

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 294, L.D. 899)

2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 1574

7
8 S.P. 539

In Senate, May 6, 1983

9 Reported by Senator Violette of Aroostook from the Committee on State
10 Government and printed under Joint Rule 2.

11 Original bill presented by Senator Danton of York. Cosponsored by
Representative Paradis of Augusta.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-THREE
17

18 AN ACT to Remove the Bureau of Alcoholic
19 Beverages from Under the Department of Finance
20 and Administration.
21

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

24 Sec. 1. 5 MRSA §283, sub-§6, as enacted by PL
25 1971, c. 615, §3, is repealed.

26 Sec. 2. 5 MRSA §287, as amended by PL 1975, c.
27 771, §52-A, is further amended to read:

28 §287. Department; commissioner

29 The Department of Finance and Administration as
30 heretofore established shall serve as the principal
31 administrative and fiscal department of the State
32 Government, coordinate financial planning and pro-
33 gramming activities of departments and agencies of

1 the State Government for review and action by the
2 Governor, prepare and report to the Governor and to
3 the Legislature financial data and statistics, pro-
4 vide insurance advice for the State Government,
5 establish and administer a master plan for the
6 orderly development of future state buildings and
7 grounds in the Capitol Area of the City of Augusta,
8 and develop and supervise the state purchasing policy
9 ~~and administer under the direction of the Liquor Com-~~
10 ~~mission the laws relating to legalized alcoholic bev-~~
11 ~~erages within this State.~~ The Department of Finance
12 and Administration shall consist of a Commissioner of
13 Finance and Administration and the following as ~~here-~~
14 ~~tefore created~~ and established: The Maine Insurance
15 Advisory Board, and the Capitol Planning Commission
16 ~~and the Liquor Commission, except the Enforcement~~
17 ~~Division thereof.~~ The Commissioner of Finance and
18 Administration shall be appointed by the Governor,
19 subject to review by the joint standing committee ~~on~~
20 of the Legislature having jurisdiction over appropri-
21 ations and financial affairs and to confirmation by
22 the Legislature and shall hold office during the
23 pleasure of the Governor.

24 Sec. 3. 28 MRSA §2, sub-§2, as repealed and
25 replaced by PL 1975, c. 741, §1, is amended to read:

26 2. Bureau. "Bureau" shall ~~mean~~ means the Bureau
27 of Alcoholic Beverages ~~within the Department of~~
28 ~~Finance and Administration~~ under the State Liquor
29 Commission.

30 Sec. 4. 28 MRSA §52, as amended by PL 1981, c.
31 698, §122, is further amended to read:

32 §52. State Liquor Commission; appointment

33 The State Liquor Commission, as ~~heretofore~~ estab-
34 lished, shall consist of ~~3~~ 5 members to be appointed
35 by the Governor, subject to review by the joint
36 standing committee ~~on~~ of the Legislature having
37 jurisdiction over legal affairs and to confirmation
38 by the Legislature, to serve for 3 years and may be
39 removed by the Governor on the address of both
40 branches of the Legislature or by impeachment. The
41 Governor shall designate one of the members to be its
42 chairman and not more than ~~2~~ 4 members thereof shall

1 belong to the same political party. Any vacancy shall
2 be filled by appointment for a like term. The State
3 Liquor Commission shall meet at the call of the
4 chairman and at least once a month.

5 Sec. 5. 28 MRSA §53, sub-§10, as enacted by PL
6 1975, c. 741, §4, is amended to read:

7 10. Act as review board. To act as a review
8 board and on all appeals from the decisions of munic-
9 ipal officers, and except as provided by section 403,
10 the decisions of the commission shall be final. All
11 decisions of the commission acting as a review board
12 must be approved by at least ~~2~~ 3 members.

13 Sec. 6. 28 MRSA §56, first ¶, as amended by PL
14 1981, c. 607, §1, is further amended to read:

15 The net profits of the commission shall be gen-
16 eral revenue of the State. The commission ~~is auther-~~
17 ~~ized to~~ may keep and have on hand a stock of wines,
18 except table wines, and spirits for sale, the value
19 of which, when priced for resale, shall be computed
20 on less carload price quotations F.O.B. warehouse
21 filed by liquor and wine vendors. The inventory value
22 shall be based upon actual cost for which payment may
23 be due and shall not at any time exceed the amount of
24 working capital authorized. Wines and spirits shall
25 not be considered in the inventory until payment has
26 been made therefor. The maximum permanent working
27 capital of the commission is established at
28 \$5,000,000 and permanent advances up to this amount
29 may be authorized by the Governor upon recommendation
30 of the commission ~~with the approval of the Commis-~~
31 ~~sioner of Finance and Administration.~~ The permanent
32 working capital of the commission may be supplemented
33 by temporary loans from other state funds upon recom-
34 mendation of the commission and by approval of the
35 ~~Commissioner of Finance and Administration and the~~
36 Governor.

