

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 S.P. 551 - L.D. 1680

**An Act To Authorize Common Consumption Area Licenses for the
Consumption of Alcoholic Beverages within Designated Entertainment
Districts**

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

Sec. 1. 28-A MRSA §2, sub-§11-D is enacted to read:

11-D. Entertainment district. "Entertainment district" means an area that is located within a municipality that is established by ordinance of the municipal legislative body in accordance with section 221.

Sec. 2. 28-A MRSA §2, sub-§15, ¶B, as reenacted by PL 1989, c. 158, §1, is amended to read:

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

Sec. 3. 28-A MRSA §2, sub-§15, ¶D-2 is enacted to read:

D-2. "Common consumption area" means an area designated as a common area within an entertainment district in which customers of more than one common consumption area licensee are permitted to consume spirits, wine and malt liquor sold by the common consumption area licensees.

Sec. 4. 28-A MRSA §2, sub-§20-A is enacted to read:

20-A. Municipal legislative body. "Municipal legislative body" has the same meaning as in Title 30-A, section 2001, subsection 9.

Sec. 5. 28-A MRSA c. 11 is enacted to read:

CHAPTER 11

ENTERTAINMENT DISTRICTS

§221. Entertainment districts

A municipal legislative body may establish by ordinance an entertainment district within the municipality for the purpose of designating the area in which a common consumption area may be located.

An entertainment district ordinance adopted in accordance with this section must:

1. Location of entertainment district. Specify the boundaries of the entertainment district within which a common consumption area may be located and include a map depicting the entertainment district;

2. Common consumption area parameters. Specify the maximum number of acres permitted to be within a common consumption area and indicate whether a common consumption area may include public or private ways;

3. Hours of operation. Specify the permissible hours of operation of a common consumption area; and

4. Maximum number of licensees. Specify the maximum number of common consumption areas that may be located within the entertainment district and the maximum number of licensed premises that may be licensed to use a single common consumption area.

Sec. 6. 28-A MRSA §653, sub-§1, as amended by PL 2003, c. 213, §1, is further amended to read:

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, may hold a public hearing for the consideration of applications for new on-premises licenses ~~and~~ applications for transfer of location of existing on-premises licenses and applications for common consumption area 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.

A. The bureau shall prepare and supply application forms.

A-1. An applicant for a common consumption area license must certify that the applicant's premises are located within an entertainment district established in accordance with section 221. The municipal officers shall evaluate the merits of each applicant and separately issue or deny a license to each applicant. Applications for an unestablished common consumption area must be submitted jointly by all persons that seek to operate the common consumption area. A person may submit an individual application for a license to operate an established common consumption area.

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 or applicants' prepaid expense, stating the name and place of hearing, to appear on at least 3 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-premises license or, transfer of the location of an existing on-premises license or common consumption area 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 applications 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. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

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.

Sec. 7. 28-A MRS §653, sub-§2-A is enacted to read:

2-A. Common consumption area license applications. In addition to the grounds for denial set forth in subsection 2, the municipal officers may deny a common consumption area license if:

A. The applicant fails to establish that the common consumption area can be operated without creating a safety risk to the properties within the entertainment district;

B. The applicant fails to obtain or maintain a properly endorsed general liability and liquor liability insurance policy that is reasonably acceptable to the municipal officers and names the local licensing authority as an additional insured; or

C. The use is not compatible with the reasonable requirements of or existing uses in the entertainment district.

Sec. 8. 28-A MRS §1012, sub-§7 is enacted to read:

7. Common consumption area license. A licensed auditorium, hotel, restaurant, Class A restaurant or Class A restaurant/lounge or a manufacturer licensed under section 1355-A may apply for a common consumption area license to operate a common consumption area within an entertainment district established in accordance with section 221. The license fee is \$100.

Sec. 9. 28-A MRSA §1051, sub-§3, as amended by PL 2017, c. 337, §1, is further amended to read:

3. Liquor not to be consumed elsewhere. Except as provided in paragraphs A and B and in ~~section 1207~~ sections 1012, 1080 and 1208, a licensee for the sale of liquor to be consumed on the premises where sold may not personally or by an agent or employee, sell, give, furnish or deliver any liquor to be consumed elsewhere than upon the licensed premises or noncontiguous real estate that meets the conditions specified in subsection 9. The service and consumption of liquor must be limited to areas that are clearly defined and approved in the application process by the bureau as appropriate for the consumption of liquor. Outside areas must be controlled by barriers and by signs prohibiting consumption beyond the barriers.

A. Subject to law and the rules of the bureau, hotel or bed and breakfast licensees may sell liquor in the original packages or by the drink to bona fide registered room guests. Any sale to a guest may be delivered to the guest's room only by a hotel or bed and breakfast employee.

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

Sec. 10. 28-A MRSA §1080 is enacted to read:

§1080. Common consumption areas

1. Issuance of licenses. The bureau may issue a common consumption area license under this section to a licensed auditorium, hotel, restaurant, Class A restaurant or Class A restaurant/lounge or a manufacturer licensed under section 1355-A if:

A. The auditorium, hotel, restaurant, Class A restaurant, Class A restaurant/lounge or manufacturer is a licensed establishment located within an entertainment district established in accordance with section 221;

B. The premises of the auditorium, hotel, restaurant, Class A restaurant, Class A restaurant/lounge or manufacturer are adjacent to the common consumption area or, if the auditorium is an outdoor facility, the premises of the auditorium are adjacent to or within the common consumption area;

C. The common consumption area is properly equipped with tables, chairs and restrooms;

D. The common consumption area has obtained any required licensing from the Department of Health and Human Services; and

E. The bureau has not yet issued the maximum number of common consumption area licenses permitted by the entertainment district ordinance.

2. Authority. A common consumption area license authorizes the licensee to permit the licensee's customers to consume within the common consumption area any spirits, wine or malt liquor sold by the licensee under the authority of the licensee's auditorium, hotel, restaurant, Class A restaurant, Class A restaurant/lounge or manufacturer license.

3. Restrictions. A common consumption area licensee may permit the licensee's customers to consume liquor purchased from the licensee only on the premises of the licensee or within the boundaries of the common consumption area approved by the municipal officers and the bureau. The common consumption area must be controlled by barriers and by signs prohibiting consumption beyond the barriers.

Sec. 11. 28-A MRSA §2074, sub-§1, as amended by PL 1997, c. 306, §2, is further amended to read:

1. Transportation on-premises or off-premises. Except as provided in section 1051 or 1080, any person who transports liquor onto or off of the premises of an on-premise retail licensee is guilty of a Class E crime.