licensee may advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under paragraph A.

**2. Exceptions.** Subsection 1 does not prohibit the following practices:

- A. Licensees offering free food or entertainment either with or without the purchase of one drink;
- B. Licensees increasing the prices for drinks when entertainment is provided;
- C. Licensees including a drink as part of a meal package;
- D. The sale or delivery of wine, malt liquor or mixed drinks by the bottle, carafe or pitcher when sold with meals or to more than one person;
- E. Those licensed under section 1402 offering free wine tastings;
- F. Those licensed as bona fide hotels offering room services to registered guests;
- G. Licensees offering reduced prices for prearranged private parties on the premises of the licensee; or
- H. Licensees whose licensed premises include more than one room charging different prices for the same drink served in the different rooms.



## **28A § 710. Advertising signs**

**1. Advertising outside of licensed premises.** No person, except wholesale licensees, and certificate of approval holders, may 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 indicates any reference to liquor.

**2. Advertising inside of licensed premises.** A licensee may display no more than one sign inside the licensed premises, where it may be seen from the outside, advertising the fact that the licensee has liquor for sale. The sign may not be more than 750 square inches in total area.

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

The bureau shall adopt rules implementing this subsection.

This section does not apply to advertising of spirits.

## **28A § 711. Advertising strength of malt liquor**

**1. Illegal to advertise or label.** A licensee may not:

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

B. Use in any advertisement or label the words "full strength," "extra strength," "high test," "high proof," "prewar strength" or similar words or phrases; or

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

**2. Illegal to purchase, transport, sell or distribute.** A licensee may not purchase, transport, sell or distribute any malt liquor advertised or labeled contrary to this section.

**28A § 712. Advertising or sale of malt liquor or wine by trade name**

**1. Advertise or announce for sale by trade name.** No licensee may advertise or offer for sale any malt liquor or wine by trade name or other designation which would indicate the manufacturer or place of manufacture of malt liquor or wine, unless the licensee actually has on hand and for sale a sufficient quantity of the particular malt liquor or wine advertised to meet requirements to be normally expected as the result of the advertisement or announcement.

**2. Serve from faucet, spigot, dispensing apparatus by trade name.** No licensee may furnish or serve any malt liquor from any faucet, spigot or other dispensing apparatus, unless the trade name or brand of the malt liquor served appears in full sight of the customer in legible lettering upon the faucet, spigot or dispensing apparatus.

**28A § 713. Selling malt liquor or wine from truck**

**1. Selling malt liquor or wine from truck prohibited.** Except as provided in subsections 2 and 3, no wholesale or retail licensee may, either directly or indirectly, by any agent or employee, travel from town to town, or from place to place in the same town, selling, bartering or carrying for sale or exposing for sale any malt liquor or wine from any vehicle.

**2. Delivery of orders received.** The wholesale licensee may make sales of malt liquor or wine where transportation and delivery are required only upon orders actually received at the principal place of business or warehouse or distributing center, if licensed, of the wholesale licensee before shipment of the malt liquor or wine. The driver or any other employee of the wholesale licensee shall carry an invoice stating the names of the purchaser and the wholesale licensee and the kind and quantity of malt liquor or wine ordered by the sale, together with the date of the sale.

A. This subsection does not prohibit a wholesale licensee from collecting orders for malt liquor or wine by sales representatives calling upon retailers, then filing the orders at the principal place of business or warehouse or distributing center.

**3. Sale from truck by wholesale licensee.** A wholesale licensee, his agent or employee, may travel from town to town or from place to place in the same town selling, or carrying for sale or exposing for sale, malt liquor or wine from its vehicle only if the wholesale licensee, his agent or employee has in his possession on the vehicle a manifest bearing a detailed description of the total amount of malt liquor or wine on the vehicle and invoices, as required, as well as invoices drawn up at the time of delivery.

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

**5. Violation.** Whoever violates this section commits a Class E crime.

**28A § 714. Malt liquor sales in kegs**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Keg" means a container capable of holding at least 7.75 gallons of liquid.

B. "Off-premises licensee" means a licensee licensed to sell liquor for consumption off the premises.

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

**3. Tagging requirement.** The sale of malt liquor in kegs is subject to the following.

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

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

C. The seller of the keg shall require positive identification of the purchaser.

D. The seller of the keg may require a deposit of up to \$50 from the purchaser of the keg, regardless of the size of the keg. The seller shall refund the deposit to a person who returns a properly tagged keg purchased from that seller.

E. The seller shall inform the purchaser that if the keg is returned without the original numbered band intact, the deposit is forfeited.

F. The seller may retain any deposit forfeited and use the funds forfeited for local school-based alcohol education programs or for any other purpose.

**4. Civil violation; possession of unlabeled keg.** In addition to any other penalties imposed by law, a person possessing an unlabeled keg purchased in this State after the effective date of this section commits a civil violation for which a forfeiture of \$500 must be adjudged.

**5. Criminal penalty; removal or defacing of tag.** A person commits defacing or removal of a malt liquor keg tag if that person defaces or removes from a keg a tag required by this section. Defacing or removal of a malt liquor keg tag is a Class E crime. If a person who purchased a properly tagged keg returns the keg without a tag or with a defaced tag, that person is presumed to have removed or defaced the tag.

(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 3)  
(LICENSES FOR SALE OF LIQUOR)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(SUBPART 1)  
(GENERAL PROVISIONS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 31)  
(RECORDS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 751. Retail licensee to keep records**

**1. Records to be kept.** Every retail licensee shall keep for 2 years complete records showing:

- A. The date of all purchases;
- B. The actual prices paid;
- C. The fact that the licensee paid by cash or check for all liquor bought by the licensee at the time of or before delivery of the liquor as evidenced by invoices, which must be retained by the licensee;
- D. The name and address of every person from whom the liquor was purchased; and
- E. In the case of an on-premise licensee, records of food purchases.

**2. Retail licensee must 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.

**3. On-premise retail licensee to keep records of sales separate.** An on-premise retail licensee shall separate liquor sales from food sales by the licensee in the licensee's records.

**28A § 752. Wholesale licensee to keep records**

**1. Records to be kept.** Every wholesale licensee shall keep records for 2 years:

A. Showing that all sales and purchases are in accordance with the law relating to cash or check sales; and

B. Including detailed accounts of all its transactions with brewers, wineries, other wholesalers and retailers.

**2. Manner in which records to be kept.** The wholesale licensee shall keep the records in its principal licensed establishment.

**28A § 753. Certificate of approval holder to keep records**

**1. Records to be kept.** Every certificate of approval holder operating special warehouse storage facilities within the State shall keep complete records concerning all transactions conducted at the special warehouse storage facility. The records must show:

A. The date and amounts of all liquor received and from whom they were received; and

B. The dates and amounts of all liquor shipped or withdrawn and the name of the person for whom the liquor was shipped or withdrawn.

**2. Manner in which records to be kept.** The certificate of approval holder shall maintain the records upon the premises.

**28A § 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 may be used as evidence of violation of this chapter.

**2. Refusal of access.** No licensee may 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.

**28A § 755. Records confidential**

All business and financial records of licensees are confidential.

(TITLE 28-A)

(LIQUORS)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 3)

(LICENSES FOR SALE OF LIQUOR)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(SUBPART 1)  
(GENERAL PROVISIONS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 33)  
(REVOCATION AND SUSPENSION)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 801. Jurisdiction of Administrative Court Judge**

**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.

**2. Powers.** The Administrative Court Judge may suspend or revoke licenses of licensees and levy fines or civil forfeitures against licensees and their agents or employees.

**28A § 802. Causes for revocation and suspension of licenses**

The Administrative Court Judge may revoke or suspend licenses for the following causes:

**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;

**2. False material statement.** Knowingly making a false material statement of fact in the application for the license; and

**3. Failure to maintain requirements.** Failure to have and maintain throughout the entire license period all of the requirements of definitions, laws and rules necessary to qualify for a license.

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

**28A § 803. Revocation or suspension procedure**

**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.

**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 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 are the most convenient and economical for all parties concerned in the hearing.

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

**2-A. Suspension or revocation decision.** The Administrative Court Judge shall issue the decision in writing within 12 days of the hearing.

**3. Suspension of penalty; place case on file.** After hearing, the Administrative Court Judge may:

- A. Suspend a penalty; or
- B. Place a case on file instead of imposing any penalty.

**4. Application of suspension or revocation.** A suspension or revocation applies to premises and persons in the following manner.

A. If a licensee is directly or indirectly interested in more than one license, suspensions apply only to the premise where the violation occurs.

B. If a licensee is interested directly or indirectly in more than one license, the Administrative Court Judge may order that a revocation apply to any of those premises.

C. If the licensee is a corporation, the Administrative Court Judge shall treat the officers, directors and substantial stockholders as individuals.

**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 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.

**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.

**7. License subsequent to violation.** If violations by licensees occur in one year's license period and remain undiscovered or carry over into the next license year, pending investigation or final disposition either in criminal courts or before the Administrative Court Judge, any license issued for a new license year subsequent to the violation may be suspended or revoked by the Administrative Court Judge.

**8. Fines.** Notwithstanding any other provisions of this Title, an Administrative Court Judge may impose a fine of a specific sum, of not less than \$50 nor more than \$1,500, for any one offense. Such a fine may be imposed instead of or in addition to any suspension or revocation of a license by the court.

A. The Administrative Court Judge shall maintain a record of all fines received by the court and shall pay the fines into the General Fund by the 15th day of each month.

**9. Offer in compromise.** Notwithstanding any other provisions of this Title, the Administrative Court Judge may accept from any wholesale licensee or certificate of approval holder under this Title an offer in compromise in lieu of suspension of any wholesale license or certificate of approval suspended by the Administrative Court Judge.

A. A wholesale licensee or certificate of approval holder may petition the Administrative Court Judge to accept an offer in compromise within 10 days following receipt of notice of the suspension.

B. The fine in lieu of suspension, when an offer in compromise is accepted by the Administrative Court Judge, shall be calculated in accordance with the following formula:



(1) Fifty percent of the daily gross profit multiplied by the number of license suspension days. Daily gross profit shall be determined to be 1/30 of the total gross receipts from the sale of liquor during the 30 business days immediately before the date of receipt of the notice of the license suspension, less the invoice cost of the liquor which was sold by the wholesale licensee or certificate of approval holder during those 30 business days;

(2) No such fine, in any event, shall be less than \$75 for each day of license suspension; and

(3) The fine must not exceed \$1,500 for any one offense.

C. The wholesale licensee or certificate of approval holder shall pay the fine to the Administrative Court within 5 days from the date of the acceptance of the offer in compromise. The Administrative Court Judge shall then pay the fine into the General Fund.

D. If a wholesale licensee or certificate of approval holder fails to pay the fine in full within the time period allowed in this subsection, the suspension of license or certificate of approval begins on the following day.

E.

#### **28A § 804. Record of proceedings and transcript**

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

#### **28A § 805. Appeal from decision of Administrative Court Judge or ~~commission bureau~~**

**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.

**2. Suspension or revocation suspended pending appeal.** The operation of a suspension or revocation of a license imposed by the Administrative Court shall be suspended, pending judgment of the Superior Court, if the licensee files an appeal in the Superior Court and notifies the Administrative Court that the appeal has been filed, within 7 days of the mailing of the decision of the Administrative Court by certified mail to the address given by the licensee at the time of the application for a license.

**3. Superior Court hearing.** The Superior Court shall fix a time and place for an immediate hearing and notify the Administrative Court Judge of the hearing.

**4. Superior Court decision.** After the hearing, the Superior Court may affirm, modify or reverse the decision of the Administrative Court Judge.

**5. Further appeal.** An aggrieved person may appeal the Superior Court decision to the Supreme Judicial Court. Upon appeal, the Supreme Judicial Court may, after consideration, reverse or modify any decree made by the Superior Court based upon an erroneous ruling or finding of law.

## **28A § 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.

(TITLE 28-A)

(LIQUORS)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 3)

(LICENSES FOR SALE OF LIQUOR)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(SUBPART 2)

(RETAIL LICENSES)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 41)

(FEES AND ELIGIBLE PREMISES)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 1001. Class I licenses**

**1. Types of liquor which may be sold.** A Class I licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

**2. Fees.** The license fees for a Class I license are:

A. Full-time (one year).....\$ 900.

B.

C.

D.

**3. Eligible premises.** The following premises are eligible to obtain a Class I license:

A. Airlines;

B. Auditoriums;

B-1. Bowling centers;

C. Civic auditoriums;

D. Class A restaurants;

E. Clubs with catering privileges;

F. Dining cars and passenger cars;

G. Golf clubs;

H. Hotels;

I. Indoor ice skating clubs;

J. Indoor racquet clubs;

K. Performing arts centers;

L. Qualified catering services; and

M. Vessels. ?b

**28A § 1002. Class I-A licenses**

**1. Types of liquor which may be sold.** A Class I-A licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

**2. Fees.** The fees for a Class I-A license are as follows:

A. Full-time (one year).....\$1,100.

B.

C.

D.

**3. Eligible premises.** The following premises are eligible to obtain a Class I-A license:

A. Hotels which do not serve food.

#### **28A § 1003. Class II licenses**

**1. Types of liquor which may be sold.** A Class II licensee may sell spirits to be consumed on the premises where sold.

**2. Fees.** The fees for a Class II license are as follows:

A. Full-time (one year).....\$ 550.

B.

C.

D.

**3. Eligible premises.** The following premises are eligible to obtain a Class II license:

A. Airlines;

B. Auditoriums;

B-1. Bowling centers;

C. Civic auditoriums;

D. Class A restaurants;

E. Clubs with catering privileges;

- F. Dining cars and passenger cars;
- G. Golf clubs;
- H. Hotels;
- I. Indoor ice skating clubs;
- J. Indoor racquet clubs;
- K. Performing arts centers;
- L. Qualified catering services; and
- M. Vessels.

