



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1046

S.P. 415

In Senate, March 7, 2023

An Act to Decriminalize Public Drinking

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BEEBE-CENTER of Knox.
Cosponsored by Representative SALISBURY of Westbrook and
Senator: DUSON of Cumberland, Representative: GEIGER of Rockland.

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

2 **Sec. 1. 17 MRSA §2003-A**, as amended by PL 2021, c. 658, §1, is repealed.

3 **Sec. 2. 17 MRSA §2005, sub-§1, ¶C**, as enacted by PL 1997, c. 756, §1, is
4 amended to read:

5 C. "Public place" has the same meaning as ~~provided in Title 28-A, section 2003-A~~
6 2090, subsection 1, paragraph D.

7 **Sec. 3. 17-A MRSA §18, sub-§1, ¶B**, as enacted by PL 2021, c. 393, §1, is
8 amended to read:

9 B. "Listed offense" means:

- 10 (1) Criminal trespass in violation of section 402, subsection 1, paragraph C or F;
11 (2) Disorderly conduct in violation of section 501-A, subsection 1, paragraph A;
12 (3) Indecent conduct in violation of section 854 that is based on urinating in public;
13 or
14 (4) Possession of a scheduled drug in violation of chapter 45 that is based on using
15 the scheduled drug; ~~or,~~
16 ~~(5) Public drinking in violation of Title 17, section 2003-A, subsection 2.~~

17 **Sec. 4. 28-A MRSA §2, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended
18 to read:

19 **3. Bottle club.** "Bottle club" means a person operating on a regular, profit or nonprofit
20 basis a facility for social activities in which members or guests provide their own liquor,
21 where no liquor is sold on the bottle club premises, which maintains suitable facilities for
22 the use of members on a regular basis or charges an admission fee to members or the general
23 public and where members, guests or others are regularly permitted to consume liquor. As
24 used in this definition, "regularly" includes daily, weekly or monthly, but does not include
25 once a year or less often. A bottle club is not a public place, as defined in ~~Title 17, section~~
26 2003-A 2090, subsection 1, paragraph D.

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

30 **Sec. 5. 28-A MRSA §11, sub-§2**, as amended by PL 2021, c. 658, §48, is further
31 amended to read:

32 **2. Violation of public drinking law.** A person taking a drink of liquor to another
33 person, offering a drink of liquor to another person or consuming liquor within the licensed
34 premises of an off-premises retail licensee under the common roof is considered in
35 violation of ~~and subject to punishment under Title 17, section 2003-A 2090~~. This
36 subsection does not prohibit product sampling and taste testing authorized by and
37 conducted in accordance with the requirements of this Title.

38 **Sec. 6. 28-A MRSA §2090** is enacted to read:

39 **§2090. Public drinking**

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

3 A. "Authorized person" means a person having a relationship to the property that is
4 unique and not shared by the general public. With respect to property owned by
5 another, "authorized person" includes a tenant, custodian or night security guard. With
6 respect to publicly owned property, "authorized person" includes police officers and
7 other public employees charged with the responsibility of maintaining or protecting
8 public property.

9 B. "Open container" means a container of liquor not having a cap, stopper or other
10 cover in place.

11 C. "Public place" means:

12 (1) A place owned or operated by a governmental entity to which the public or a
13 substantial group has access, including but not limited to:

14 (a) Public ways as defined in Title 17-A, section 505, subsection 2;

15 (b) Schools and government-owned custodial facilities;

16 (c) The lobbies, hallways, lavatories, toilets and basement portions of
17 apartment houses, hotels, public buildings and transportation terminals; and

18 (d) Public beaches; and

19 (2) Private ways and parking areas physically adjacent to public ways and designed
20 primarily for vehicular traffic.

21 **2. Violation.** A person may not drink liquor in any public place within 200 feet of a
22 notice posted conspicuously in the public place by the owner or an authorized person that
23 forbids drinking in the public place or after being forbidden to do so personally by a law
24 enforcement officer, unless the person has been given permission to do so by the owner or
25 authorized person.

26 **3. Evidence.** The possession of an open container of liquor in a public place is prima
27 facie evidence of a violation of this section.

28 **4. Civil violation.** A person who violates this section commits a civil violation for
29 which a fine of not more than \$100 may be adjudged.

30 SUMMARY

31 This bill changes public drinking from a crime to a civil violation for which a fine of
32 not more than \$100 may be adjudged.