

MAINE STATE LEGISLATURE

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L.D. 1137

DATE:

(Filing No. S- 46)

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STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "P" to COMMITTEE AMENDMENT "A" to H.P. 832, L.D. 1137, Bill, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999"

Amend the amendment by striking out all of Part L.

Further amend the amendment by inserting before the emergency clause the following:

PART XX

Sec. XX-1. 28-A MRSA §2, sub-§8-B is enacted to read:

8-B. Commission. "Commission" means the State Liquor and Lottery Commission.

Sec. XX-2. 28-A MRSA §2, sub-§25-A, as enacted by PL 1989, c. 526, §§1 and 28, is amended to read:

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 in an agency liquor store. For the purposes of violations of this Title and rules of the ~~commission~~ bureau, a retail employee shall ~~be~~ is deemed an agent of the retailer or state agency liquor store that employs that employee.

Sec. XX-3. 28-A MRSA §2, sub-§32, as amended by PL 1993, c. 462, §4, is repealed.

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2 **Sec. XX-4. 28-A MRSA §62, first ¶**, as amended by PL 1993, c. 730, §15, is further amended to read:

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

8 **Sec. XX-5. 28-A MRSA §62, sub-§1**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

12 **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~~ operations and agency liquor stores;

16 **Sec. XX-6. 28-A MRSA §62, sub-§§5 and 6**, as amended by PL 18 1993, c. 730, §17, are amended to read:

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

26 **6. Sell to agency liquor stores.** To sell at ~~retail~~ in state-liquor-stores-in-original-packages, either over-the-counter or by-shipment-to-points to agency liquor stores for resale 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.~~

32 **Sec. XX-7. 28-A MRSA §72-A, sub-§2**, as enacted by PL 1991, c. 34 376, §49, is amended to read:

36 **2. Manage purchase of spirits and sale of alcoholic beverages.** Manage the purchase of spirits from holders of approval certificates and sale of alcoholic beverages through ~~state-operated-retail-stores,~~ agency liquor stores and licensees in accordance with applicable laws and rules;

42 **Sec. XX-8. 28-A MRSA §72-A, sub-§9**, as amended by PL 1991, c. 44 780, Pt. Y, §128, is further amended to read:

46 **9. 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 the ~~state-operated-retail-stores~~ state operations and recommend to the commission and the commissioner

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any changes in the laws or rules and methods of operation that are in the best interest of the State.

Sec. XX-9. 28-A MRSA §123, sub-§2, as amended by PL 1991, c. 95, §1, is further amended to read:

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?

Sec. XX-10. 28-A MRSA §123, sub-§4, as amended by PL 1991, c. 95, §3, is further amended to read:

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?

Sec. XX-11. 28-A MRSA §201, first ¶, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

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 must be worded as follows:

DISCOUNT LIQUOR STORE -- KITTERY

YORK EXIT -- U.S. ROUTE 1 SOUTH

Sec. XX-12. 28-A MRSA c. 15, as enacted by PL 1987, c. 45, Pt. A, §4, is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 15

AGENCY LIQUOR STORES

Sec. XX-13. 28-A MRSA §351, sub-§1, as amended by PL 1987, c. 342, §20, is further amended to read:

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

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2 A. The ~~emmission~~ bureau, after holding a public hearing
near the proposed location, may locate an agency liquor
4 store within 300 feet of a church, chapel, parish house or
~~post-seeondary~~ postsecondary school ~~when--the--location--has~~
~~the-unanimous-approval-of-the-members-of-the-emmission.~~

6
8 **Sec. XX-14. 28-A MRSA §352**, as amended by PL 1993, c. 615,
§2, is further amended to read:

10 **§352. Purchase of liquor in agency liquor stores; purchase**
12 **from commission**

14 **1. Methods of payment.** This subsection governs the methods
of payment permitted for purchases of liquor from ~~state-er~~ agency
16 liquor stores and for purchases of liquor from the commission by
agency liquor stores.