**28A § 1004. Class III licenses**

**1. Types of liquor which may be sold.** A Class III licensee may sell wine to be consumed on the premises where sold.

**2. Fees.** The fees for a Class III license are as follows:

- A. Full-time (one year).....\$ 220.
- B.
- C.
- D.

**3. Eligible premises.** The following premises are eligible to obtain a Class III license:

- A. Airlines;
- B. Auditoriums;
- B-1. Bowling centers;
- B-2. Bed and breakfasts;
- C. Civic auditoriums;
- D. Class A restaurants;
- E. Clubs with catering privileges;
- F. Dining cars and passenger cars;

- G. Golf clubs;
- H. Hotels;
- I. Indoor ice skating clubs;
- J. Indoor racquet clubs;
- K. Outdoor stadiums;
- L. Performing arts centers;
- M. Qualified catering services;
- N. Restaurants; and
- O. Vessels.

**28A § 1005. Class IV licenses**

**1. Types of liquor which may be sold.** A Class IV licensee may sell malt liquor to be consumed on the premises where sold.

**2. Fees.** The fees for a Class IV license are as follows:

- A. Full-time (one year).....\$ 220.
- B.
- C.
- D.

**3. Eligible premises.** The following premises are eligible to obtain a Class IV license:

- A. Airlines;
- B. Auditoriums;
- B-1. Bowling centers;
- B-2. Bed and breakfasts;
- C. Civic auditoriums;
- D. Class A restaurants;

- E. Clubs with catering privileges;
- F. Dining cars and passenger cars;
- G. Golf clubs;
- H. Hotels;
- I. Indoor ice skating clubs;
- J. Indoor racquet clubs;
- K. Outdoor stadiums;
- L. Performing arts centers;
- M. Qualified catering services;
- N. Restaurants;
- O. Taverns; and
- P.
- Q. Vessels.

**28A § 1006. Class V licenses**

**1. Types of liquor which may be sold.** A Class V licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

**2. Fees.** The fees for a Class V license are as follows:

- A. Full-time (one year).....\$ 495.
- B.
- C.
- D.

**3. Eligible premises.** The following premises are eligible to obtain a Class V license:

- A. Clubs without catering privileges; and
- B. Bed and breakfasts.

**28A § 1007. Class VI licenses**

**1. Types of liquor which may be sold.** A Class VI licensee may sell malt liquor to be consumed off the premises where sold.

**2. Fees.** The fees for a Class VI license are as follows:

A. Full-time (one year).....\$ 200.

B.

C.

D.

**3. Eligible premises.** The following premises are eligible to obtain a Class VI license:

A. Off-premise retailers with a qualifying stock of groceries, compatible merchandise or combination of both.

**28A § 1007-A. Surcharge on Class VI licenses  
(REPEALED)**

**28A § 1007-B. Surcharge on part-time Class VI licenses  
(REPEALED)**

**28A § 1008. Class VI-A licenses**

**1. Types of liquor which may be sold.** A Class VI-A licensee may sell malt liquor to be consumed off the premises where sold.

**2. Fees.** The fees for a Class VI-A license are as follows:

A. Full-time (one year).....\$ 200.

B.



C.

D.

**3. Eligible premises.** The following premises are eligible to obtain a Class VI-A license:

A. Ship chandlers without a qualifying stock of groceries, compatible merchandise or combination of both.

#### **28A § 1009. Class VII licenses**

**1. Types of liquor which may be sold.** A Class VII licensee may sell wine to be consumed off the premises where sold.

**2. Fees.** The fees for a Class VII license are as follows:

A. Full-time (one year).....\$ 200.

B.

C.

D.

**3. Eligible premises.** The following premises are eligible to obtain a Class VII license:

A. Off-premise retailers with a qualifying stock of groceries, compatible merchandise or combination of both.

B.

#### **28A § 1010. Class VII-A licenses**

**1. Types of liquor which may be sold.** A Class VII-A licensee may sell wine to be consumed off the premises where sold.

**2. Fees.** The fees for a Class VII-A license are as follows:

A. Full-time (one year).....\$ 200.

- B.
- C.
- D.

**3. Eligible premises.** The following premises are eligible to obtain a Class VII-A license:

A. Ship chandlers without a qualifying stock of groceries, compatible merchandise or combination of both.

#### **28A § 1011. Class X licenses**

**1. Types of liquor which may be sold.** A Class X licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

**2. Fees.** The fees for a Class X license are as follows:

A. Full-time (one year)..... \$2,200.

**3. Eligible premises.** The following premises are eligible for a Class X license:

A. Class A lounges.

#### **28A § 1011-A. Class XI licenses**

**1. Types of liquor that may be sold.** A Class XI licensee may sell spirits, wine and malt to be consumed on the premises where sold.

**2. Fees.** The fee for a Class XI license is \$1,500 (one year).

**3. Eligible premises.** The following premises are eligible for a Class XI license:

A. Class A restaurant/lounge.

#### **28A § 1012. Other retail licenses**

**1. Incorporated civic organizations.** An incorporated civic organization may obtain up to 5 licenses per year to sell spirits, wine and malt liquor to be consumed on the premises.

A. The license fee for each license is .....\$ 50.

B.

**2. Auxiliary license.** A Class A restaurant or a Class I hotel located at a ski area or a golf course, or a Class I golf club or a Class I or Class V club located at a golf course may apply for one additional licensed premises at the same area for consumption of spirits, wine or malt liquor on the premises. (AS AMWENDED BY PL 1995, c. 195, §1).

A. The license fee is.....\$ 100.

**3. Off-premise catering license.** A Class A restaurant, hotel or club licensed to sell spirits, wine and malt liquor may obtain a license to conduct off-premise catering of spirits, wine and malt liquor as provided in section 1052.

A. The license fee per calendar day of the event or gathering is .....\$10.

**(TITLE 28-A)**

**(LIQUORS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 3)**

**(LICENSES FOR SALE OF LIQUOR)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 2)**

**(RETAIL LICENSES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 43)**

**(LICENSES FOR THE SALE OF LIQUOR TO BE)**

**(CONSUMED ON THE LICENSED PREMISES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBCHAPTER I)**

**(GENERAL CONDITIONS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1051. Licenses generally**

**1. Licenses for sale of liquor to be consumed on the premises where sold.** Subject to subsection 2, the ~~commission~~ bureau may issue licenses for the sale of spirits, wine and malt

liquor to be consumed on the premises where sold to qualified applicants upon payment of fees provided.

**2. Local approval of application for license.** The initial application for the license must first be approved under section 653 by the municipal officers of the municipality in which the applicant's premises are located or, if the premises are located in an unincorporated place, the application must be approved by the county commissioners of the county within which the unincorporated place is located.

**3. Liquor not to be consumed elsewhere.** Except as provided in paragraphs A and B, no licensee for the sale of liquor to be consumed on the premises where sold may personally or by his agent or employee, sell, give, furnish or deliver any liquor to be consumed elsewhere than upon the licensed premises.

A. Subject to law and the rules of the ~~commission~~ bureau, hotel licensees may sell liquor in the original packages to bona fide registered room guests.

B. A licensee may serve liquor at locations other than the licensed premises under the off-premise catering license issued under section 1052.

#### **28A § 1052. Off-premise catering at planned events or gatherings**

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

**2. Fee.** The license fee for the off-premise catering license is \$10 per calendar day of the event or gathering.

**3. Sponsor.** The off-premise sales license authorizes the licensee to sell liquor only at:

A. Public events or public gatherings sponsored by a charitable, nonprofit organization or civic group; and

B. Private events or private gatherings sponsored by an individual person, organization or association of persons.

**4. Application.** The licensee must apply for an off-premise catering license by filing a written application with the ~~commission~~ bureau at least 24 hours before the event or gathering. The application must include the following:

A. Title and purpose of the event;

B. Date, time and duration;

C. Location;

- D. Approximate number of persons to be accommodated;
  - E. Name and address of sponsoring person, organization or association;
  - F. If food is to be served, the name and address of food caterer, if other than the licensee;
- and
- G. Approval by the municipal officers, or a municipal official designated by the municipal officers, of the municipality in which the proposed additional licensed premises are located, which, notwithstanding section 653, may be granted without public notice.

**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.

**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.

#### **28A § 1052-A. Special taste-testing festival license**

**1. Special taste-testing festival license.** Manufacturers of malt liquor and wine licensed under section 1355 and holders of an equivalent license from another state may apply for an additional license to participate in a special taste-testing festival under this section. The special taste-testing festival license is valid for no more than 3 consecutive days and is issued annually. (AS AMENDED BY PL 1995, c. 30, §1)

**2. Fee.** The license fee for the special taste-testing festival license is \$100.

**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.

**5. Conditions on taste-testing activities.** The following conditions apply to taste-testing activities under this section:

- A. Taste-testing must be limited to a designated area;
- B. Persons who are not at least 21 years of age may attend the special taste-testing festival but are not allowed in the designated taste-testing area;
- C. Taste-testing must be conducted within the hours of retail sale established in this Title;
- D. A person may not be charged a fee for any malt liquor or wine served as part of a taste-testing activity (AS AMENDED BY PL 1995, c. 30, §2);
- E. Each out-of-state manufacturer is limited to serving 200 gallons of malt liquor or wine; and (AS AMENDED BY PL 1995, c. 30 §2)
- F. A person may not be served who is visibly intoxicated.

**6. Excise tax on malt liquor; premiums.** A licensee must pay the appropriate excise taxes and premiums under sections 1652 and 1703 before the scheduled calendar date of the special taste-testing festival. (AS AMENDED BY PL 1995, c. 30, §3)

**28A § 1053. Lighting of premises  
(REPEALED)**

**28A § 1054. Special permit for music, dancing or  
entertainment**

**1. Activities and entertainment prohibited.** Without the permit described in subsection 2, no licensee for sale of liquor to be consumed on the premises may allow on the premises the following:

- A. Any music, except radio or other mechanical device;
- B. Any dancing; or
- C. Entertainment of any sort.

**2. Special amusement permit required.** If a licensee for sale of liquor to be consumed on the premises provides activities or entertainment listed in subsection 1, the licensee must first obtain a special amusement permit from the municipality in which the licensed premises are located.

**3. Term of permit.** A permit is valid only for the license year of the existing license.

**4. Public hearing on permit application.** Before granting a permit and after reasonable notice to the municipality and the applicant, the municipal officers shall hold a public hearing at which the municipal officers shall take testimony of the applicant and any interested members of the public.

**5. Permit requirements.** The municipal officers shall grant a permit unless they find that issuance of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances or rules and regulations.

**6. Issuance or denial of permit.** Within 15 days of receiving the permit application, the municipal officers shall give the applicant written notice of their decision.

A. If the municipal officers deny a licensee a permit, they shall provide the licensee with the reasons for the denial in writing.

B. The licensee may not reapply for a permit within 30 days after denial of an application for a permit.

**7. Municipal suspension or revocation of a permit.** After a public hearing preceded by notice to interested parties, the municipal officers may suspend or revoke any permits which they have issued under this section on the grounds that the music, dancing or entertainment permitted constitutes a detriment to the public health, safety or welfare, or violates municipal ordinances or regulations.

**8. Appeal procedure.** Any licensee who has applied for a permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the municipal board of appeals, as defined in Title 30-A, section 2691, within 30 days of the denial, suspension or revocation. The municipal board of appeals, if the municipality has such a board, may grant or reinstate the permit if it finds that:

A. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate municipal ordinances or regulations; or

B. The denial, revocation or suspension was arbitrary and capricious.

**9. Admission.** A licensee who has been issued an amusement permit may charge admission in designated areas approved by the special amusement permit.

**10. Definition of entertainment.** For the purposes of this section, "entertainment" includes any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value.

**11. Municipal ordinances or regulations.** A municipality shall adopt ordinances or authorize the municipal officers to establish written regulations governing the following aspects of the permits.

A. These ordinances or regulations shall govern:

- (1) The issuance, suspension and revocation of these permits;
- (2) The classes of permits and fees for the issuance of these permits;
- (3) The music, dancing or entertainment permitted under each class; and
- (4) Other limitations on these activities required to protect the public health, safety and welfare.

B. These ordinances or regulations may specifically determine:

- (1) The location and size of premises to which the permits may apply;
- (2) The facilities that may be required for the permitted activities on those premises;
- (3) The hours during which the permitted activities may take place; and
- (4) The lighting level required, which may be lowered when the entertainment is provided.

**12. Unincorporated place.** If a licensed premise is located in an unincorporated place, the county commissioners of the county in which the unincorporated place is located shall grant, suspend or revoke permits in the same manner and with the same authority as municipal officers. The county commissioners shall adopt regulations in the same manner as municipal officers.

(TITLE 28-A)

(LIQUORS)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 3)

(LICENSES FOR SALE OF LIQUOR)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(SUBPART 2)

(RETAIL LICENSES)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 43)



**(LICENSES FOR THE SALE OF LIQUOR TO BE)  
(CONSUMED ON THE LICENSED PREMISES)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBCHAPTER II)  
(SPECIFIC LICENSE REQUIREMENTS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1061. Hotels**

**1. Issuance of licenses.** The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to hotels, as defined in section 2, subsection 15, paragraph H. (AS AMENDED BY PL 1995, c. 270, §1)

**2. Minors not permitted on premises.** Except as provided in paragraph B, no hotel licensee may permit any minor in any hotel lounge that serves alcoholic beverages. (AS AMENDED BY PL 1995, c. 270, §1 )

A. (REPEALED BY PL 1995, c. 270, §1)

B. This subsection does not apply when:

(1) The minor is accompanied by a parent, legal guardian or custodian, as defined in Title 22, section 4002;

(2) The minor is employed under section 704; or

(3) The licensee does not permit consumption of liquor on the licensed premises.

