

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date June 27, 1975

To John P. Sullivan, Commissioner Dept. Finance & Administration

From Joseph E. Brennan, Attorney General Dept. Attorney General

Subject Purchase of Liquor by Licensees at Kittery Store

This will reply to your memo dated June 26, 1975, requesting our interpretation of the last sentence of 28 M.R.S.A. § 451. We understand your question to be whether the Liquor Commission, with the approval of the Commissioner of Finance and Administration, has authority to preclude licensees from purchasing liquor at the Kittery store at the reduced retail price established for that store. For the reasons that follow, it is our opinion that the Liquor Commission does have such authority.

28 M.R.S.A. § 451 provides in pertinent part as follows:

"Notwithstanding the other provisions of this section, the commission, with the approval of the Commissioner of Finance and Administration, may reduce the price of liquor in one store and establish at that store the price to which the 10% discount in section 204 shall be applicable  
\*\*\*\*.

"The Commission is specifically authorized to make such rules and regulations as they deem necessary for carrying out this paragraph."

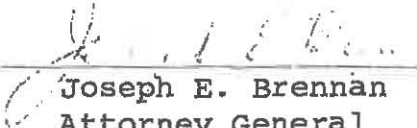
It is our understanding that pursuant to the foregoing provision, the Commission, with the approval of the Commissioner of Finance and Administration, has reduced the price of liquor in one store in Kittery 30% and established that the 10% discount afforded to licensees shall be applied to the retail price for liquor in all other stores in the State. In other words, the Commission has established a uniform 10% discount for all licensees purchasing liquor for resale, whether purchased in the Kittery store or some other State store.

Since the reduced retail price at the Kittery store is substantially less than the price paid for liquor by licensees elsewhere throughout the State even with the 10% discount, the question becomes whether the Commission has authority to preclude licensees from taking advantage of the reduced retail price.

The Commission exercises broad supervisory authority over its licensees. Pursuant to 38 M.R.S.A. § 55 the Commission has general supervisory power over the purchase and sale of all liquors. Under § 451 there is specific rule making authority to implement the Commission's reduced retail price policy in the Kittery store. Since, in our view it is reasonable for the Commission to establish a uniform discount for all licensees throughout the State, such uniformity may reasonably be enforced by precluding licensees from purchasing liquor at the reduced retail price which is lower than the price paid for liquors by licensees pursuant to the 10% discount.

We hasten to add that the adoption of the requisite rules and regulations to implement the uniform policy must be accomplished pursuant to the administrative code, 5 M.R.S.A. §§ 2301 et seq. which provides for prior notice and publication of the proposed rules and regulations, affording persons an opportunity to submit suggestions, with respect thereto, prior approval by the Attorney General's office and filing with the Secretary of State.

JEB/mf

  
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Joseph E. Brennan  
Attorney General