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

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

24 C. A licensee buying liquor at a ~~state~~ an agency liquor
store or from the commission must pay in cash ~~er,~~ by check
26 or other method approved by the commission.

28 D. In addition to the methods of payment permitted in
paragraph C, an agency liquor store, when approved by the
30 commission, may pay for liquor purchased from the commission
by mailing a check for payment to the commission or by other
32 method approved by the commission when notified of the
amount due or upon receiving a liquor delivery. Payments
34 that are mailed must be received or postmarked within 3 days
of receipt of a liquor delivery or notification of the
36 amount due.

38 **2. Checks not honored on presentation; consequences.** If
any check is not honored on presentation or if an agency liquor
40 store fails to pay for liquor as prescribed in subsection 1, the
bureau shall withhold any license not issued or immediately take
42 back the license if already issued, voiding that license until
such time as the check or invoice is paid in full, together with
44 the cost of the check failure or collection procedure. The
commission or bureau may order that person to make all payments
46 to the commission by cash, certified check or money order for a
period not to exceed one year.

48
50 **Sec. XX-15. 28-A MRSA §353**, as amended by PL 1993, c. 266,
§6, is further amended to read:

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2 this subsection are governed by chapter 19, except that, a
3 license may not be issued to replace the closed state liquor
4 store in Kittery unless the licensee is acceptable to the Bureau
5 of Alcoholic Beverages and Lottery Operations.

6 3. Replacement of Kittery discount store. The commission
7 shall contract with one agency liquor store licensee to replace
8 the state discount liquor store in Kittery. The replacement
9 agency liquor store must contract with the commission to sell
10 state-owned consignment inventory of spirits and fortified wines
11 at discount prices established by the commission. The contract
12 must specify the conditions of operation of the store, which need
13 not be the same as conditions applicable to other agency liquor
14 stores.

15 4. Requirement of at least one replacement agency liquor
16 store before closing. A state liquor store may not be closed
17 unless at least one replacement agency liquor store with a
18 federal wholesale registration has been licensed within 10 miles
19 of the closed state liquor store or unless the Director of the
20 Bureau of Alcoholic Beverages and Lottery Operations determines
21 that reasonable alternative access is available to persons
22 previously purchasing spirits from the closed state liquor store.

23 5. Law applicable to state liquor stores until sold. Until
24 all state liquor stores are closed, the provisions of law
25 applying to state liquor stores on January 1, 1997 continue to
26 apply to the operation of the stores remaining open and the
27 bureau and the Bureau of Alcoholic Beverages and Lottery
28 Operations continue to have authority to act under those laws as
29 if those laws were currently in effect.

30 **Sec. XX-19. 28-A MRSA §453, as amended by PL 1993, c. 380,**
31 **§§1 to 5, and affected by §7, is further amended to read:**

32 **§453. Location of agency stores**

33 **1. Location requirements.** The ~~commission~~ bureau may
34 license an agency liquor store only when the following
35 requirements are met.

36 **A.** The proposed agency liquor store is located in a
37 municipality or unincorporated place which ~~that~~ has voted in
38 favor of the operation of state liquor stores under local
39 option provisions.

40 **C.** ~~The proposed agency liquor store is not within 3.5 miles~~
41 ~~of an existing state liquor store or an existing agency~~
42 ~~liquor store that was licensed before May 1, 1993.~~

50

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2 D. If a state liquor store closes, the commission bureau
may grant more than one agency liquor store license in a
4 municipality when the commission bureau considers it
appropriate. ~~Agency-liquor-stores-licensed-before-May-1,~~
6 ~~1993-that-replace-closed-state-liquor-stores-are-exempt-from~~
~~the-distance-requirement-in-paragraph-G.~~

