

STATE OF MAINE

—

IN THE YEAR OF OUR LORD

TWO THOUSAND AND SEVENTEEN

—

H.P. 1053 - L.D. 1533

An Act To Update the Laws Relating to Liquor Licensing and Enforcement

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

Sec. 1. 28-A MRSA §2, sub-§15, ¶G, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

G. "Golf ~~club~~ course" means ~~any~~ a commercially operated facility, whether publicly or privately owned, offering golfing facilities to the general public for a fee, ~~which includes~~ including 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 that~~ that has a value of not less than \$100,000, ~~which that~~ offers food for sale to the public and ~~which that~~ has adequate facilities for the sale and consumption of liquor.

Sec. 2. 28-A MRSA §2, sub-§26, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

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.

Sec. 3. 28-A MRSA §10, sub-§2-B, ¶B, as enacted by PL 2015, c. 494, Pt. D, §9, is amended to read:

B. When access between the 2 licensed areas exists for patrons of either establishment, all malt liquor and wine sold for on-premises consumption must be served by an employee of the licensed establishment and may be served only when accompanying food or a full course meal prepared in a separate and complete kitchen on the premises. A restaurant under this paragraph must serve food. For the purposes of this paragraph, "full meal" means a diversified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking "food" includes cold or hot meals, including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot dogs, pizzas and other food items that customarily appear on a restaurant menu.

"Food" does not include prepackaged snack foods such as popcorn, chips or pretzels. A Class A restaurant under this paragraph must serve a full course meal.

Sec. 4. 28-A MRSA §453, sub-§2-C, as amended by PL 2013, c. 269, Pt. A, §5, is further amended to read:

2-C. Licenses. The bureau shall consider whether the applicant can satisfy the following criteria when determining whether to issue an agency liquor store license under this section:

A. ~~Except as provided in subsection 2-D, If the applicant has previously held a license to sell malt liquor and wine for off-premises consumption for more than one year immediately preceding application without, the applicant was not found to have committed~~ a violation of any provision of this Title;

B. ~~The~~ If the applicant is applying for an agency liquor store license in a municipality with a population of 1,000 or more, the applicant will be able to stock at least \$10,000 worth of spirits purchased from the State or the State's wholesale distributor upon issuance of an agency liquor store license. If the applicant is applying for an agency liquor store license in a municipality with a population of 999 or less, the applicant will be able to stock at least \$5,000 worth of spirits purchased from the State or the State's wholesale distributor upon issuance of an agency liquor store license; and

C. The applicant can purchase the initial stock of spirits using a bank check or other financial instrument that certifies that funds are available; ~~and~~

D. The applicant demonstrates that the applicant is likely to be a responsible licensee.

Sec. 5. 28-A MRSA §453, sub-§2-D, as amended by PL 2015, c. 221, §2, is repealed.

Sec. 6. 28-A MRSA §453-A, sub-§9, as enacted by PL 2011, c. 460, §1, is repealed.

Sec. 7. 28-A MRSA §453-D, sub-§1, as enacted by PL 2011, c. 135, §1, is amended to read:

1. Relocation application requirements. The bureau shall permit a change of location of an agency liquor store licensee if:

A. The licensee submits ~~a \$2,000 relocation fee and~~ an application in a form prescribed by the bureau;

B. The application includes proof of receipt of municipal approval of the relocation;

C. The licensee has held the license and operated as an agency liquor store for no less than one year at the currently licensed location, unless the relocation is directly related to retroactive zoning or unintentional destruction of the property that prevents rebuilding at the current location; ~~and~~

D. The proposed location of the agency liquor store meets all applicable criteria for licensure for an agency liquor store-; and

E. The application includes proof of notification, in the form of a certified mail receipt, that all agency liquor stores in the same municipality as the licensee's proposed relocation site were notified of the proposed relocation before receiving approval under paragraph B.

Sec. 8. 28-A MRSA §453-D, sub-§2, as enacted by PL 2011, c. 135, §1, is repealed.

Sec. 9. 28-A MRSA §453-D, sub-§3 is enacted to read:

3. Agency liquor store input. The bureau shall establish a process by which an agency liquor store in the same municipality as the licensee's proposed relocation may declare support of or objections to a proposed relocation. The bureau shall consider the declarations when considering approval of the relocation application. The process required by this subsection must be established by rule. The bureau shall adopt routine technical rules pursuant to Title 5, chapter 375, subsection 2-A to implement this subsection.

