

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

JOSEPH E. BRENNAN
ATTORNEY GENERAL

Liquor: Agency Store - Hours
" : Closing State Store

28 M.R.S.A. 53
28 " 154



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

June 16, 1978

Honorable Luman Mahany
Easton
Maine 04740

Dear Representative Mahany:

You requested in a June 15, 1978, telephone conversation with Deputy Attorney General Donald G. Alexander that the Attorney General's Department answer the following two questions:

1. Can the Bureau of Alcoholic Beverages close State liquor stores without a hearing?
2. If an agency store is established in a town, does the municipality have authority to set the hours that the agency store may be open?

ANSWERS:

1. The State Liquor Commission has the authority to close State liquor stores within the powers granted to it by 28 M.R.S.A. § 53 to establish the policy, rules and regulations pertaining to the administration and enforcement of the liquor laws.

2. No, the State Liquor Commission has by statute, 28 M.R.S.A. § 154, the power to establish the hours of operation of a State agency liquor store within the time span of 9 a.m. and midnight.

REASON 1:

A close review of the State liquor laws reveals no specific reference to the closing of State liquor stores. In the absence of such statutory direction, it is our opinion that the Legislature by necessary implication has given the State Liquor Commission the authority to close State liquor stores without a hearing when it granted to the State Liquor Commission power to ". . . establish the policy, rules and regulations pertaining to the administration and enforcement of the liquor laws." 28 M.R.S.A. § 53. This conclusion is bolstered by the fact that the State Liquor Commission has been given specific authority "to have control and supervision of the purchase, importation, transport and sale of alcohol." (emphasis supplied) 28 M.R.S.A. § 53, sub-§ 4.

REASON 2:

The Legislature has specifically established the hours within which State liquor stores and agency stores may be open, as follows:

"State retail liquor stores and state agency stores may be open for the sale and delivery of liquor between the hours of 9 a.m. and midnight in municipalities and unincorporated places which have voted affirmatively on section 101, subsection 1. . . ." 28 M.R.S.A. § 154.

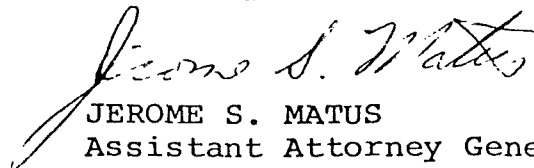
In addition, the statute provides, in pertinent part:

". . . The State Liquor Commission shall establish the hours of operation of each state retail liquor store and state agency store." 28 M.R.S.A. § 154.

In view of the foregoing, it is clear that a municipality has no authority to set the hours that an agency store may be open.

I trust we have given you the information you requested.

Sincerely,


JEROME S. MATUS
Assistant Attorney General

JSM/ec

cc: Keith. Ingraham

Director, Bureau of Alcoholic Beverages