37 Sec. 7. 28 MRSA §57, first ¶, as amended by PL
38 1977, c. 674, §26, is further amended to read:

39 The ~~Commissioner of Finance and Administration,~~
40 ~~with the advice and consent of a majority of the~~
41 State Liquor Commission, shall appoint a Director of

1 the Bureau of Alcoholic Beverages by a majority vote
2 whose term of office shall be continuous, subject
3 only to removal by a majority of the commission and
4 the Commissioner of Finance and Administration. The
5 salary of the director shall be fixed by the Commis-
6 sioner of Finance and Administration with the advice
7 and consent of a majority of the State Liquor Commis-
8 sion.

9 Sec. 8. 28 MRSA §58, as enacted by PL 1975, c.
10 741, §4, is amended to read:

11 §58. Director of the Bureau of Alcoholic Beverages;
12 powers and duties

13 The Director of the Bureau of Alcoholic Beverages
14 ~~within the Department of Finance and Administration~~
15 shall be the chief administrative officer of the
16 bureau. The Director of the Bureau of Alcoholic Bev-
17 erages shall be subject to the direction of the State
18 Liquor Commission as defined in this chapter. The
19 director of the bureau shall administer the policies,
20 and rules and regulations of the State Liquor Commis-
21 sion under the supervision of the commission. The
22 director of the bureau shall operate the bureau and
23 implement the liquor laws according to the procedures
24 established by the State Liquor Commission.

25 The Director of the Bureau of Alcoholic Beverages
26 shall have general charge of the office and records
27 and shall employ, with the approval of ~~the Commis-~~
28 ~~sioner of Finance and Administration~~ and the State
29 Liquor Commission, subject to the Personnel Law, such
30 personnel and make expenditures as may be necessary
31 to fulfill the purposes of this Title.

32 Sec. 9. 28 MRSA §151-A, sub-§2, ¶A, as enacted
33 by PL 1981, c. 128, is amended to read:

34 A. Within the time limits required by the lease
35 or contract for the lessor to notify the ~~commis-~~
36 ~~sioner~~ commission of his intention to terminate
37 or not renew; or

38 Sec. 10. 28 MRSA §451, first ¶, as amended by PL
39 1979, c. 161, is further amended to read:

1 All spirits and wines, except table wines, shall
2 be sold by the commission at a price to be determined
3 by the commission which will produce a state liquor
4 tax of not less than 75% based on the less carload
5 cost F.O.B., State Liquor Commission warehouse, and
6 in addition thereto there shall be levied and imposed
7 an excise tax of 75¢ per gallon, or its metric
8 equivalent, on wines containing more ~~then~~ than 14%
9 alcohol by volume; except that spirits and wines sold
10 at wholesale under section 204 may be sold at whole-
11 sale prices established pursuant to the provisions
12 thereof. Prices for sale of spirits and wines bought
13 by the commission from Maine licensees to manufacture
14 liquor under section 501 shall be based on minimum
15 truck load delivery prices F.O.B. warehouse as the
16 same are filed with the Public Utilities Commission.
17 Special orders by the commission for unstocked mer-
18 chandise shall be priced at not less than 75% over
19 actual cost delivered F.O.B. warehouse. In all cases
20 the commission ~~is authorized to~~ may round off costs
21 to the next highest 5 cents. Any increased federal
22 taxes levied on or after November 1, 1941 shall be
23 added to the established price without markup. All
24 net revenue derived from such tax shall be deposited
25 to the credit of the General Fund of the State. Not-
26 withstanding the other provisions of this section,
27 the commission, ~~with approval of the Commissioner of~~
28 ~~Finance and Administration,~~ may reduce the price of
29 discontinued items of liquor. The reduced price
30 shall not be less than the actual cost of the discon-
31 tinued liquor items and no item ~~shall~~ may be discon-
32 tinued by the commission for a period of at least 6
33 months after such item has been listed and on sale in
34 state stores. Notwithstanding the other provisions
35 of this section, the commission, ~~with the approval of~~
36 ~~the Commissioner of Finance and Administration,~~ may
37 reduce the price of liquor in one store, and licen-
38 sees permitted to purchase liquor at a discount under
39 section 204 may purchase liquor for resale from that
40 store at the same price they are permitted to pur-
41 chase liquor for resale from any state store which
42 does not offer a retail discount.