**3. Income from sale of food requirement.** At least 10% of the gross annual income must be from the sale of food for each hotel.

**4. Required number of sleeping rooms.** Each hotel must be equipped with at least the required number of adequate sleeping rooms.

A. The number of rooms required is based on the population of the municipality in which the hotel is located, as reported in the 1960 Federal Decennial Census. If the population reported in the most recent Federal Decennial Census is at least 20% less than the population reported in the 1960 census, the most recent Federal Decennial Census must be used to determine the number of rooms required.

(1) If the hotel is located in a municipality having a population of 7,500 or less, the hotel must have at least 12 adequate sleeping rooms.

(2) If the hotel is located in a municipality having a population of more than 7,500, the hotel must have at least 30 adequate sleeping rooms.

B.

C.

If the hotel is located on an offshore island that is part of a mainland municipality, then the number of rooms required is based on the population of the island, rather than that of the municipality as a whole. (AS AMENDED BY PL 1995, c. 270, §1)

#### **28A § 1061-A. Bed and breakfasts**

**1. Issuance of licenses.** The bureau may issue to a bed and breakfast, as defined in section 2, subsection 15, paragraph B-2, a license under this section for the sale of spirits, wine and malt liquor to be consumed on the premises. (AS AMENDED BY PL 1995, c. 270, §1)

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

#### **28A § 1062. Restaurant requirements**

**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.

**2. Restaurant qualifications.**

**3. Income from sale of food requirement.** Except as provided in paragraph B, at least 10% of the gross annual income must be from the sale of food for both year-round and part-time restaurants.

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.

B. Income from the bowling business in bowling alleys must not be included in the income requirement of this section.

**4. ~~Commission~~ 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.

#### **28A § 1063. Class A restaurants**

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

**2. Income from sale of food requirement.** At least a minimum amount of the gross annual income must be from the sale of food for each Class A restaurant or Class A restaurant/lounge. The income from sale of food requirement is based on the population of the municipality in which the Class A restaurant or Class A restaurant/lounge is located.

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

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

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

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

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

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

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

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$20,000 per year in sale of food to the public on their premises.

**3. Bureau determines applicant would probably qualify.** The bureau may issue the license if it determines that the applicant would probably qualify.

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

**5. Class A restaurant/lounges; minors.** (REPEALED BY PL 1995, c. 25, §1)

**28A § 1064. Establishment located at fairgrounds**

Establishments located on fairgrounds operated by agricultural societies or where parimutuel racing is conducted, which otherwise meet the definition of a hotel or a restaurant, shall be considered to be a hotel or restaurant for purposes of this Title, even if an admission charge must be paid to gain entrance to the fairgrounds or racing grounds.

**28A § 1065. Licenses for Class A lounges**

**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.

**2. Food availability.** The licensee shall offer food for sale to the public at all times that liquor is for sale.

**3. Income from the sale of food requirement.**

**4. Minors not allowed on premises.** Minors are not permitted to remain on the premises except when:

A. The minor is accompanied by a parent, legal guardian or custodian as defined in Title 22, section 4002; or

B. The licensee does not permit consumption of liquor on the premises for a specific period of time or event.

**5. Licensed by Department of Human Services.** All Class A lounges must be licensed by the Department of Human Services.

**6. Written evaluation.**

**7. Sunset.**

**28A § 1066. Taverns  
(REPEALED)**

#### **28A § 1066-A. Taverns**

**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.

1b! 1987, c. 342, §93 (new). ?b

**2. Minors not permitted on premises.** Minors are not permitted to remain on the premises unless:

A. Accompanied by a parent, legal guardian or custodian as defined in Title 22, section 4002; or

B. Employed under section 704.

#### **28A § 1067. Class A taverns (REPEALED)**

#### **28A § 1068. Performing arts centers**

**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.

**2. Requirements.** The performing arts center must have:

A. Been in existence one year before first applying for a license under section 653; and

B. Presented at least 24 public performances of theater, music, dance or other performing arts in the 12 months before first applying for a license.

#### **28A § 1069. Auditoriums (REPEALED)**

#### **28A § 1069-A. Auditoriums**

**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.

**2. No sales at events for children.** No liquor may be sold at an auditorium at any event primarily involving primary or secondary school children.

**3. (REPEALED BY PL 1995, c. 229, §1)**

#### **28A § 1070. Civic auditoriums**

**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.

**2. Events on licensed premises only.** Licenses issued to civic auditoriums may be used only in conjunction with a function or event held on the licensed premises.

**3. No sales during events for minors.** Licensees may not sell spirits, wine or malt liquor during any school activities or events primarily attended by minors in the rooms where these activities are taking place.

**4. Licensee must notify ~~Bureau of Liquor Enforcement~~ 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.

#### **28A § 1071. Incorporated civic organizations**

**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.

**2. Up to 5 licensed events per year; one event per license.** An incorporated civic organization may obtain up to 5 licenses under this section per calendar year. Each license authorizes the licensee to sell or serve liquor at only one public event or public gathering which is sponsored by the licensee.

**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.

**4. Application.** An incorporated civic organization shall file an application for a license. The application includes the following:

A. Title and purpose of the event;

- B. Date, time and duration;
  - C. Location;
  - D. Approximate number of persons to be accommodated;
  - E. Name and address of the sponsoring civic organization and the name and title of the officer making the application;
  - F. If food is to be served, the name and address of food caterer, if other than the licensee; and
  - G. Approval by the municipal officers of the municipality in which the proposed licensed premises are located, which, notwithstanding section 653, may be granted without notice or a public hearing.
- 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.

#### **28A § 1072. Clubs**

**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.

**2. Requirements.** Except as provided in subsection 3, for at least one year immediately before filing the application for a license, a club must have:

- A. Been in continuous operation and existence;
- B. Regularly occupied as owner or lessee a suitable clubhouse or quarters for use of members;
- C. Held regular meetings;
- D. Conducted its business through officers regularly elected; and
- E. Charged and collected dues from members.

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

**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.

**5. Sale of liquor only to members and guests; exception.** Except as provided in paragraph A, licensed clubs may not sell liquor to anyone except members and their guests accompanying them.

A. Licensed veterans' and fraternal organizations and social clubs may sell liquor to members of the same national or affiliated international organization and to members of auxiliaries of the same national or affiliated international organization and their guests accompanying them.

**6. Sales in containers forbidden.** No club may sell spirits in the original container.

**28A § 1073. Indoor racquet clubs; ice skating clubs; golf club facilities; and bowling centers**

**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 bowling centers, golf clubs, indoor ice skating clubs and indoor racquet clubs as defined in section 2, subsection 15, paragraphs B-1, G, J and K respectively.

**2. Food availability.** The licensee shall offer food for sale to the public at all times that liquor is for sale. For bowling centers, at least 10% of the gross annual income, not including income from the bowling business, must be from the sale of food.

**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.

**28A § 1074. Outdoor stadiums**

**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.

**2. No sales at events for children.** The licensee may not sell any liquor at an outdoor stadium at any event primarily involving primary or secondary school children.

**3. Conditions on sales.** The licensee may not sell liquor in the spectator stands at an outdoor stadium. Liquor may be sold only by the glass in plastic or paper cups.

**28A § 1075. Auxiliary licenses at ski areas**

**1. Licenses.** The bureau may issue one auxiliary license under this section for additional premises to any Class A restaurant or Class A restaurant/lounge, Class I hotel located at a ski



area or golf course, or to a Class I golf club or a Class I or Class V club located at a golf course, if the following requirements are met: (AS AMENDED BY PL 1995, c. 195, §2)

A. The additional premises are located at the same ski area or golf course where the Class A restaurant, Class A restaurant/lounge, lounge or hotel, or qualified club is licensed; (AS AMENDED BY PL 1995, c. 195, §2)

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

C. The additional premises are properly equipped, including tables, chairs and restrooms; and (AS AMENDED BY PL 1995, c. 195, §2)

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

**2. Sales for consumption on slopes or courses prohibited.** Nothing in this section permits a ski area to sell liquor for consumption on the slopes away from the licensed area or a golf course to sell liquor for consumption on the course away from the licensed area. (AS ENACTED PL 1995, C. 195, §2)

#### **28A § 1076. Qualified catering services**

**1. Issuance of licenses.** Notwithstanding any other provision of law, the bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to qualified catering services as defined in section 2, subsection 15, paragraph P.

A. "Premises," as used in this section, means the premises where the qualified catering service is selling and serving liquor, either its principal place of business or the premises where the event being catered is held.

**2. Compliance with local option decisions.** The bureau may license only those qualified catering services whose principal place of business is located in municipalities that have previously voted affirmatively on questions pertaining to on-premise sales provided in chapter 5.

A. Every event catered by the qualified catering service must also be located in a municipality that has previously voted affirmatively on questions pertaining to on-premise sales provided in chapter 5.

**3. Income from sale of food requirement.** At least a minimum amount of gross annual income must be from the sale of food for each qualified catering service. The income from sale of food requirement is based on the population of the municipality in which the qualified catering service is located. For purposes of this section, "year-round" means operated for more than 6 months in a year.

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

(1) Year-round qualified catering services must have a minimum gross income of \$50,000 a year from the sale of food to the public; and

(2) Part-time qualified catering services must have a minimum gross income of:

(a) Thirty thousand dollars from the sale of food to the public if the catering service operates for more than 3 months but no more than 6 months in a year; and

(b) Twenty thousand dollars from the sale of food to the public if the catering service operates for no more than 3 months in a year.

B. In municipalities having a population of 30,001 to 50,000 persons:

(1) Year-round qualified catering services must have a minimum gross income of \$40,000 a year from the sale of food to the public; and

(2) Part-time qualified catering services must have a minimum gross income of:

(a) Twenty-five thousand dollars from the sale of food to the public if the catering service operates for more than 3 months but no more than 6 months in a year; and

(b) Twenty thousand dollars from the sale of food to the public if the catering service operates for no more than 3 months in a year.

C. In municipalities having a population of 20,001 to 30,000 persons:

(1) Year-round qualified catering services must have a minimum gross income of \$30,000 a year from the sale of food to the public; and

(2) Part-time qualified catering services must have a minimum gross income of \$20,000 from the sale of food to the public if the catering service operates for more than 3 months but no more than 6 months in a year.

D. In municipalities having a population of 7,501 to 20,000 persons:

(1) Year-round qualified catering services must have a minimum gross income of \$15,000 a year from the sale of food to the public; and

(2) Part-time qualified catering services must have a minimum gross income of \$10,000 from the sale of food to the public if the catering service operates for no more than 6 months in a year.

E. In municipalities having a population of 7,500 persons or less:

(1) Year-round qualified catering services must have a minimum gross income of \$5,000 a year from the sale of food to the public; and

(2) Part-time qualified catering services must have a minimum gross income of \$2,500 from the sale of food to the public if the catering service operates for no more than 6 months in a year.

**4. Bureau determines applicant would probably qualify.** The bureau may issue the license if it determines that the applicant for a new license would probably qualify.

**5. Licensee for renewal must show proof of meeting income requirement.** The bureau may not renew any license for the sale of liquor under this section unless the licensee furnishes the

bureau with proof that the previous year's business conformed to the income requirements of this section.

**6. Income from vending machines not included.** The income from the sale of food placed in vending machines must not be included in the minimum dollar requirements of this section.

**7. Provision of liquor at places other than principal place of business.** Licensed qualified catering services that would like to provide the service of liquor at locations other than their principal places of business shall file an application with the bureau at least 24 hours in advance of any function or event at which liquor is to be sold or served. Application must be made on a form provided by the bureau and must contain the following:

A. Date, time and approximate duration;

B. Location;

C. Name and address of the person or persons, firm or corporation making arrangements;

D. Approval by the municipal officers or a municipal official designated by the municipal officers of the municipality in which the catered function or event is to be held, which, notwithstanding the provisions of section 653, may be granted without public notice; and

E. Any other information the bureau considers necessary.

**8. Ruling on application.** The bureau shall approve or deny the application to provide service of liquor at a location other than the principal place of business, and shall immediately notify the applicant of its decision.

**9. No additional fee.** The bureau may not charge a fee for provision of the service of liquor at locations other than the principal place of business in addition to the license fee paid by the qualified catering service.

**28A § 1077. Public service corporations: Vessel, railroad and airline corporations**

**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.

**2. Vessels.** The requirements and conditions for licenses for vessels are as follows.

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 (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 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.

C. A vessel licensed to sell liquor under this section may sell liquor on Sundays only between the hours of 12 noon and midnight when operated within the 3-mile limit.

**3. Railroad corporations.** The requirements and conditions for licenses for railroad corporations are as follows.

A. The license issued to a railroad corporation operating dining cars or passenger cars within the State authorizes the licensee to sell liquor to be consumed in the cars only after leaving and before reaching the terminal stops.

**4. Airlines.** The requirements and conditions for licenses for airlines are as follows.

A. The license issued to an airline operating aircraft within the State authorizes the licensee to sell liquor in the aircraft to be consumed in the aircraft only after leaving and before reaching airports within the State.

**5. License sufficient throughout the State.** One license issued under this section is sufficient to cover all aircraft, passenger cars or vessels operated by the licensed public service corporation.

**28A § 1078. Vessel corporations owned by certificate of approval holders  
(REPEALED)**

**28A § 1079. International air terminals**

**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.

**2. Sale of liquor.** An international air terminal licensee may sell liquor during the hours permitted under section 4, subsection 1, to:

A. International passengers in transit; and

B. Other persons.

**3. Sale of liquor to international passengers in transit.** Notwithstanding section 4, subsection 1, an international air terminal licensee may sell liquor to international passengers in transit during the hours sales are prohibited under section 4, subsection 1.

