

MAINE STATE LEGISLATURE

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(EMERGENCY)
(After Deadline)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document NO. 1789

H.P. 1311 House of Representatives, June 9, 1987
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Legal Affairs suggested and
ordered printed.
EDWIN H. PERT, Clerk
Presented by Representative PERRY of Mexico.
Cosponsored by Representatives MURPHY of Berwick, PRIEST
of Brunswick, and Senator KANY of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

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**AN ACT to Provide Discretion to the State
Liquor Commission to Establish
Temporary Agency Liquor Stores in
Response to Natural Disasters.**

Emergency preamble. Whereas, Acts of the Legis-
lature do not become effective until 90 days after
adjournment unless enacted as emergencies; and

Whereas, the State Liquor Commission has no dis-
cretion to shorten the lengthy procedure for estab-
lishing an agency liquor store for any reason, even
when circumstances indicate that such action is war-
ranted; and

1 Whereas, if a natural disaster forces a state li-
2 quor store to close and that site or other site in
3 the area served by the state liquor store is not
4 available for a state liquor store, the area will not
5 be adequately served by the State Liquor Commission;
6 and

7 Whereas, if such a situation exists, the State
8 Liquor Commission should have the discretion to li-
9 cense an agency liquor store to serve as a replace-
10 ment on a strictly temporary basis until the state
11 liquor store can be reopened in the original or a new
12 location; and

13 Whereas, in the judgment of the Legislature,
14 these facts create an emergency within the meaning of
15 the Constitution of Maine and require the following
16 legislation as immediately necessary for the preser-
17 vation of the public peace, health and safety; now,
18 therefore,

19 Be it enacted by the People of the State of Maine as
20 follows:

21 Sec. 1. 28 MRSA §157 is enacted to read:

22 §157. Temporary replacement store

23 1. Closure; temporary replacement. If a state
24 liquor store is forced to close because of hurricane,
25 flood or other natural disaster, and the commission
26 determines that sufficient need exists, the commis-
27 sion, notwithstanding section 153, may establish a
28 temporary replacement agency liquor store in the same
29 area served by the state liquor store.

30 2. Temporary operations. An agency liquor store
31 established under this section may operate until the
32 same or new state liquor store is opened, but in no
33 case for more than 120 days.

34 3. Procedure for selection. The following proce-
35 dures apply to the establishment of a temporary re-
36 placement agency liquor store.

1 A. The commission shall give, in accordance with
2 Title 5, section 9052, public notice that a tem-
3 porary replacement agency liquor store may be es-
4 tablished in a particular municipality or unin-
5 corporated place. The commission shall request
6 all parties in the municipality or unincorporated
7 place, interested in establishing a temporary re-
8 placement agency liquor store there, to apply to
9 the commission.

10 B. The commission shall set a deadline for ap-
11 plications of no earlier than 7 days after the
12 date of the publication of the first public no-
13 tice.

14 C. The commission shall provide all applicants
15 with the necessary information for the establish-
16 ment of a temporary replacement agency liquor
17 store.

18 D. If requested, the commission shall hold a
19 hearing, according to Title 5, chapter 375, sub-
20 chapter IV, on the selection of the location for
21 the temporary replacement agency liquor store at
22 least 15 days after the date of the publication
23 of the first public notice.

24 E. The commission shall notify any applicant de-
25 nyied a license of the reasons for the denial by
26 certified mail to the mailing address given by
27 the applicant in the application for the tempo-
28 rary replacement agency store license.

29 4. Aggrieved applicants. Any applicant ag-
30 grieved by a decision made by the commission may ap-
31 peal the decision in accordance with Title 5, chapter
32 375, subchapter VII.

33 5. State liquor store employees. The commission
34 may not terminate the employment of persons employed
35 at the state liquor store which closed while the tem-
36 porary replacement agency store is in operation, but
37 shall make reasonable arrangements for their contin-
38 ued employment until they can be returned to the same
39 or new state liquor store.

1 6. Repeal. This section is repealed 90 days af-
2 ter the First Regular Session of the 113th Legisla-
3 ture adjourns.