43 Sec. 11. 28 MRSA §452, 6th ¶, as amended by PL
44 1979, c. 663, §164, is further amended to read:

1 The ~~commissioner~~ is also authorized to commission
2 may refund the excise tax on distributor's inven-
3 tories in the event such these inventories are
4 destroyed by fire, flood or other natural disaster.
5 A credit shall be granted for the excise tax imposed
6 by this State on malt beverages or table wines sold
7 to any ship chandlers, provided that the malt bever-
8 ages and table wines are resold to vessels of foreign
9 registry for consumption after that vessel has left
10 port. Any wholesaler selling to such an instrumentality,
11 training site or ship chandlers for resale to
12 vessels of foreign registry shall present proof of
13 that sale to the commission and shall thereupon
14 receive from the commission a credit of all state
15 excise taxes paid in connection with that sale.

16 Sec. 12. Transition clause.

17 1. Funds transferred. Notwithstanding the
18 Revised Statutes, Title 5, sections 1585 and 1586,
19 all accrued expenditures, assets, liabilities, bal-
20 ances or allocations, transfers, revenues or other
21 available funds in any account or subdivision of an
22 account of the Bureau of Alcoholic Beverages within
23 the Department of Finance and Administration shall be
24 reallocated to the Bureau of Alcoholic Beverages
25 under the State Liquor Commission.

26 2. Personnel transferred. Personnel of the
27 Bureau of Alcoholic Beverages under the Department of
28 Finance and Administration shall be transferred to
29 the Bureau of Alcoholic Beverages under the State
30 Liquor Commission. The accrued fringe benefits
31 including vacation and sick leave, health and life
32 insurance, and retirement of these personnel shall
33 remain with the transferred personnel.

34 3. Rules and procedures. All rules and proce-
35 dures currently in effect and operation pertaining to
36 the Bureau of Alcoholic Beverages within the Depart-
37 ment of Finance and Administration shall be trans-
38 ferred to the Bureau of Alcoholic Beverages under the
39 State Liquor Commission and shall remain in effect
40 until rescinded or amended by the State Liquor Com-
41 mission.

1 4. Equipment and property transferred. All
2 equipment and property of the State used by employees
3 and officials of the Bureau of Alcoholic Beverages
4 within the Department of Finance and Administration
5 shall be transferred to the Bureau of Alcoholic Bev-
6 erages under the State Liquor Commission.

7 5. Authority of the Department of Finance and
8 Administration. The Department of Finance and Admin-
9 istration shall retain all authority and duties with
10 respect to the Bureau of Alcoholic Beverages that the
11 Department of Finance and Administration presently
12 exercises with respect to all other state agencies as
13 defined in the Revised Statutes, Title 5, chapters
14 141 to 155. The Department of Finance and Adminis-
15 tration shall not exercise any of the authority or
16 duties transferred to the Bureau of Alcoholic Bever-
17 ages under the State Liquor Commission pursuant to
18 this Act.

19 STATEMENT OF FACT

20 This new draft removes the Bureau of Alcoholic
21 Beverages from within the Department of Finance and
22 Administration and places it under the jurisdiction
23 of the State Liquor Commission as proposed in the
24 original bill. Unlike the original bill, the new
25 draft keeps the Division of Liquor Enforcement within
26 the Department of Public Safety. The new draft also
27 amends provisions in Title 28 that were inadvertantly
28 omitted in the original bill. These changes are
29 necessary to remove the Bureau of Alcoholic Beverages
30 from the Department of Finance and Administration.

31 This new draft contains a transitional provision
32 to transfer employees, equipment, accounts and rules
33 from the Bureau of Alcoholic Beverages within the
34 Department of Finance and Administration to the
35 Bureau of Alcoholic Beverages under the State Liquor
36 Commission. The Department of Finance and Adminis-
37 tration will continue to audit the Bureau of Alco-
38 holic Beverages and oversee the accounting proce-
39 dures.

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