**4. International passengers in transit defined.** "International passenger in transit" means an airline passenger who is in transit and whose point of either origin or destination is a foreign country.

**(TITLE 28-A)**

**(LIQUORS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 3)**

**(LICENSES FOR SALE OF LIQUOR)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 2)**

**(RETAIL LICENSES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 45)**

**(LICENSES FOR THE SALE OF LIQUOR TO BE)**

**(CONSUMED OFF THE LICENSED PREMISES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1201. Issuance of licenses; stock of merchandise**

**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.

**3. Cannot sell liquor to be consumed on the premises.** No person licensed under this section may sell malt liquor or wine to be consumed on the premises.

**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.

**4. Licenses in unincorporated places where no local option vote is taken.** Licenses in an unincorporated place, where no local option vote is taken under chapter 5, must be approved by the county commissioners of the county.

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

A. The premise has 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~~ the applicant is a resident of the State.

**6. Stock of groceries or compatible merchandise required.** All off-premise retail licensees must have and maintain:

A. An adequate stock of groceries fit for human consumption of at least \$1,000 wholesale value;

B. A stock of merchandise reasonably compatible with a stock of malt liquor or wine of at least \$1,000 wholesale value; or

C. A combination of both groceries fit for human consumption and compatible merchandise of at least \$1,000 wholesale value.

**7. Compatible merchandise.** Each licensee shall display the groceries or compatible merchandise, or both, in the general sales area of the licensed premises, except that foodstuffs and other consumable products used in the preparation of food and cut flowers and potted flowers are not required to be displayed if they are stored elsewhere on the premises. Compatible merchandise:

A. Includes:

(1) Tobacco products;

(2) Newspapers;

(3) Greeting cards;

(4) Paper products;

(5) Cut flowers and potted flowers;

(6) A stock of foodstuffs and other consumable products used on the premises in the preparation of food for consumption on or off the premises; and

(7) Other items equally compatible with a stock of malt liquor or wine; and

B. Does not include:

(1) Gasoline and oil;

(2) Used or new cars, parts or accessories; or

(3) Other items of stock that may be equally incompatible in nature.

**28A § 1202. Payment for sales in off-premise retailers**

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

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

**28A § 1203. License for florists and florist shops  
(REPEALED)**

**28A § 1204. Ship chandlers**

**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.

**2. Conditions on sales.** Ship chandlers may sell malt liquor and wine only to ships which are:

- A. Not licensed as retail licensees; and
- B. Registered in another state or another country.

**3. Exception to off-premise retail licensee requirements.** Notwithstanding section 1201, a licensed ship chandler is not required to have or maintain a stock of groceries, compatible merchandise or combination of both.

**28A § 1205. Taste testing of wine**

**1. Taste testing on off-premise retail licensee's premises.** 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. (AS AMENDED BY PL 1995, C. 30, §4)

**2. Conditions on taste-testing activities.** The following conditions apply to taste-testing activities under this section:

- A. No wine may be served to persons who have not yet attained the age of 21 years;
- B. No person may be served more than a total of 5 ounces of wine;
- C. No person may be charged a fee for any wine served as part of a taste-testing activity;
- D. No person may be served who is visibly intoxicated;
- E. Taste testing is limited to a designated area. In a fine wine store, the taste testing must be conducted in an area that is separate from the retail sales floor and not readily accessible to the general public; (AS AMENDED BY PL 1995, c. 30, §5)
- F. Taste testing shall be conducted within the hours of retail sale established in this Title;
- G. The retail licensee must obtain the written permission of the ~~commission~~ bureau before conducting any taste-testing activity;
- H. A retail licensee may conduct no more than one taste testing per month;
- I. Taste testing is not allowed in any municipality where on-premise and off-premise sales are not allowed pursuant to chapter 5;
- J. The retail licensee must notify the Bureau of Liquor Enforcement of the date and time scheduled for an on-premise taste testing; and
- K. The retail licensee must purchase all wine served at a taste testing from a wholesale licensee.

For the purposes of this section, "fine wine store" means a store that sells wine from at least 50% of the world's wine regions and carries at least 500 different wine labels. (AS AMENDED BY PL 1995, c. 30, §6)

**28A § 1206. Consumption prohibited on off-premise retail premises**

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

(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))



**(PART 3)**  
**(LICENSES FOR SALE OF LIQUOR)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 3)**  
**(NON-RETAIL SALES)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 51)**  
**(CERTIFICATE OF APPROVAL HOLDERS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBCHAPTER I)**  
**(GENERAL PROVISIONS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 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.

**(TITLE 28-A)**  
**(LIQUORS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 3)**  
**(LICENSES FOR SALE OF LIQUOR)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 3)**  
**(NON-RETAIL SALES)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 51)**  
**(CERTIFICATE OF APPROVAL HOLDERS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBCHAPTER II)**  
**(MANUFACTURERS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1355. Manufacturer licenses**  
**(CONFLICT)**

**1. Issuance of licenses.** The bureau may issue manufacturer licenses to distill, rectify, brew or bottle spirits, wine or malt liquor to distillers, rectifiers, brewers, bottlers and wineries, as defined in section 2, operating under federal law and federal supervision.

**1-A. Breweries.** The following provisions apply to the manufacturer's license issued to a brewery other than a small brewery licensed under subsection 2.

A. The holder of a brewery license may produce malt liquor in an amount exceeding 50,000 gallons a year.

B. The holder of a brewery license may permit sampling of the malt liquor product on the premises:

(1) By employees for the purpose of quality control of the product;

(2) By wholesalers for the purpose of determining whether to carry the brewery's product as a wholesale product, provided that the holder of the brewery license pays the excise tax on the product sampled according to section 1652; and

(3) By the public in conjunction with a tour of the brewery's facilities, provided that:

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

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

C. The holder of a brewery license may sell on the brewery premises during regular business hours to nonlicensees only a specialty package of malt liquor produced at the brewery. The volume of the specialty package may not exceed 5 liters and must be consumed off the premises.

D. The holder of a brewery license may sell the brewery's product to wholesalers.

E. (CONFLICT: Text as amended by PL 1993, c. 542, @2) The holder of a brewery license may be issued one license under chapter 43 per brewery location for the sale of liquor to be consumed on the premises at the brewery.

(1) The retail license must be held exclusively by the holder of the brewery license.

(2) This retail license authorizes the sale of products of the brewery, other than the specialty package under paragraph C, in addition to other liquor permitted to be sold under the retail license, to be consumed on the premises.

(3) Notwithstanding section 1361, the brewery licensee may sell products of the brewery directly to the retail licensee under this paragraph without selling to a wholesale licensee. The brewery licensee shall keep and maintain complete records on all sales to the retail licensee.

(4) All records of the brewery licensee must be kept separate from the records of the retail licensee.

E. (CONFLICT: Text as amended by PL 1993, c. 730, @46) The holder of a brewery license may be issued one license under chapter 43 for the sale of liquor to be consumed on the premises for a location other than the brewery.

(1) The retail license must be held exclusively by the holder of the brewery license.

(2) This retail license authorizes the sale of products of the brewery, other than the specialty package under paragraph C, in addition to other liquor permitted to be sold under the retail license, to be consumed on the premises.

(3) Notwithstanding section 1361, the brewery licensee may sell products of the brewery directly to the retail licensee under this paragraph without selling to a wholesale licensee. The brewery licensee shall keep and maintain complete records on all sales to the retail licensee.

(4) All records of the brewery licensee must be kept separate from the records of the retail licensee.

**2. Small breweries.** The following conditions apply to licenses issued to small breweries.

A. A holder of a small brewery license may produce malt liquor containing 25% or less alcohol by volume in an amount not to exceed 50,000 gallons per year.

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

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

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

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

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

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

B. A holder of a small brewery license may sell, on the premises during regular business hours, malt liquor produced at the brewery by the bottle, by the case or in bulk.

C. A holder of a small brewery license may sell or deliver the product to licensed retailers and wholesalers. The licensee may sell, on the premises for consumption off the premises, malt liquor produced at the brewery by the bottle, case or in bulk to licensed retailers, including, but not limited to, off-premise retail licensees, restaurants and clubs.

D. A holder of a small brewery license may apply for one license for the sale of liquor to be consumed on the premises for a location other than the brewery.

E. A holder of a small brewery license may list on product labels and in its advertising the list of the ingredients and the product's average percentage of the recommended daily allowances of nutritional requirements.

**3. Farm wineries.** The following conditions apply to farm wineries.

A. A holder of a farm winery license may produce wines and sparkling wines in an amount not to exceed 50,000 gallons a year.

B. A holder of a farm winery license may serve complimentary samples of wine and sell, during regular business hours, wines produced at the winery by the bottle, by the case or in bulk on the premises of the winery to persons who are not minors. A holder of a farm winery license may serve complimentary samples of wine on Sunday after the hour of 12 noon and may sell wines on Sunday after the hour of 12 noon if the municipality in which the winery is located has authorized the sale of wines on Sunday for consumption off the premises under chapter 5.

C. A holder of a 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.

D. A holder of a farm winery license may sell or deliver the product to licensed retailers and wholesalers and may sell, on the premises, wine produced at the winery by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premise retail licensees, restaurants and clubs.

**4. Bottlers.**

**5. Maine farm wineries.**

**6. Other wineries.**

**7. Wineries.**

**28A § 1356. Illegal manufacture**

**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 without a license in the State, commits a Class E crime.

**2. Seizure and libeling of equipment and materials.**

(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**(PART 3)**  
**(LICENSES FOR SALE OF LIQUOR)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 3)**  
**(NON-RETAIL SALES)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 51)**  
**(CERTIFICATE OF APPROVAL HOLDERS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBCHAPTER III)**  
**(MALT LIQUOR AND WINE)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1361. Certificate of approval**

**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.

**2. Fee for certificate of approval.** The fee for a certificate of approval is \$600 per year for malt liquor only and \$600 for wine only. Payment of the fee must accompany the application for the certificate.

**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.

**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.

**5. No exclusivity agreement.** No certificate of approval holder may make it a condition in selling malt liquor or wine to any wholesale licensee that the wholesale licensee may not sell malt liquor or wine manufactured or sold by other manufacturers or foreign wholesalers.

#### **28A § 1362. Disposal of fees**

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

#### **28A § 1363. Manufacture of malt liquor or table wine; credit; furnishing materials and equipment**

**1. Certificate of approval holder not interested in wholesale license.** No officer, director or stockholder of a corporation which is the holder of a manufacturer's certificate of approval may be interested, either directly or indirectly, as a director, officer or stockholder in any other corporation which holds a wholesale license.

**2. Loans by certificate of approval holder.** Except as provided in paragraphs A and B, no manufacturer or certificate of approval holder may, either directly or indirectly, loan any money, credit or their equivalent to any wholesale licensee for equipping, fitting out, maintaining or conducting, either in whole or in part, a business establishment where malt liquor or wine is sold.

A. A certificate of approval holder may extend the usual and customary commercial credit for malt liquor or table wine sold and delivered.

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 business; and
- (3) Supplying uniforms for the employees of the wholesale licensee.

#### **28A § 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.

#### **28A § 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.

**(TITLE 28-A)**

**(LIQUORS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 3)**

**(LICENSES FOR SALE OF LIQUOR)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 3)**

**(NON-RETAIL SALES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 51)**

**(CERTIFICATE OF APPROVAL HOLDERS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBCHAPTER IV)**

**(SPECIAL WAREHOUSES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1371. Special warehouse storage facilities controlled  
by certificate of approval holder**

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.

2. **Fee.** The fee for a certificate of approval under this subsection is \$600 a year for malt liquor only, \$600 a year for wine only and \$600 a year for spirits only.

3. **Stored liquor not subject to state liquor tax until withdrawn.** Liquor stored in special warehouse storage facilities is not subject to state liquor taxes until it is withdrawn from the special warehouse storage facilities.

A. Malt liquor and wine withdrawn from the special warehouse storage facilities by Maine wholesale licensees immediately become subject to the same tax and premiums as malt liquor and wine imported into the State from out-of-state certificate of approval holders. The wholesale licensee shall withdraw the malt liquor and wine to be distributed in the State by the procedure established in section 1404 and 1405.

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.

**(TITLE 28-A)**

**(LIQUORS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 3)**

**(LICENSES FOR SALE OF LIQUOR)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 3)**

**(NON-RETAIL SALES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 55)**

**(MALT LIQUOR AND WINE WHOLESALE LICENSEES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1401. Wholesale licenses**



**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.

**2. Fees.** Except as provided in subsection 4, the fee for a wholesale license is:

A. Six hundred dollars for the principal place of business; and

B. Six hundred dollars for each additional warehouse maintained by the wholesale licensee, but not located at the principal place of business.

**3. Term of wholesale license.** Except as provided in subsection 4, a wholesale license is effective for one year from the date of issuance.

**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.

**6. License transferrable to other premises.** A wholesale license may be transferred from the premises in the town originally specified to premises in another town.

**7. Warehouses and sales representatives.** A wholesale licensee shall maintain a warehouse or warehouses within the State and employ one or more sales representatives, licensed under chapter 59, for the purpose of soliciting orders.

**8. Franchise or agreement with certificate of approval holder.** A wholesale licensee shall operate under a franchise or agreement for the resale of malt liquor or wine within an allocated territory by a certificate of approval holder.

## **28A § 1402. Taste testing of wine and malt liquor products**

**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.

**3. Conditions on taste-testing activity.** The following conditions apply to all taste testings.

A. The wholesale licensee or a certificate of approval holder may provide the products for taste testing only if all taxes and premiums required by this Title have been paid.