4 Sec. 2. 28-A MRSA §457 is enacted to read:

5 §457. Temporary replacement store

6 1. Closure; temporary replacement. If a state
7 liquor store is forced to close because of hurricane,
8 flood or other natural disaster, and the commission
9 determines that sufficient need exists, the commis-
10 sion, notwithstanding section 453, may establish a
11 temporary replacement agency liquor store in the same
12 area served by the state liquor store.

13 2. Temporary operation. An agency liquor store
14 established under this section may operate until the
15 same or new state liquor store is opened, but in no
16 case for more than 120 days.

17 3. Procedure for selection. The following pro-
18 cedures apply to the establishment of a temporary re-
19 placement agency liquor store.

20 A. The commission, in accordance with Title 5,
21 section 9052, shall give public notice that a
22 temporary replacement agency liquor store may be
23 established in a particular municipality or unin-
24 corporated place. The commission shall request
25 all parties in the municipality or unincorporated
26 place, interest in establishing a temporary re-
27 placement agency liquor store there, to apply to
28 the commission.

29 B. The commission shall set a deadline for ap-
30 plications of no earlier than 7 days after the
31 date of the publication of the first public no-
32 tice.

33 C. The commission shall provide all applicants
34 with the necessary information for the establish-
35 ment of a temporary replacement agency liquor
36 store.

37 D. If requested, the commission shall hold a
38 hearing, according to Title 5, chapter 375, sub-

1 chapter IV, on the selection of the location for
2 the temporary replacement agency liquor store at
3 least 15 days after the date of the publication
4 of the first public notice.

5 E. The commission shall notify any applicant
6 denied a license of the reasons for the denial by
7 certified mail to the mailing address given by
8 the applicant in the application for the tempo-
9 rary replacement agency store license.

10 4. Aggrieved applicants. Any applicant ag-
11 grieved by a decision made by the commission may
12 appeal the decision in accordance with Title 5, chapter
13 375, subchapter VII.

14 5. State liquor store employees. The commission
15 may not terminate the employment of persons employed
16 at the state liquor store which closed while the tem-
17 porary replacement agency store is in operation, but
18 shall make reasonable arrangements for their contin-
19 ued employment until they can be returned to the same
20 or new state liquor store.

21 Emergency clause. In view of the emergency cited
22 in the preamble, section 1 of this Act shall take ef-
23 fect when approved.

24 STATEMENT OF FACT

25 This bill gives the State Liquor Commission dis-
26 cretion to establish an agency liquor store which
27 will serve as a temporary replacement for a state li-
28 quor store closed because of hurricane, flood or oth-
29 er natural disaster. The commission must first de-
30 termine that a need for the temporary agency store
31 exists, because the area usually served by the state
32 liquor store is no longer adequately served. The re-
33 strictions regarding the establishment of agency li-
34 quor stores, such as procedure and the 10-mile spac-
35 ing requirement, do not apply to these temporary re-
36 placement agency liquor stores.

37 A temporary replacement agency liquor store may
38 operate for no longer than 120 days.

1 This new section sets up a new notice and hearing
2 procedure, in accordance with the Maine Administra-
3 tive Procedure Act, the Maine Revised Statutes, Title
4 5, chapter 375, for locating a temporary replacement
5 agency liquor store which allows the commission to
6 act expeditiously while still giving interested par-
7 ties a chance to participate and be heard.

8 Employees at the state liquor store which closed
9 will not lose their jobs because of the operation of
10 the temporary replacement agency liquor store. In-
11 stead, the commission must make reasonable arrange-
12 ments to provide them with continued employment until
13 the same state liquor store, or a new one to replace
14 the old one, is opened. At the time, the employees
15 will be transferred back to that store.

16 This bill is an emergency to provide the commis-
17 sion with the authority to act quickly to remedy one
18 or more situations addressed by this bill which were
19 caused by the floods earlier this spring.

20 Because the liquor laws were recodified this ses-
21 sion, section 1 of the bill amends the current law,
22 but is repealed when the recodification takes effect
23 90 days after adjournment. Section 2, which amends
24 the recodification, takes effect 90 days after ad-
25 journment.

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