Sec. 10. 28-A MRSA §601, sub-§2, ¶J, as amended by PL 1997, c. 373, §51, is further amended to read:

J. The applicant is a golf ~~club~~ course or a restaurant located on the property of a golf ~~club~~ course and the Maine Human Rights Commission has found reasonable grounds to believe that the golf ~~club~~ course has denied membership to a person in violation of Title 5, chapter 337, subchapter ~~5~~ 5, 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 bureau when the golf ~~club~~ course has corrected its discriminatory membership practices, after which the applicant ceases to be disqualified under this paragraph.

Sec. 11. 28-A MRSA §652, sub-§6, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

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

Sec. 12. 28-A MRSA §706, sub-§1, as amended by PL 1997, c. 437, §3, is further amended to read:

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 29-A, section 1410, including an official identification card issued by a federally recognized Indian tribe in the State as described in Title 29-A, section 1410, subsection 7, or a motor vehicle operator's license bearing the photograph of the operator and issued under Title 29-A, chapter 11.

Sec. 13. 28-A MRSA §712, sub-§2, as repealed and replaced by PL 2013, c. 165, §1, is amended to read:

2. Serve from faucet, spigot, dispensing apparatus by trade name. A licensee may not furnish or serve any ~~malt~~ liquor from any faucet, spigot or other dispensing apparatus, unless:

A. 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; or

B. The licensee displays a list of all ~~malt liquors~~ liquor currently available on tap that is clearly visible to patrons of the establishment in a manner that allows a patron to identify the trade name or brand of the ~~malt~~ liquor that is being dispensed from each faucet, spigot or dispensing apparatus.

Sec. 14. 28-A MRSA §714, sub-§1, ¶A, as enacted by PL 1991, c. 543, is amended to read:

A. "Keg" means a container capable of holding at least ~~7.75~~ 5 gallons of liquid.

Sec. 15. 28-A MRSA §1001, sub-§3, ¶G, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

G. Golf ~~clubs~~ courses;

Sec. 16. 28-A MRSA §1003, sub-§3, ¶G, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

G. Golf ~~clubs~~ courses;

Sec. 17. 28-A MRSA §1004, sub-§3, ¶G, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

G. Golf ~~clubs~~ courses;

Sec. 18. 28-A MRSA §1005, sub-§3, ¶G, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

G. Golf ~~clubs~~ courses;

Sec. 19. 28-A MRSA §1012, sub-§4, as amended by PL 2017, c. 17, §7, is further amended to read:

4. Golf course or disc golf course mobile service bar. A licensee who is the owner of a golf course or disc golf course may apply for a license to sell ~~malt~~ liquor from a mobile service bar as provided in section 1075-A. The license fee per calendar year is \$100.

Sec. 20. 28-A MRSA §1073, as amended by PL 1997, c. 373, §100, is further amended to read:

§1073. Indoor racquet clubs; ice skating clubs; golf courses; curling clubs; and bowling centers

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 bowling centers, curling clubs, golf ~~clubs~~ courses, indoor ice skating clubs and indoor racquet clubs as defined in section 2, subsection 15, paragraphs B-1, D-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 bureau. For bowling centers, that separate area may not include the area in which the game of bowling is conducted.

Sec. 21. 28-A MRSA §1075-A, sub-§1, ¶A, as amended by PL 2017, c. 17, §9, is further amended to read:

A. "Mobile service bar" means a golf cart or other similar vehicle staffed by an employee of the golf course or disc golf course and outfitted for storage, cooling or refrigeration and sale and service of ~~malt liquor in cans or bottles~~.

Sec. 22. 28-A MRSA §1075-A, sub-§2, as amended by PL 2017, c. 17, §9, is further amended to read:

2. License. The bureau may issue a license for a mobile service bar to a licensee who owns a golf course or disc golf course or may issue a license for a mobile service bar to a Class A restaurant, Class A restaurant/lounge or Class I hotel located at a golf course or disc golf course ~~and to a golf course or disc golf course owner~~. The licensee shall ensure that:

A. All individuals selling, serving or dispensing ~~malt~~ liquor from a mobile service bar are employees of the golf course or disc golf course, except as provided in subsection 2-A;

B. The licensee does not possess or permit possession, sale or consumption of any ~~malt~~ liquor on the golf course or disc golf course other than that which is permitted and purchased by the licensee in accordance with the license or licenses granted;

C. A sufficient number of employees are deployed to adequately control and ensure adherence to laws applying to the serving, sale and consumption of ~~malt~~ liquor on the golf course or disc golf course;

D. Service or consumption of any liquor is not allowed in parking lots except as otherwise provided in this chapter;

E. A licensee or licensee's employees do not allow patrons to leave the golf course or disc golf course with any liquor;

F. Only one standard serving of ~~malt~~ liquor is served to an individual at a time;

G. Signs are posted that state that a patron may not bring ~~alcoholic beverages~~ liquor onto the premises of the golf course or disc golf course;