B. Taste-testing activity must be conducted only within the special designated area or room.

C. Taste-testing activity must be open only to invited retail licensees or their authorized agents and not to their family members, guests or the general public.

D. After the taste-testing activity is concluded, the wholesale licensee shall remove all products supplied for the taste-testing activity from the retail licensee's premises.

#### **28A § 1403. Interstate purchase or transportation**

**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.

**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.

**2. Sale of malt liquor or wine not purchased from a certificate of approval holder prohibited.** No wholesale licensee may sell to another wholesale licensee any malt liquor or wine which has not been purchased from a brewery, winery or foreign wholesaler holding a certificate of approval.

**3. License revoked if it requires wholesale license to not sell other brands.** The Administrative Court Judge shall revoke the license of any wholesale licensee, who requires as a condition of selling malt liquor or wine to another wholesale licensee, that the purchasing wholesale licensee may not sell other brand names of malt liquor or wine.

**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.

#### **28A § 1404. Unbonded wholesale licensees**

**1. Procedure for unbonded wholesale licensees.** Unbonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

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

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

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 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.

## **28A § 1405. Bonded wholesale licensees**

**1. Procedures for bonded wholesale licensees.** Bonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

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

B. The bonded wholesale licensee shall complete the forms in triplicate.

C. The bonded wholesale licensee shall submit the original copy to the brewery, winery or foreign wholesaler with whom he wishes to place the order.

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

**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~~ shall fix the amount and terms of the bond, subject to the following 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 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 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.

**3. Payment of excise tax and premium.** By filing the bond required in subsection 2, a wholesale licensee may pay monthly the excise tax imposed by section 1652 and the premium imposed by section 1703 on all malt liquor or wine shipped into the State as shown by invoice of the shipment by the out-of-state wholesaler or certificate of approval holder.

A. The wholesale licensee shall pay the excise tax and premium by the 10th day of the calendar month following the month in which shipment occurs.

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.

**28A § 1406. Report of changes in wholesale licensees and certificate of approval holders to ~~commission~~ bureau**

**1. Certificate of approval holders must list wholesale licensees with ~~commission~~ 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.

B. Certificate of approval holders shall 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 ~~commission~~ 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.

B. Wholesale licensees shall 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.

**28A § 1407. Exclusive distributors of certificate of approval holders' products**

**1. Exclusive distributors.** Except as provided in section 1454, the wholesale licensee appointed by the certificate of approval holder to be the exclusive distributor for specific brands of liquor cannot be terminated as exclusive distributor of those specific brands upon the voluntary or involuntary termination or transfer of the same brands of liquor by the certificate of approval holder who registered the specific labels and established prices with the bureau. The certificate of approval holder acquiring these brands shall take the place of the certificate of approval holder who appointed the distributors and shall comply with section 1406.

**2. Unfair trade practice.** A violation of this section shall be considered a violation of the Maine Unfair Trade Practices Act and all remedies provided by that Act are available for a violation of this section.

**28A § 1408. Posting of prices**

**1. Posting by certificate of approval holders and bottlers.** Certificate of approval holders and all licensed bottlers must post with the bureau the F.O.B. shipping point prices for which they are selling malt liquor or wine to wholesale licensees.

**2. Posting by wholesale licensees.** Wholesale licensees must post with the bureau the delivered prices for which they are selling malt liquor or wine to licensees and all other entities or instrumentalities.

**3. Posted prices must include deposits.** All prices posted must include deposits required on returnable items, including kegs.

**4. Price changes.** Except as provided in paragraph A, certificate of approval holders and manufacturer's shall give written notice of price changes to the bureau and their respective wholesale licensees at least 30 days before the effective date. Wholesale licensees shall give written notice of their price changes to the bureau at least 15 days before the effective date. All price changes are effective on the first day of the month.

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.

(TITLE 28-A)  
(LIQUORS)  
(HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 3)

**(LICENSES FOR SALE OF LIQUOR)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 3)**  
**(NON-RETAIL SALES)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 57)**  
**(CERTIFICATE OF APPROVAL HOLDER AND MAINE)**  
**(WHOLESALE LICENSEE AGREEMENT ACT)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 1451. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

**1. Agreement.** "Agreement" means a commercial relationship, not required to be evidenced in writing, of definite or indefinite duration, between a certificate of approval holder and a wholesale licensee, under which the wholesale licensee is authorized to distribute one or more of the certificate of approval holder's brands of malt liquor, wine or beverages. The performance or accomplishment of any of the following acts shall constitute prima facie evidence of an "agreement" within the meaning of this definition:

A. The shipment, preparation for shipment or acceptance of any order by any certificate of approval holder or its agents for any malt liquor, wine or beverages to a wholesale licensee within the State; and

B. The payment by a wholesale licensee and the acceptance of payment by any certificate of approval holder or its agent or the shipment of an order for malt liquor or beverages intended for sale in Maine.

**2. Person.** Notwithstanding section 2, subsection 23, "person" means a natural person, corporation, partnership, trust, agency or other entity as well as the individual officer, directors or persons in active control of the activities of that entity. "Person" also includes heirs, assigns, personal representatives and guardians.

**3. Primary source of supply.** "Primary source of supply" means the distiller, the bottler, the brewer, the winery, the brand owner or the designated agent of any distiller, brewer, winery or brand owner.

**4. Territory or sale territory.** "Territory" or "sale territory" means the area of primary sales responsibility expressly or implicitly designated by any agreement between a wholesale licensee and a certificate of approval holder for the brand or label of a certificate of approval holder.

**5. Wholesale licensee.** Notwithstanding section 2, subsection 34, "wholesale licensee" means any person holding a wholesale malt liquor or wine license within the State, offering malt liquor or wine for sale or resale to retailers, without regard to whether the business of the person is conducted under the terms of an agreement with a certificate of approval holder.

**28A § 1452. No inducement or coercion**

**1. Certificate of approval holder.** No certificate of approval holder may:

A. Induce or coerce, or attempt to induce or coerce, any wholesale licensee to accept delivery of any liquor or any other commodity which has not been ordered by the wholesale licensee;

B. Induce or coerce, or attempt to induce or coerce, any wholesale licensee to do any illegal act or thing by threatening to amend, cancel, terminate or refuse to renew any agreement existing between a certificate of approval holder and a wholesale licensee; or

C. Require a wholesale licensee to assent to any condition, stipulation or provision limiting the wholesale licensee in his right to sell the product of any other certificate of approval holder anywhere in the State if the acquisition of the product of another certificate of approval holder does not materially impair the quality of service or quantity of sales of the existing brand or brands of the certificate of approval holder seeking to impose the condition, stipulation or provision.

**28A § 1453. No dual distributorship**

**1. Dual distributorship prohibited.** No certificate of approval holder who designates a sales territory for which a wholesale licensee is primarily responsible may enter into any agreement with any other wholesale licensee for the purpose of establishing an additional agreement for its brand or label in the same territory.

**2. Certificate of approval holder to file list.** Each certificate of approval holder shall file with his application for certificate of approval a list giving the name and address of each bottler and wholesale licensee authorized to distribute products of that certificate of approval holder and designating the exclusive territory assigned to each wholesale licensee within the State. Unless authorized by the bureau, wholesale licensees may not sell those products to licensees outside of the exclusive territory allocated and designated.

A. Sales of wine to retail licensees at the wholesale licensee's warehouse shall be considered a sale within the wholesale licensee's exclusive territory.

**3. Primary source of supply.** No wholesale licensee may purchase liquor from anyone other than the primary source of supply within the United States.

**28A § 1454. Cancellation**

**1. Good cause.** Notwithstanding the terms, provisions or conditions of any agreement, no certificate of approval holder may amend, cancel, terminate or refuse to continue or renew any agreement, or cause a wholesale licensee to resign from an agreement, unless good cause can be established or proven for amendment, termination, cancellation, nonrenewal, noncontinuation or causing a resignation. "Good cause" does not include the sale or purchase of a certificate of approval holder. "Good cause" includes, but is not limited to, the following:

A. Revocation of the wholesale licensee's license to do business in the State;

B. Bankruptcy or insolvency of the wholesale licensee;

C. Assignment for the benefit of creditors or similar disposition of the assets of the wholesale licensee; and

D. Failure by the wholesale licensee to substantially comply, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him by the certificate of approval holder.

#### **28A § 1455. Notice of intent to terminate**

**1. Written notice.** Before any termination procedure initiated by the certificate of approval holder, the certificate of approval holder shall give the wholesale licensee written notice of any claimed deficiency existing in his territory and shall give the wholesale licensee reasonable time to correct the claimed deficiency or deficiencies. After this reasonable time has elapsed, the certificate of approval holder shall provide the wholesale licensee at least 90 days prior written notice of any intent to amend, terminate, cancel or not renew any agreement. The notice must state all the reasons for the intended amendment, termination, cancellation or nonrenewal. The notice provisions of this section do not apply if the reason for the amendment, termination, cancellation or nonrenewal is:

A. The bankruptcy or insolvency of the wholesale licensee;

B. An assignment for the benefit of creditors or similar disposition of the assets of the wholesale licensee's business;

C. Revocation of the wholesale licensee's license; or

D. Conviction or a plea of guilty or no contest to a charge of violating a law relating to the business that materially affects the wholesale licensee's ability to remain in business.

#### **28A § 1456. Assignment, transfer or sale of business**

No certificate of approval holder may unreasonably withhold consent to any assignment, transfer or sale of the wholesale licensee's business whenever the wholesale licensee to be substituted meets the material and reasonable qualifications and standards required of its wholesale licensees.

#### **28A § 1457. Compensation**

**1. Reasonable compensation.** Any certificate of approval holder which amends, cancels, terminates or refuses to continue or renew any agreement, or causes a wholesale licensee to resign, unless for good cause shown, as defined in section 1454, from an agreement or unreasonably withholds consent to any assignment, transfer or sale of a wholesale licensee's business, shall pay the wholesale licensee reasonable compensation for the value of the wholesale licensee's business related to the terminated brand or brands. The value of the wholesale licensee's business includes inventory and other tangible assets and its good will.



**2. Neutral arbitrator.** If the certificate of approval holder and the wholesale licensee are unable to agree on the reasonable compensation to be paid for the value of the wholesale licensee's business, as defined in subsection 1, they shall submit the matter to a neutral arbitrator selected by the parties, or, if they cannot agree, by the Chief Justice of the Supreme Judicial Court. The costs of the arbitration shall be paid 1/2 by the wholesale licensee and 1/2 by the certificate of approval holder or otherwise the arbitration proceeding shall be governed by the Maine Uniform Arbitration Act.

#### **28A § 1458. Judicial remedies**

**1. Suit against certificate of approval holder.** If a certificate of approval holder engages in conduct prohibited under this chapter, a wholesale licensee may maintain a suit against the certificate of approval holder.

**2. Equitable relief.** The court may grant equitable relief necessary to remedy the effects of conduct which it finds to exist and which is prohibited under this chapter, including, but not limited to, declaratory judgment and injunctive relief.

**3. Punitive damages, costs and fees.** If the court finds that the certificate of approval holder has acted in bad faith in invoking the amendment, termination, cancellation or nonrenewal provisions of this chapter or has unreasonably withheld its consent to any assignment, transfer or sale of the wholesale licensee's agreement, the court may award punitive damages, as well as actual damages, costs and attorneys fees.

#### **28A § 1459. Price of product**

No certificate of approval holder, whether by means of a term or condition of an agreement or otherwise, may fix or maintain the price at which the wholesale licensee sells any product.

#### **28A § 1460. Retaliatory action prohibited**

**1. Retaliatory action prohibited.** A certificate of approval holder may not take retaliatory action against a wholesale licensee who files or indicates an intention to file a complaint of alleged violation of state or federal law or regulation by the certificate of approval holder with the appropriate state or federal regulatory authority.

**2. Retaliatory action described.** Retaliatory action includes, but is not limited to:

A. Refusal without good cause to continue the agreement; or

B. A material reduction in the quality of service or quantity of products available to the wholesale licensee under the agreement.

#### **28A § 1461. Management and personnel of wholesale licensee**

No certificate of approval holder may require or prohibit any change in management or personnel of any wholesale licensee unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the certificate of approval holder.

**28A § 1462. No waiver; good faith settlements**

No certificate of approval holder may require any wholesale licensee to waive compliance with any provisions of this chapter. Nothing in this chapter limits or prohibits good faith settlements of disputes voluntarily entered into between the parties.

**28A § 1463. Sale of certificate of approval holder**

**1. Purchaser obligated.** The purchaser of a certificate of approval holder is obligated to all of the terms and conditions of the agreement in effect on the date of purchase.

**2. Purchase defined.** "Purchase," as defined for the purposes of this chapter, includes, but is not limited to:

- A. Sale of stock;
- B. Sale of assets;
- C. Merger;
- D. Lease;
- E. Transfer; or
- F. Consolidation.

**28A § 1464. Coverage**

The provisions of this chapter apply to agreements between certificate of approval holders and wholesale licensees in existence on September 16, 1979, and those entered into after that date.

**28A § 1465. Right of free association**

No certificate of approval holder or wholesale licensee may restrict or inhibit, directly or indirectly, the right of free association of certificate of approval holders or wholesale licensees for any lawful purpose.

**(TITLE 28-A)**

**(LIQUORS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 3)**  
**(LICENSES FOR SALE OF LIQUOR)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 3)**  
**(NON-RETAIL SALES)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 59)**  
**(SALES REPRESENTATIVES)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 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.

**28A § 1502. License; fee; renewals**

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

1. **Fee.** The annual license fee is \$50.

2. **Term of license.** The license expires on the last day of December of the year in which it is obtained. It may be renewed annually on payment of the fee.

