

MAINE STATE LEGISLATURE

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Memorandum Date 7/13/76

To John P. O'Sullivan, Commissioner Dept. Finance and Administration
From Joseph E. Brennan Dept. Attorney General
Subject Closing of State Liquor Stores

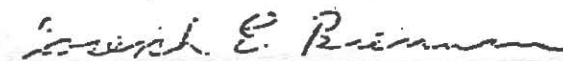
This responds to your request for an opinion dated June 9, 1976, in which you posed the question:

"Does the legislative intent of 28 M.R.S.A. § 153 prohibit the State Liquor Commission from closing a State Liquor Store and replacing it with an agency store, where the Commission deems it appropriate?"

In our view, 28 M.R.S.A. § 153 does not prohibit the State Liquor Commission from closing a State Liquor Store and replacing it with an agency store.

The relevant provisions of law are stated in 28 M.R.S.A. § 153. This section was last amended by P.L. 1975, Chapter 770, § 135 (effective July 30, 1976). As this opinion is for future effect, this latest amendment is discussed. However, this opinion would be no different were it an interpretation of existing law. Section 153 grants the State Liquor Commission authority to license and regulate agency stores in cities, towns and unorganized territories "where there are no state stores." Thus, an agency store could not be opened and operated where a State store existed. However, if a State store were closed first and then an agency store opened, there would be no State store at the time of opening of the agency store and the statute would be complied with.

This interpretation of legislative intent is confirmed by the fact that during the most recent special session of the Legislature, the Legislature approved and sent to the Governor L.D. 1964 which specifically addressed closing of State liquor stores. The purposes for which closings were allowed under L.D. 1964 were related to such matters as moving a store from one location to another and failure of a store to generate adequate revenues for operation. The purposes did not include substitution of an agency store. L.D. 1964, although adopted by the Legislature, has not been signed by the Governor. Therefore, it did not become law and the fact that it did not become law confirms the interpretation of the statute that without it, State stores may be closed for the purpose of substituting agency stores.


JOSEPH E. BRENNAN
Attorney General

JEB/ec

cc: Honorable Joseph Sewall
Honorable John L. Martin