8 ~~2.---Replacement-of-state-or-agency-liquor-stores.---The~~
~~commission-may-not-replace-a-state-or-existing-agency-liquor~~
10 ~~store-that-closes-with-an-agency-liquor-store-if-there-is-another~~
~~state-or-existing-agency-liquor-store-within-3.5-miles.---This~~
12 ~~subsection-does-not-prevent-the-commission-from-locating--a~~
14 ~~replacement-agency-liquor-store-within-3.5-miles--of--another~~
~~replacement-agency-liquor-store-for-the-same-town.~~

16 2-A. Replacement of state liquor stores closed in fiscal
year 1991-92. The commission bureau may replace a state liquor
18 store closed after July 1, 1990 with 3 agency liquor stores if:

20 A. The agency liquor stores are within a 10-mile radius of
the location of the closed state liquor store; and

22 B. The commission bureau does not issue to a person or
24 corporation more than 2 of the 3 licenses issued to replace
a state liquor store. For purposes of this restriction,
26 each partner of a partnership, each corporation that owns an
interest in another corporation and each person who owns 20%
28 or more of the shares or other interest in a corporation is
deemed to own a license granted to the partnership or
30 corporation.

32 **Sec. XX-20. 28-A MRSA §606, sub-§1**, as repealed and replaced
by PL 1993, c. 276, §2, is amended to read:

34 1. **Purchase of liquor.** Subject to the restrictions
36 provided in subsection 1-A, a person licensed to sell spirits
must purchase liquor from a ~~state or~~ an agency liquor store.
38 Licensees may purchase liquor for resale from the agency discount
40 liquor store at the same price permitted for purchase of liquor
for resale from any agency liquor store that does not offer a
42 retail discount. This subsection does not apply to public
service corporations operating interstate.

44 **Sec. XX-21. 28-A MRSA §606, sub-§1-A, ¶A**, as repealed and
replaced by PL 1993, c. 276, §3, is repealed.

46 **Sec. XX-22. 28-A MRSA §606, sub-§1-B**, as enacted by PL 1991,
48 c. 622, Pt. K, §8, is repealed.

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2 **Sec. XX-23. 28-A MRSA §606, sub-§4**, as amended by PL 1987, c. 342, §29, is further amended to read:

4 **4. Discount for agency liquor stores.** The commission shall
6 sell spirits and fortified wines to agency liquor stores for a
price of at least 8% less than the real list price established
8 ~~for the state liquor stores under chapters 65 and 67.~~

10 **Sec. XX-24. 28-A MRSA §606, sub-§8**, as enacted by PL 1995, c. 53, §1, is amended to read:

12 **8. Limits on price.** An agency liquor store may not sell
14 ~~liquor at any price equal to or higher than the retail sales~~
~~spirits and fortified wine for less than 103% of the price paid~~
16 ~~by the agency liquor store. An agency liquor store may not sell~~
~~spirits to persons other than on-premises licensees for more than~~
18 ~~the list price set in accordance with chapters 65 and 67.~~

20 **Sec. XX-25. 28-A MRSA §708, sub-§5**, as enacted by PL 1993, c. 615, §4, is amended to read:

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

28 **Sec. XX-26. 28-A MRSA §1651, sub-§1**, as amended by PL 1993, c. 615, §5, is further amended to read:

30 **1. State liquor tax.** Except as provided in subsection 2,
32 the commission shall determine and set the list price at which to
sell all spirits and fortified wine that will produce a an
34 ~~aggregate~~ state liquor tax ~~of not less than 65% based on the~~
~~delivered case cost F.O.B. liquor warehouse~~ sufficient to pay all
36 liquor related expenses of the Bureau of Alcoholic Beverages and
Lottery Operations and to return to the General Fund an amount
38 substantially equal to the amount of state liquor tax collected
in the previous fiscal year. With the exception of the discount
40 agency liquor store in Kittery, list prices must be uniform
statewide.

42 C. The commission shall add any cost to the State related
44 to handling containers returned for refund pursuant to Title
32, section 1863-A to the established price without markup.