**28A § 1503. Revocation of license**

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

**(TITLE 28-A)**  
**(LIQUORS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 3)**  
**(LICENSES FOR SALE OF LIQUOR)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBPART 3)**

**(NON-RETAIL SALES)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 61)**  
**(NONRETAIL LICENSES AND FEES)**  
**((HEADING: PL 1987, c. 342, @114 (new)))**

**28A § 1551. Fees for nonretail licenses**

**1. Certificate of approval.** The license fees for certificates of approval are:

- A. For malt liquor (one year)..... \$600; and
- B. For wine (one year).....\$600.

**2. Wholesale licenses.** The license fees for wholesale licenses are:

- A. For the sale of malt liquor (one year). \$600;
- B. For the storage of malt liquor (one month).. .....\$50;
- C. For the sale of wine (one year)..... \$600; and
- D. For the storage of wine (one month).. \$ 50.

**3. In-state manufacturers.** The license fees for in-state manufacturer licenses are:

- A. Distiller, includes bottling (one year).....\$1,000;
- B. Brewery, includes bottling (one year).....\$1,000;
- C. Rectifier, includes bottling (one year).....\$1,000;
- D. Bottler only (one year).....\$1,000;
- E. Winery, includes bottling (one year).....\$1,000;
- F. Maine farm winery, includes bottling (one year).....\$50; and
- G. Small Maine brewery, includes bottling (one year).....\$50.

**4. Sales representatives.** The fees for sales representatives are as follows:

- A. Sales representative of manufacturer or certificate of approval holder (one year).....  
.....\$50.

**5. Other fees.** The fees for the following are:

A. Filing fee for license application.....\$10; and

B. Filing fees for registering label:

(1) Original registration.....\$10;

(2) Change of label.....\$1; and

(3) Annual renewal of label registration... ..\$1.

**28A § 1552. Bottle club fees**

1. **Bottle club registration.** The fee for bottle club registration is (one year)..... \$50.

(TITLE 28-A)

(LIQUORS)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 4)

(TAXES AND ALCOHOL PREMIUM)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 65)

(TAXES)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 1651. Consumers' tax**

~~1. State liquor tax.~~ Except as provided in subsection 2, the commission shall determine and set the price at which to sell all spirits and fortified wine that will produce a state liquor tax of not less than 65% based on the delivered case cost F.O.B. liquor warehouse.

~~A.~~

~~B.~~

~~C.~~ The commission shall add any cost to the State related to handling containers returned for refund pursuant to Title 32, section 1863-A to the established price without markup.

~~2. Special pricing situations.~~ The commission may set prices at different levels in the following special situations:

~~A.~~

~~\_\_\_\_\_ B.~~

~~\_\_\_\_\_ C. Notwithstanding the other provisions of this section, with approval of the Commissioner of Administrative and Financial Services, the commission may reduce the price of discontinued items of liquor. The reduced price may not be less than the actual cost of the discontinued liquor items. (AS AMENDED BY PL 1995, c. 181, §1)~~

~~\_\_\_\_\_ D.~~

~~\_\_\_\_\_ E. Notwithstanding the other provisions of this section, the commission may establish special prices on certain listed liquor items to be made available to the consumer at all state stores. These special prices must not be lower than the price established for the same listed item at the 2 discount state liquor stores authorized under section 403.~~

~~\_\_\_\_\_ F. Spirits sold under section 606 may be sold at prices established under section 606.~~

~~G. Notwithstanding the other provisions of this section, the commission may reduce, at the expense of the broker or supplier, the price of those test market items that fail to meet set minimum gross profit standards after a 3-month period. (ENACTED BY PL 1995, c. 181, §2)~~

~~\_\_\_\_\_ 3. Applicability of tax. Taxes on spirits imposed by the State do not apply to sales of spirits by manufacturers, bottlers and rectifiers holding licenses from the commission:~~

~~\_\_\_\_\_ A. To any instrumentality of the United States;~~

~~\_\_\_\_\_ B. To any vessel of foreign registry;~~

~~\_\_\_\_\_ C. To industrial establishments for use as an ingredient in the manufacture of food products; or~~

~~\_\_\_\_\_ D. For use as an ingredient in the manufacture of commodities which by reason of their nature cannot be used for beverage purposes.~~

~~\_\_\_\_\_ 4. Net revenue deposited to General Fund. The commission shall deposit all net revenue derived from the tax under this section to the credit of the General Fund.~~

#### §1651-A. State liquor tax

1. Amount of tax. The alcohol bureau shall determine the amount of markup and set a wholesale price for all spirits and fortified wine that the alcohol bureau determines will produce the amount of revenue transferred to the General Fund in fiscal year 1994-95. The alcohol bureau may adjust prices as necessary to produce the required revenue.

2. Special pricing situations. The alcohol bureau may set prices at different levels in the following special situations and as permitted section 83, subsection 3.

A. With approval of the Commissioner of Administrative and Financial Services, the alcohol bureau may reduce the price of discontinued items of liquor. The reduced price may not be less than the actual cost of the discontinued liquor items.

B. The alcohol bureau may establish special sales prices on certain listed liquor items. The reduced price may not be less than the actual cost of the discounted liquor items.

C. Notwithstanding the other provisions of this section, the alcohol bureau may reduce, at the expense of the broker or supplier, the price of those test-market items that fail to meet set minimum gross profit standards after a 3-month period

3. Applicability of tax. Taxes on spirits imposed by the State do not apply to sales of spirits by manufacturers, bottlers and rectifiers holding licenses from the bureau:

A. To any instrumentality of the United States;

B. To any vessel of foreign registry;

C. To industrial establishments for use as an ingredient in the manufacture of food products; or

D. For use as an ingredient in the manufacture of commodities which by reason of their nature cannot be used for beverage purposes.

4. Net revenue deposited to General Fund. The alcohol bureau shall deposit all net revenue derived from the tax under this section to the General Fund.

**28A § 1652. Excise tax on malt liquor and wine;  
deficiency account; credits; refunds**

**1. Excise tax on malt liquor.** An excise tax is imposed on the privilege of manufacturing and selling malt liquor in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of 25¢ per gallon on all malt liquor sold in the State.

**1-A. Excise tax on low-alcohol spirits products and fortified wines.** An excise tax is imposed on the privilege of manufacturing and selling low-alcohol spirits products and fortified wines in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of \$1 per gallon on all low-alcohol spirits products and fortified wines manufactured in or imported into the State.

**2. Excise tax on wine.** An excise tax is imposed on the privilege of manufacturing and selling wine in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of 30¢ per gallon on all wine other than sparkling wine manufactured in or imported into the State and \$1 per gallon on all sparkling wine manufactured in or imported into the State.

A.

**2-A. Payment due.** On the 10th day of each month, every brewery and winery shall pay the excise taxes and premium due on malt liquor and wine which that brewery or winery removed from areas required to be bonded by the Federal Government.

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

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.

(TITLE 28-A)

(LIQUORS)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 4)

(TAXES AND ALCOHOL PREMIUM)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 67)

(ALCOHOLISM PREVENTION, EDUCATION, TREATMENT)

(AND RESEARCH)



**28A § 1701. Findings and intent  
(REPEALED)**

**28A § 1702. Alcoholism Prevention, Education, Treatment  
and Research Fund  
(REPEALED)**

**28A § 1703. Premiums; collection**

1. **Spirits.** The ~~commission~~ alcohol bureau shall ~~sell~~ require that all spirits be sold, at a price which 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.

2. **Malt liquor, wine, low-alcohol spirits products and fortified wines.** In addition to any other tax or charge imposed under state or federal law, a premium must be imposed on all malt liquor and wine, including fortified wines, sold in the State and on all low-alcohol spirits products sold in the State by persons licensed to sell wine for consumption on or off the premises. The premium must be in the amount specified in subsection 3.

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

B. Premiums must be collected in the same manner provided for the collection of excise taxes under sections 1404 and 1405.

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

D. The duties, prohibitions and liabilities under this subsection of licensees and certificate of approval holders are the same as those under sections 1361, 1364, 1404 and 1405.

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

3. **Amount of premium.** The premium imposed by subsections 1 and 2 is:

A. Ten cents per gallon on all malt beverages sold in the State;

B. Thirty cents per gallon on all wine, other than sparkling wine, sold in the State;

C. Twenty-four cents per gallon on all sparkling wine and all fortified wine sold in the State and all low-alcohol spirits products sold by a person licensed to sell wine for consumption on or off the premises; and

D. One dollar and twenty-five cents per proof gallon as the term proof gallon is defined in the United States Code, Title 26, Section 5002, on all spirits sold in the State.

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

**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 and the bureau under this section.

**28A § 1704. Allocations procedure**  
**—— (CONFLICT)**

(CONFLICT: Entire text as repealed by PL 1989, c. 934, Pt. C, @6)

**—— 2. (CONFLICT: Text as amended by PL 1989, C. 700, Pt. A, @116)**  
**Commissioners' reports** The Commissioner of Corrections, the Commissioner of Education, the Commissioner of Human Services and the Commissioner of Mental Health and Mental Retardation, through the Alcohol and Drug Abuse Planning Committee established in Title 22, chapter 1601, subchapter V, shall prepare and submit the reports specified in that subchapter. Other governmental departments and nongovernmental organizations may be consulted in the preparation of these reports. The planning committee may hold hearings, solicit and receive proposals or take any other action it considers necessary and appropriate in order to prepare its reports.

(TITLE 28-A)  
(LIQUORS)  
(HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 5)  
(NONBEVERAGE USE OF LIQUOR)  
(HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 75)  
(SALE OF FOOD PRODUCTS WITH A HIGH ALCOHOL)  
(CONTENT)  
(HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 1901. Restrictions on sale of food containing liquor**

**1. Sales of food containing liquor restricted.** No person other than a licensee may sell at retail food products with an alcohol content greater than 1/2 of 1% by volume.

**2. Minors as purchasers or consumers.** No person may sell to minors food products with an alcohol content greater than 1/2 of 1% by volume. No minor may consume such food products except in the presence of a parent, legal guardian or custodian, as defined in Title 22, section 4002.

**3. Food flavorings with high alcohol content.** This section does not apply to the sale of food flavorings, such as vanilla extract or lemon extract, or other similar articles commonly used for cooking or flavoring which contain alcohol, but are not intended to be consumed as beverages.

## **28A § 1902. Penalties**

Any person who violates a provision of this chapter is guilty of a Class E crime.

**(TITLE 28-A)**

**(LIQUORS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 6)**

**(PROHIBITED ACTS AND PENALTIES)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 81)**

**(PROHIBITED ACTS BY MINORS)**

**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

## **28A § 2051. Prohibited acts by minors**

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

A. Purchase any liquor or imitation liquor;

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

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

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

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

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

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

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

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

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

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

**2. Violation.** Any minor who violates this section commits a civil violation for which a forfeiture shall be adjudged of not less than \$100 nor more than \$300 for the first offense; not less than \$200 nor more than \$500 for the 2nd offense, none of which may be suspended, except as provided in paragraph B; and \$500 for the 3rd and subsequent offenses, none of which may be suspended, except as provided in paragraph B.

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

B. The judge, as an alternative to or in addition to the civil forfeitures required by this subsection, may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution.

**3. Minor cannot be charged with more than one offense.** No minor may be charged with more than one offense under this section in any given instance in which the same set of facts is involved.

**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.

#### **28A § 2052. Illegal transportation by minors**

**1. Minor may not transport liquor; exception.** Except as provided in paragraph A, no minor may knowingly transport or knowingly permit to be transported any liquor in a motor vehicle under his control.

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.

**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 not be construed under this section to be within the passenger or driver's section of the motor vehicle.

**3. Violation.** Any minor who violates this section commits a civil violation for which a forfeiture may be adjudged of not more than \$500. A forfeiture must be adjudged of not less than \$200 for a 2nd offense and not less than \$400 for a 3rd or subsequent offense, none of which may be suspended.

**4. Minor cannot be charged with both illegal transportation and illegal possession.** A minor charged with illegal transportation under this section may not be charged with illegal possession under section 2051. A minor who possesses or consumes liquor in a motor vehicle under the terms of this section must be charged under this section, rather than under section 2051. This subsection does not preclude charges under Title 15, section 3103, subsection 1, paragraph F, when appropriate.

**28A § 2053. Suspension of minor's operator's license for illegal transportation**

**1. Court shall suspend license.** The court shall suspend the operator's license or right to operate, or right to obtain a license, of a minor found in violation of section 2052 as follows:

- A. Thirty days for the first offense;
- B. Ninety days for the 2nd offense; and
- C. One year for any subsequent offense.

The court shall immediately forward the license to the Secretary of State together with the record of adjudication on the form furnished for reporting convictions and adjudications for violations of Title 29-A. (AS AMENDED BY PL 1995, c. 65, §A-80)

**2. Additional suspension by court.**

**3. Secretary of State shall suspend license.** Immediately upon receipt of the record, the Secretary of State shall suspend the license, or right to operate, or right to obtain a license, of the minor for the required period, without further hearing. The Secretary of State shall also assign demerit points according to Title 29-A, section 2458, subsection 3. (AS AMENDED BY PL 1995, c. 65, §A-81)

**4. Penalty.** The penalties provided in this section and section 2052 are not in conflict with Title 15, Part 6.

**28A § 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 stayed pending appeal and shall begin when and if the judgment is upheld or the appeal is withdrawn.

(TITLE 28-A)

(LIQUORS)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 6)

(PROHIBITED ACTS AND PENALTIES)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 83)

(PROHIBITED ACTS IN GENERAL)

((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 2071. Failure to appear before the ~~commission~~ bureau**

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.

2. **Penalties.** A person who violates this section commits a Class E crime.

**28A § 2072. Illegal deposit or possession with intent to sell**

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.

2. **Penalties.** A person who violates this section commits a Class E crime.