H. Signs are placed on the mobile service bar that state that service or consumption of any liquor by a person under 21 years of age is prohibited;

I. ~~Malt liquor~~ Liquor from a mobile service bar is purchased and consumed only by those patrons engaged in a round of golf or disc golf;

J. The operator of a mobile service bar is at least 21 years of age and has successfully completed an alcohol server education course; and

K. The operator of a mobile service bar has the ability and necessary tools to immediately contact a golf course or disc golf course employee working at the part of the golf course or disc golf course licensed as an on-premises establishment or an employee of a Class A restaurant or Class A restaurant/lounge operating under a contract with a municipal golf course or disc golf course for assistance in enforcing the provisions of this section.

Sec. 23. 28-A MRSA §1075-A, sub-§2-A, as amended by PL 2017, c. 17, §9, is further amended to read:

2-A. Municipal golf course. Notwithstanding subsection 2, paragraph A, employees of a Class A restaurant or Class A restaurant/lounge operating under a contract with a municipal golf course or disc golf course that does not have a license to serve ~~alcoholic beverages~~ liquor may sell, serve or dispense ~~malt~~ liquor from a mobile service bar under the same conditions prescribed by subsection 2.

Sec. 24. 28-A MRSA §2519, sub-§1, as amended by PL 2001, c. 502, §1, is further amended to read:

1. Approval of alcohol server education courses. The ~~commissioner or the commissioner's~~ director of the bureau or director's designee shall approve alcohol server education courses for a period of 2 years that meet the criteria developed under this section. The ~~commissioner~~ director may renew approval provided the course meets the criteria applicable at the time of renewal.

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

Sec. 25. 28-A MRSA §2519, sub-§2, as amended by PL 2011, c. 657, Pt. AA, §76 and PL 2013, c. 368, Pt. V, §61, is further amended to read:

2. Advisory committee; appointment. The ~~commissioner~~ director of the bureau shall appoint the Server Education Advisory Committee consisting of 8 members, to include:

- A. A representative of the faculty at the Maine Criminal Justice Academy;
- B. A liquor enforcement officer;
- C. A representative of the Department of the Attorney General;

- D. A representative of the Department of Health and Human Services;
- E. A representative of the education community;
- F. A representative of a statewide liquor licensee organization;
- G. A representative of a statewide trial lawyers organization; and
- H. A representative of the bureau.

Sec. 26. 28-A MRSA §2519, sub-§4, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

Sec. 27. 28-A MRSA §2519, sub-§6-B, as amended by PL 2001, c. 502, §4, is further amended to read:

6-B. Suspension of certificate. The ~~commissioner or the commissioner's~~ director of the bureau or director's designee may suspend or revoke an alcohol server instructor's or advisor's certificate upon the recommendation of the advisory committee. The following are grounds for an action to suspend or revoke a certificate:

- A. Repeated instances of failure to provide timely, accurate or legible information required by subsection 7;
- B. Repeated instances of failure to follow the course outline or cover the course criteria that were used to gain approval; or
- C. Receipt of a request to suspend or revoke a certificate from the administrator of the course approved by the advisory committee to train instructors.

Sec. 28. 28-A MRSA §2519, sub-§7, as amended by PL 1999, c. 519, §8, is further amended to read:

7. Course accountability. The ~~chief~~ director of the bureau or director's designee may appoint an ~~officer~~ 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 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~~ bureau with the names, addresses, dates of birth and the driver's license numbers, state identification card numbers or social security numbers of students who complete the course and the date of completion. The instructors shall forward \$3 to the bureau for every name submitted. The amounts collected must be retained by the bureau to cover costs related to alcohol server education training.

Sec. 29. 28-A MRSA §2519, sub-§8, as amended by PL 2001, c. 502, §6, is further amended to read:

8. Alcohol server education courses; approval; suspension; revocation. The ~~commissioner or the commissioner's~~ director of the bureau or director's designee may refuse to issue or renew approval for an alcohol server education course. The ~~commissioner or the commissioner's~~ director of the bureau or director's designee 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 or the commissioner's~~ director of the bureau or director's designee 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 District Court.

Sec. 30. 28-A MRSA §2519, sub-§9, as enacted by PL 2001, c. 502, §7, is amended to read:

9. Approval of Internet-based alcohol server education courses. The ~~commissioner or the commissioner's~~ director of the bureau or director's designee may approve an Internet-based alcohol server education course if the course meets the criteria developed under this section. An approved Internet-based alcohol server education course must have an advisor, certified under subsection 6-D, available to answer questions for persons using the Internet-based alcohol server education course.