46 **Sec. XX-27. 28-A MRSA §1651, sub-§2, ¶C**, as amended by PL
48 1995, c. 181, §1, is further amended to read:

50 C. Notwithstanding the other provisions of this section,
with approval of the Commissioner of Administrative and

2 Financial Services, the commission may reduce the price of
3 discontinued or slow-selling items of liquor and fortified
4 wine. ~~The reduced price may not be less than the actual
5 cost of the discontinued liquor items.~~

6 Sec. XX-28. 28-A MRSA §1651, sub-§2, ¶E, as enacted by PL
7 1987, c. 45, Pt. A, §4, is amended to read:

8
9 E. Notwithstanding the other provisions of this section,
10 the commission may establish special prices on certain
11 listed ~~liquor~~ spirits and fortified wine items to be made
12 available to the consumer at ~~all state stores~~. These
13 special prices must may not be lower than the price
14 established for the same listed item at the 2 discount state
15 agency liquor stores ~~store~~ authorized under section 403 411,
16 subsection 3.

17 Sec. XX-29. 28-A MRSA §2073, sub-§3, ¶¶B to F, as enacted by PL
18 1987, c. 45, Pt. A, §4, are amended to read:

19
20 B. For-hire carriers and contract carriers, authorized by
21 the Department of Public Safety, may transport liquor to
22 state agency liquor stores, to liquor warehouses, to
23 licensees, to purchasers of liquor at state agency liquor
24 stores and from manufacturers to liquor warehouses, state
25 agency liquor stores and to the state line for
26 transportation outside the State.

27
28 C. Licensees may transport liquor from state agency liquor
29 stores to their places of business.

30
31 D. Manufacturers may transport liquor within the State to
32 liquor warehouses ~~and state liquor stores~~, to persons
33 authorized under paragraph E and to the state line for
34 transportation outside the State.

35
36 E. The ~~commission~~ bureau may permit in writing the
37 importation of liquor into the State and the transportation
38 of liquor from ~~place to place~~ place-to-place within the
39 State to the following destinations for the specified
40 purposes:

41
42 (1) To hospitals and state institutions, for medicinal
43 purposes only, liquor made available to them from
44 stocks of liquor seized by the Federal Government;

45
46 (2) To industrial establishments in the State for
47 industrial uses;

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2 (3) To schools, colleges and state institutions for
laboratory use only;

4 (4) To any licensed pharmacist in the State for use in
6 the compounding of prescriptions and other medicinal
use, but not for sale by pharmacists unless compounded
8 with or mixed with other substances; or

10 (5) To any physician, surgeon, osteopath,
chiropractor, optometrist, dentist or veterinarian for
12 medicinal use only.

14 F. The ~~commission~~ bureau may authorize hospitals and state
institutions to purchase liquor, for medicinal purposes
16 only, from wholesale licensees and state agency liquor
stores. ~~Such~~ This authorization must be in writing.

18 **Sec. XX-30. 28-A MRSA §2075, sub-§2**, as amended by PL 1993, c.
20 730, §47, is further amended to read:

22 **2. Transportation of spirits within the State.** No A person
may not transport or cause to be transported any spirits within
24 the State in a quantity greater than 4 quarts unless the spirits
were purchased from ~~a-state-er~~ an agency liquor store.

26 **Sec. XX-31. 28-A MRSA §2076, sub-§1**, as enacted by PL 1987, c.
28 45, Pt. A, §4, is amended to read:

30 **1. Delivery of liquor.** Except with the ~~commission's~~
bureau's written permission, ~~no~~ a person may not knowingly
32 transport to or cause to be delivered to any person other than
the ~~commission~~ any spirits not purchased from ~~a-state-liquor~~ an
agency liquor store or the ~~commission~~.