**28A § 2073. Importation and transportation of liquor within  
the State**

**1. Illegal transportation of liquor within the State.** No person may knowingly transport within the State any liquor:

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

**2. Penalties.** A person who knowingly violates this section commits a Class E crime.

**3. Legal importation into and transportation of liquor within the State.** Liquor may be legally imported into and transported within the State in the following situations.

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.

B. For-hire carriers and contract carriers, authorized by the Department of Public Safety, may transport liquor to ~~state~~ agency liquor stores, to liquor warehouses, to licensees, to purchasers of liquor at ~~state~~ agency liquor stores and from manufacturers to liquor warehouses, ~~state~~ agency liquor stores and to the state line for transportation outside the State.

C. Licensees may transport liquor from ~~state~~ agency liquor stores to their places of business.

D. Manufacturers may transport liquor within the State to liquor warehouses, ~~and state to~~ agency-liquor stores; to persons authorized under paragraph E and to the state line for transportation outside the State.

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~~ agency liquor stores. Such authorization must be in writing.

## **licensed premises**

**1. Transportation on-premises or off-premises.** Any person who transports liquor onto or off of the premises of an on-premise retail licensee is guilty of a Class E crime.

**2. Defense.** It is a defense to a prosecution under this section that the transportation was authorized or permitted by the licensee, the licensee's agent or the licensee's employee.

## **28A § 2075. Importation and transportation of spirits**

**1. Only the commission may import spirits; exception.** Except as provided in this section, no person ~~other than the commission~~ may import spirits into the State except at the direction of the alcohol bureau.

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.

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

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

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

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

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

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

**5. Forfeiture of spirits.** Notwithstanding section 2221-A, if a person fails to appear in court on the date and time specified in response to a Uniform Summons and Complaint issued for a violation of this section, either in person or by counsel, the court shall order the spirits imported



or transported in excess of that allowed by subsection 1 or 2 to be forfeited to the State. As part of every adjudication and forfeiture imposed under this section the court shall order the spirits imported or transported in excess of that allowed by subsection 1 or 2 to be forfeited to the State. Spirits forfeited under this subsection must be disposed of as prescribed in section 2229.

#### **28A § 2076. Illegal delivery of liquor**

**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~~ the alcohol bureau.

**2. Penalties.** Any person who violates this section commits a Class E crime.

#### **28A § 2077. Importation and transportation of malt liquor and wine**

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

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

**2. Transportation of malt liquor and wine within the State.** No person other than a licensee may transport malt liquor, in a quantity greater than 3 gallons, or wine, in a quantity greater than 4 quarts, within the State unless it was purchased from an off-premise retail licensee.

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

**3. For-hire carriers and contract carriers may import and transport within the State.** For-hire carriers and contract carriers, authorized by the Department of Public Safety, may transport malt liquor or wine into and within the State to licensees, to purchasers of malt liquor or wine from licensees and to the state line for transportation outside the State.

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

gallons of wine or 10 or more gallons of malt liquor into or within the State commits a Class E crime.

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

**28A § 2077-A. Interstate reciprocal shipping of malt liquor and wine**

**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.

**2. Shipment.** Notwithstanding section 2077, a person who lives in a state that affords Maine residents an equal reciprocal shipping privilege may ship, for personal use and not for resale, malt liquor or wine. For each shipment the following requirements must be satisfied.

- A. The producer and shipper must be unlicensed in Maine.
- B. The product must be one that is not normally for sale in the State to licensees, and the product must be clearly identified by label.
- C. Brokers within the State may not solicit consumers to engage in interstate reciprocal malt liquor and wine shipments under this section.
- D. Shippers located outside the State may not advertise interstate malt liquor and wine shipments in the State.

E. The product must be delivered by a common carrier. The carrier is authorized to make delivery of the shipment to the person named in the permit, as prescribed by subsection 1, paragraph D, after the receiver presents the carrier with the permit and proof of identification.

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

It is not the intent of this section to impair distribution of malt liquor and wine through distributors or importing distributors, but only to permit shipments of malt liquor and wine for personal use.

**3. Penalty.** Any person who procures or in any way assists in procuring, furnishing, giving or delivering liquor for or to a minor is in violation of section 2081.

#### **28A § 2078. Illegal sale of liquor**

**1. Sale of liquor without a valid license.** Any person who, or any person whose employee or agent, sells liquor within the State without a valid license commits a Class E crime and, notwithstanding Title 17-A, section 4-A, shall be punished:

A. For the first offense, by a fine of not less than \$300 plus costs nor more than \$500 plus costs, which fine and costs may not be suspended, and an additional penalty of not more than 30 days imprisonment at the discretion of the court;

B. For a 2nd offense, by a fine of not less than \$500 plus costs nor more than \$1,000 plus costs, which fine and costs may not be suspended, and an additional penalty of not more than 60 days imprisonment at the discretion of the court; and

C. For all subsequent offenses, by a fine of not less than \$1,000 plus costs and 60 days imprisonment, which fine and costs and sentence may not be suspended, and an additional penalty of 4 months imprisonment at the discretion of the court.

**2. Employee or agent equally guilty.** Any agent or other person in the employment of or on the premises of another, who violates or in any manner assists in violating any law relating to liquor, is equally guilty with the principal and is subject to the same penalties.

#### **28A § 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.

#### **28A § 2080. Common sellers (REPEALED)**

**28A § 2081. Furnishing or allowing consumption of liquor by certain persons prohibited**

- 1. Offense.** Except as provided in subsection 2, no person may knowingly:
  - A. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver liquor for or to a minor;
  - B. Allow any minor under that person's control, or in any place under that person's control, to possess or consume liquor;
  - C. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver liquor to a visibly intoxicated person; or
  - D. Procure, or in any way assist in procuring, furnish, give, sell or deliver imitation liquor for or to a minor, or allow a minor under that person's control or in a place under that person's control to possess or consume imitation liquor.
- 2. Exceptions.** This section does not apply to a person who serves liquor or imitation liquor to a minor in a home in the presence of the minor's parent, legal guardian or custodian, as defined in Title 22, section 4002.
- 3. Penalties.** Any person who violates subsection 1, paragraph A or B commits a Class D crime. Any person who violates subsection 1, paragraph C or D commits a Class E crime, for which a forfeiture of not more than \$500 may be adjudged. In the case of a person who has one previous conviction of a violation of subsection 1, paragraph A or B within a 6-year period, the fine may not be less than \$500, which penalty may not be suspended. In the case of a person who has 2 or more previous convictions of a violation of subsection 1, paragraph A or B within a 6-year period, the fine may not be less than \$1,000. In the case of a person who has no previous conviction of subsection 1, paragraph A or B within a 6-year period, the fine may not be less than \$500, which penalty may not be suspended if that person is convicted of a violation of subsection 1, paragraph A or B involving a minor less than 14 years old.
- 4. Application.** This section does not apply to licensees or agents of licensees in the scope of their employment.

**28A § 2082. Sale of imitation liquor**

- 1. Sale of imitation liquor to minor prohibited.** No person may sell or offer for sale or exchange to any minor any imitation liquor.

**2. Applicability.** This section does not apply to the following products:

A. Products commonly known as "root beer," "ginger ale," "cider" and all soft drinks;  
and

B. Beverages containing more than 1/2 of 1% alcohol by volume.

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

#### **28A § 2083. Sale or delivery of liquor to prisoners**

**1. Offense.** No person may:

A. Give or deliver any liquor to a person confined in any jail, house of correction or other place of confinement, or to a person in custody of any officer qualified to serve criminal process; or

B. Have in his possession, within the precincts of any jail, house of correction or other place of confinement, any liquor, with intent to convey or deliver the liquor to any person confined there.

**2. Exception.** This section does not apply to any person who provides liquor to a prisoner, or possesses liquor to provide it to a prisoner:

A. Under the direction of the physician appointed to attend the prisoner; or

B. Under the direction of the officer in charge of the place of confinement.

**3. Penalties.** Any person who violates this section commits a Class E crime.

#### **28A § 2084. Sales by agent of licensee to minors (REPEALED)**

#### **28A § 2085. False statement by retail employee**

Notwithstanding Title 17-A, section 453, a person who makes a false statement in the affidavit required under section 703-A commits a Class E crime.

(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(PART 7)  
(ENFORCEMENT)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(CHAPTER 91)  
(ENFORCEMENT AND JURISDICTION)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

(SUBCHAPTER I)  
(GENERAL)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))

**28A § 2201. Jurisdiction of courts**

In prosecutions under this Title, except when otherwise expressly provided, the District Court shall have, by complaint, jurisdiction concurrent with the Superior Court.

**28A § 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.

**28A § 2203. Evidence of illegal sale**

**1. Evidence of illegal sale.** Whenever an illegal sale is alleged and a delivery proved, the delivery is sufficient evidence of sale and it is not necessary to prove a payment.

**2. Former conviction.** In actions, complaints, indictments or other proceedings for a violation of this Title, other than for a first offense, it is not necessary to set forth particularly the record of a former conviction, but it is sufficient to allege briefly that the person has been convicted of a violation of a particular provision.

**3. Prosecution of bond when municipality interested.**

**4. Enforcement by municipality.**

**5. Former conviction.**

**6. Amendment of allegation and process.**

**28A § 2204. Persons in illegal liquor traffic disqualified  
from jury**

**(REPEALED)**

**28A § 2205. Appeals; discharge of sureties  
(REPEALED)**

**28A § 2206. Continuance for sentence  
(REPEALED)**

**(TITLE 28-A)  
(LIQUORS)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 7)  
(ENFORCEMENT)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 91)  
(ENFORCEMENT AND JURISDICTION)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBCHAPTER II)  
(OFFICIALS AND THEIR DUTIES)  
((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 2211. Power of law enforcement officers to stop  
vehicles; restrictions**

If a law enforcement officer has probable cause to believe that a violation of the liquor laws has taken or is taking place, the officer may, at any time, stop any motor vehicle or other conveyance to arrest or question its operator or occupant or to search the motor vehicle or conveyance.

**28A § 2212. State liquor enforcement officers' vehicles**

Notwithstanding the provisions of Title 29-A, section 1903, motor vehicles operated by state liquor enforcement officers may be equipped with sirens. As provided in Title 29-A, section 2054, those vehicles may be equipped with lights which emit a blue beam of light. The equipment permitted by this section may be used only to discharge law enforcement responsibilities in connection with this Title and Title 29-A, section 2411. (AS AMENDED BY PL 1995, c. 65, §82)

**(TITLE 28-A)**  
**(LIQUORS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 7)**  
**(ENFORCEMENT)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 91)**  
**(ENFORCEMENT AND JURISDICTION)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(SUBCHAPTER III)**  
**(SEARCH AND SEIZURE)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**28A § 2221. Seizure and forfeiture of vehicles containing  
liquor  
(REPEALED)**

**28A § 2221-A. Forfeiture of liquor and property used in  
illegal manufacture, transportation and sale  
of liquor**

**1. Property forfeited.** The following property shall be subject to forfeiture to the State and all property rights in the property shall be in the State:

A. All materials, products and equipment of any kind which are used, or intended for use, in manufacturing, transporting or selling liquor in violation of this Title; and

B. All conveyances, including aircraft, watercraft, vehicles and vessels, which are used, or are intended for use, to transport, conceal or otherwise to facilitate the manufacturing, transporting or selling of liquor in violation of this Title.

**2. Jurisdiction.** Property subject to forfeiture under subsection 1, paragraph A, shall be declared forfeited by any court having jurisdiction over the property or having final jurisdiction over any related criminal proceeding brought under this chapter.

**3. Exceptions.** The court shall order forfeiture of all conveyances subject to forfeiture under subsection 1, paragraph B, except as follows.

A. No conveyance used by any person as a for-hire carrier in the transaction of business as a for-hire carrier shall be forfeited unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of this Title.



B. No conveyance shall be forfeited by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while the conveyance was illegally in the possession of a person other than the owner in violation of the criminal laws of the United States, the State or of any State.

C. No conveyance shall be subject to forfeiture unless the owner knew or should have known that the conveyance was used in and for the illegal manufacturing, transporting or selling of liquor in violation of this Title.

**4. Forfeiture procedure.** Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of property subject to forfeiture under subsection 1, paragraph B. The petition must be filed in the court having jurisdiction over the property.

B. The proceeding shall be deemed a civil suit, in which the State shall have the burden of proving all material facts by a preponderance of the evidence. The owner of the property, or other person claiming under the owner, shall have the burden of proving all the exceptions set forth in subsection 3 by a preponderance of the evidence.

C. The court shall order the State to give notice by certified or registered mail or hand delivered by a deputy sheriff to the owner of the property and to any other person who appears to have an interest in the property.

D. The court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order shall provide for disposition of the property by the State or any subdivision of the State in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, sale at public auction or by competitive bidding.

(1) The proceeds of any sale shall be used to pay the reasonable expenses of the forfeiture procee

(5) The exact kinds, quantities and forms of the property.

B. The records shall be open to inspection by all federal and state officers charged with enforcement of federal and state liquor laws.

C. Persons making final disposition or destruction of the property under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition.

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~~ 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.

**6. Preliminary order.** At the request of the State ex parte, the court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property shall issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process shall be subject to the provisions of applicable Maine law.

B. Any property subject to forfeiture under this section may be seized upon process, except that seizure without process may be made when:

(1) The seizure is incident to:

(a) An arrest with probable cause;

(b) A search under a valid search warrant; or

(c) An inspection under a valid administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a forfeiture proceeding under this section;

(3) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) There is probable cause to believe the property has been used or is intended to be used in violation of this Title.

**28A § 2222. Claim of owner that illegal use of vehicle or  
boat was without knowledge or consent  
(REPEALED)**

**28A § 2223. Dumping of evidence; prima facie evidence**

**1. Destruction of liquor is prima facie evidence that liquor was intended for illegal sale.** The pouring out or other destruction of fluids by any person on or about the premises which are about to be or are being searched, for the purpose of preventing the seizure of those fluids by officers authorized to make the search and seizure, is prima facie evidence that the fluids poured out or destroyed were liquor intended for illegal sale.

**2. Penalties.** Any person who violates this section commits a Class E crime.

**3. Destruction of liquor is prima facie evidence that liquor was intended for illegal sale.**

**4. Penalties.**

**5. Notice is prima facie evidence that person is a common seller and premises are a common nuisance.**

**28A § 2224. Duty of officer on seizure; proceedings  
(REPEALED)**

**28A § 2225. Warrant for claimant  
(REPEALED)**

**28A § 2226. Destruction to prevent seizure; arrest of owner;  
appliances and evidences seized  
(REPEALED)**

**28A § 2227. Replevy pending proceeding prohibited  
(REPEALED)**

**28A § 2228. Recovery of liquor and damages upon final  
judgment**

Final judgment in proceedings under this chapter shall be in all cases a bar to any civil action for the recovery of any liquors seized or of their value, or for damages alleged to have been sustained by reason of the seizure and detention.

#### **28A § 2229. Disposal of forfeited liquors**

**1. Court or judge to order forfeited liquor to be turned over to the commission.** 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 commission.** ~~Except as provided in paragraph A, the commission 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 be destroyed by pouring it upon the ground or into a public sewer.~~

**2-A. Unfit liquor.** 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. The liquor shall be destroyed by pouring it upon the ground or into a public sewer.

#### **28A § 2230. Abandonment of liquor**

The following provisions govern the procedures for handling abandoned liquor.

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

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

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

B. Secure the liquor for a period of 30 days, after which time the agency shall transfer the liquor to the bureau. The bureau shall dispose of any malt liquor or wine and shall transfer any spirits to the ~~commission~~ alcohol bureau for sale ~~at state liquor stores or disposal~~.

**3. Filing a claim.** A person who wishes to file a claim for abandoned liquor must notify the bureau in writing within the 30-day period prescribed in subsection 2, paragraph B and

identify the abandoned liquor. If a claim is not made within the 30-day period, the abandoned liquor becomes the property of the State.

**(TITLE 28-A)**  
**(LIQUORS)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(PART 8)**  
**(LIQUOR LIABILITY)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

**(CHAPTER 100)**  
**(MAINE LIQUOR LIABILITY ACT)**  
**((HEADING: PL 1987, c. 45, Pt. A, @4 (new)))**

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**28A § 2501. Short title**

This Act shall be known and may be cited as the "Maine Liquor Liability Act."

**28A § 2502. Purposes**

**1. Primary legislative purpose.** The primary legislative purpose of this Act is to prevent intoxication-related injuries, deaths and other damages among the State's population.

**2. Secondary purposes.** The secondary legislative purposes are to:

A. Establish a legal basis for obtaining compensation for those suffering damages as a result of intoxication-related incidents in accordance with this Act;

B. Allocate the liability for payment of damages fairly among those responsible for the damages, which will encourage liquor liability insurance availability; and

C. Encourage all servers of alcohol to exercise responsible serving practices.

**28A § 2503. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

**1. Intoxicated individual.** "Intoxicated individual" means an individual who is in a state of intoxication as defined by this Act.

**2. Intoxication.** "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or liquor use.

**3. Licensee.** Notwithstanding section 2, subsection 14, "licensee" means any person to whom a license of any kind is issued by the ~~commission~~ bureau and any person who is required to be licensed to serve liquor.

**4. Nonlicensee.** "Nonlicensee" means any person who is neither a licensee nor an employee or agent of a licensee and is not required to be licensed under this Title.

**5. Server.** "Server" means a person who sells, gives or otherwise provides liquor to an individual.

**6. Service of liquor.** "Service of liquor" means any sale, gift or other furnishing of liquor.

**7. Visibly intoxicated.** "Visibly intoxicated" means a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual which clearly demonstrates a state of intoxication.

#### **28A § 2504. Plaintiffs**

**1. Persons who may bring suit.** Except as provided in subsection 2, any person who suffers damage, as provided in section 2508, may bring an action under this Act, against a server for negligently or recklessly serving liquor to an individual.

**2. Persons who may not bring suit.** The following may not bring an action under this Act against a server for negligently serving liquor to an individual:

- A. The intoxicated individual if he is at least 18 years of age when served by the server;
- B. The estate of the intoxicated individual if the intoxicated individual was at least 18 years of age when served by the server; and
- C. Any person asserting claims arising out of the personal injury or death of the intoxicated individual if the intoxicated individual was at least 18 years of age when served by the server.

#### **28A § 2505. Defendants**

**1. Licensee as a defendant.** Any server who is a licensee or employee or agent of a licensee who commits an act giving rise to liability, as provided in sections 2506 and 2507, may be made a defendant to a claim under this Act.

**2. Nonlicensee as a defendant.** Any server who is a nonlicensee who commits an act giving rise to liability, as provided in section 2506, subsection 1, and section 2507, may be made a defendant to a claim under this Act.

#### **28A § 2506. Negligent service of liquor; liability**

**1. Negligent service to a minor.** A server who negligently serves liquor to a minor is liable for damages proximately caused by that minor's consumption of the liquor.

**2. Negligent service to a visibly intoxicated individual.** A server who negligently serves liquor to a visibly intoxicated individual is liable for damages proximately caused by that individual's consumption of the liquor.

**3. Negligent conduct.** Service of liquor to a minor or to an intoxicated individual is negligent if the server knows or if a reasonable and prudent person in similar circumstances would know that the individual being served is a minor or is visibly intoxicated.

**4. Server's knowledge of individual's consumption.** A server is not chargeable with knowledge of an individual's consumption of liquor or other drugs off the server's premises, unless the individual's appearance and behavior, or other facts known to the server, would put a reasonable and prudent person on notice of such consumption.

#### **28A § 2507. Reckless service of liquor; liability**

**1. Reckless service to a minor.** A server who recklessly provides liquor to a minor is liable for damages proximately caused by that minor's consumption of the liquor.

**2. Reckless service to a visibly intoxicated individual.** A server who recklessly serves liquor to a visibly intoxicated individual is liable for damages proximately caused by that individual's consumption of the liquor.

**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.

**4. Evidence of reckless conduct.** Specific serving practices that are admissible as evidence of reckless conduct include, but are not limited to, the following:

A. Active encouragement of intoxicated individuals to consume substantial amounts of liquor;

B. Service of liquor to an individual who is under 18 years of age when the server has actual or constructive knowledge of the individual's age; and

C. Service of liquor to an individual that is so continuous and excessive that it creates a substantial risk of death by alcohol poisoning.

#### **28A § 2508. Damages**

**1. Damages.** Damages may be awarded for property damage, bodily injury or death proximately caused by the consumption of the liquor served by the server.

**2. Damages under wrongful death and survival laws.** Except as otherwise provided in this Act, damages may be recovered under Title 18-A, sections 2-804 and 3-817, as in other tort actions, subject to the damage limit of section 2509.

#### **28A § 2509. Limit on awards**

**1. Limitation on damages for losses other than expenses for medical care and treatment.** In actions for damages permitted by this Act, the claim for and award of damages for all losses, except expenses for medical care and treatment, including devices or aids, against both a server and the server's employees and agents, may not exceed \$250,000 for any and all claims arising out of a single accident or occurrence.

**2. Multiple claimants.** When the amount for all losses, except expenses for medical care and treatment, including devices and aids, awarded to or settled for multiple claimants, exceeds the limit imposed by this section, any party may apply to the Superior Court for the county where the server is located to allocate each claimant his equitable share of the total, limited as required by this section.

A. Any award by the court in excess of the maximum liability limit specified by subsection 1 shall be automatically abated by operation of this section to the maximum limit of liability.

#### **28A § 2510. Common law defenses**

Defenses applicable to tort actions based on negligence and recklessness in this State may be asserted in defending actions brought under this Act.

#### **28A § 2511. Exclusive remedy**

This Act is the exclusive remedy against servers who may be made defendants under section 2505, for claims by those suffering damages based on the servers' service of liquor.

#### **28A § 2512. Named and retained; several liability**

**1. Named and retained.** No action against a server may be maintained unless the minor, the intoxicated individual or the estate of the minor or intoxicated individual is named as a defendant in the action and is retained in the action until the litigation is concluded by trial or settlement.

**2. Several but not joint liability.** The intoxicated individual and any server, as described in section 2505, are each severally liable and not jointly liable for that percentage of the plaintiff's damages which corresponds to each defendant's percentage of fault as determined by the court or a jury.



#### **28A § 2513. Notice required**

Every plaintiff seeking damages under this Act must give written notice to all defendants within 180 days of the date of the server's conduct creating liability under this Act. The notice must specify the time, place and circumstances of the server's conduct creating liability under this Act and the time, place and circumstances of any resulting damages. No error or omission in the notice voids the effect of the notice, if otherwise valid, unless the error or omission is substantially material. Failure to give written notice within the time specified is grounds for dismissal of a claim, unless the plaintiff provides written notice within the limits of section 2514 and shows good cause why notice could not have reasonably been filed within the 180-day limit.

#### **28A § 2514. Statute of limitations**

Any action under this Act against a server alleging negligent or reckless conduct must be brought within 2 years after the cause of action accrues.

#### **28A § 2515. Evidence of responsible serving practices**

**1. Responsible practices.** Proof of the server's responsible serving practices is admissible as evidence that the server was not negligent or reckless. Responsible serving practices include, but are not limited to:

A. The server's and server's employees attendance at a server education training course;  
and

B. The server's implementation, at the time of service, of responsible management policies, procedures and actions.

**2. Neither proof nor disproof of negligence or recklessness.** Proof or disproof that the server was adhering to responsible serving practices is not by itself proof or disproof of negligence or recklessness.

#### **28A § 2516. Privileges**

**1. Refusal to serve.** No licensee is liable for damages resulting from a good faith refusal to serve liquor to any individual who:

A. Fails to show proper identification of age;

B. Reasonably appears to be a minor; or

C. Is refused service in a good faith effort to prevent him from becoming visibly intoxicated.

**2. Holding identification documents.** No licensee is liable for retaining identification documents presented to the licensee as proof of the individual's age for the purpose of receiving liquor provided that:

A. Retention is for a reasonable length of time in a good faith effort to determine whether the individual is of legal age; and

B. The licensee informs the individual why he is retaining the identification documents.

**3. Other defenses not limited.** This section does not limit a licensee's right to assert any other defense provided by law.

**4. Failure to exercise privileges.** A licensee may not be held liable under this Act for failing to exercise any privilege provided in this section. This section does not provide immunity from liability under sections 2506 and 2507.

#### **28A § 2517. Insurance records**

**1. Superintendent shall keep records.** The Superintendent of Insurance shall collect and maintain records on the following statistics concerning liquor liability insurance in this State:

A. The number and names of companies writing liquor liability insurance, either as a separate line or in a large policy;

B. The number and dollar amount of premiums collected for liquor liability insurance policies; and

C. The number and dollar amount of claims incurred under liquor liability insurance.

**2. Superintendent shall make records available.** The Superintendent of Insurance shall make available to the Legislature the information collected and maintained under subsection 1.

#### **28A § 2518. Informal evaluation**

~~\_\_\_\_\_The joint standing committee of the Legislature having jurisdiction over legal affairs shall conduct an informal evaluation of this Act, to be completed within 2 years of its effective date. The evaluation shall address the effectiveness of the Act in achieving its stated purposes.~~

#### **28A § 2519. Approval of alcohol server education courses**

**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.

**2. Advisory committee; appointment.** The commissioner shall appoint the Server Education Advisory Committee consisting of 7 members, to include:

- A. A representative of the faculty at the Maine Criminal Justice Academy;
- B. A liquor enforcement officer; (AS AMENDED BY PL 1995, c. 140, §8)
- C. A representative of the Department of the Attorney General;
- D. A representative of the Department of Human Services;
- E. A representative of the Department of Education;
- F. A representative of a statewide liquor licensee organization; and
- G. A representative of a statewide trial lawyers organization.

**3. Advisory committee; course criteria.** The advisory committee shall determine specific criteria which an alcohol server education course must contain to receive approval. The specific criteria shall be based on and include the following.

- A. The instructors of the program possess the relevant skills to provide instruction.
- B. The course provides instruction and the development of skills in the following subject matters:
  - (1) Identification of intoxicated individuals and minors;
  - (2) Intervention to prevent excessive consumption of alcohol by such methods as serving food and encouraging the consumption of nonalcoholic beverages;
  - (3) Making consumers aware of their condition and their responsibility for driving in an intoxicated condition and providing alternate transportation when available;
  - (4) Knowledge of state laws relating to the sale and distribution of alcohol and the legal responsibilities of servers and consumers;
  - (5) Knowledge of the effect of alcohol by volume and timing of intake in relation to an individual's weight;
  - (6) Examination of proof of age identification and methods of detecting false or altered age identification documents;
  - (7) Policies and practices to prevent the sale or service of alcohol to minors and visibly intoxicated individuals; and
  - (8) The effects of alcohol on the human body, including the disease concept of alcoholism.

C. Participants are evaluated before taking the course and after completion of the course.

D. Participants who successfully complete the course and the final evaluation are awarded certificates recognizing that they have successfully completed an approved alcohol server education course.

**4. Advisory committee; review and recommendation.** The advisory committee shall review each alcohol server education course submitted to the commissioner and recommend that the commissioner either approve or not approve the course based on whether the course meets the criteria the advisory committee developed under subsection 3.

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

**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.

**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.

#### **28A § 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 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.

**4. Legislative review.**