34 **Sec. XX-32. 28-A MRSA §2229**, as enacted by PL 1987, c. 45,
36 Pt. A, §4, is amended to read:

38 **§2229. Disposal of forfeited liquors**

40 **1. Court or judge to order forfeited liquor to be turned**
over to the commission. All ~~liquors~~ spirits declared forfeited
42 by a court under this Title shall must, by order of the court
rendering the final judgment, be turned over to the ~~commission~~
44 bureau. All malt liquor or wine declared forfeited by a court
under this Title must, by order of the court rendering final
46 judgment, be turned over to the bureau. Liquor forfeited under
this section must be disposed of in the same manner as abandoned
48 liquor under section 2230.

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~~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.~~

3. 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 must be destroyed in an environmentally approved manner.

Sec. XX-33. 28-A MRSA §2230, sub-§2, ¶B, as enacted by PL 1993, c. 730, §51, is amended to read:

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 spirits, malt liquor or wine ~~and shall transfer any spirits to the commission for sale at state liquor stores.~~

Sec. XX-34. Assistance to employees. The State shall provide assistance, within existing programs, to employees who are laid off as a result of the closing of state liquor stores and the contracting of wholesale liquor functions. This assistance may include, but is not limited to, retraining, career planning and assistance in obtaining other employment and may be provided before or after an employee leaves state employment.

Sec. XX-35. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1997-98	1998-99
EDUCATION, DEPARTMENT OF		
General Purpose Aid for Local Schools		
All Other	\$3,662,882	\$3,091,489

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2 Provides funds to increase
amounts available for
4 out-of-district placements.

6 DEPARTMENT OF EDUCATION
TOTAL 3,662,882 3,091,489

8
10 Sec. XX-36. Allocation. The following funds are allocated
12 from the Alcoholic Beverage Fund to carry out the purposes of
this Part.

14 1997-98 1998-99

16 ADMINISTRATIVE AND FINANCIAL
18 SERVICES, DEPARTMENT OF

Alcoholic Beverages - General Operation

20			
22	Positions - Legislative Count	(-101,000)	(-101,000)
	Positions - FTE Count	(-5,784)	(-5,784)
24	Personal Services		(3,866,438)
	All Other	(684,920)	(1,539,173)
26	TOTAL	<u>(684,920)</u>	<u>(5,405,611)</u>

28 Provides for the deallocation
30 of funds in Personal Services
and All Other as a result of
32 closing state-run liquor
stores.

34 Alcoholic Beverages - General Operation

36 All Other (581,211) (590,510)

38 Provides for the deallocation
40 of funds as a result of
closing the state-run liquor
42 stores. The deallocation is
related to freight expense.

44 DEPARTMENT OF ADMINISTRATIVE
AND FINANCIAL SERVICES

46 TOTAL (1,266,131) (5,996,121)

48 SECTION XX-36

50 TOTAL ALLOCATIONS (\$1,266,131) (\$5,996,121)

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2
4 Further amend the amendment by relettering or renumbering
any nonconsecutive Part letter or section number to read
consecutively.

6
8 **FISCAL NOTE**

10
12 **APPROPRIATIONS/ALLOCATIONS**

	1997-98	1998-99
12 General Fund	\$3,662,882	\$3,091,489
14 Other Funds	(1,266,131)	(5,996,121)

16
18 **REVENUES**

20 General Fund \$3,662,882 \$3,091,489

22 This amendment will have no net effect on General Fund
24 appropriations and revenue and a balanced budget is maintained
for fiscal year 1997-98 and fiscal year 1998-99.

26
28 **SUMMARY**

30 This amendment strikes Part L of the committee amendment,
32 which generated \$3,000,000 in additional General Fund revenue in
fiscal year 1998-99 by allowing greater liquor pricing
flexibility, authorizing discounts to licensees and by
34 authorizing the opening of up to 2 discount liquor stores at Exit
3 of the Maine Turnpike.

36 This amendment proposes to close all state-operated liquor
38 stores by August 31, 1997 and to privatize the sale of liquor in
Maine. It also provides that additional General Fund revenue
40 realized from privatization be appropriated to out-of-district
placements.

42
44 SPONSORED BY: Mary Small
(Senator SMALL)

46 COUNTY: Sagadahoc