

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 270

H.P. 185

House of Representatives, February 1, 1991

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PENDLETON of Scarborough.
Cosponsored by Representative MORRISON of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Remove the State from the Liquor Business.



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

2
4 **Sec. 1. 28-A MRSA §2, sub-§1**, as enacted by PL 1987, c. 45,
Pt. A, §4, is amended to read:

6 **1. Liquor store.** "~~Agency--liquor~~ Liquor store" means a
8 person who is licensed by the commission to sell spirits to be
consumed off the premises.

10 **Sec. 2. 28-A MRSA §2, sub-§32**, as enacted by PL 1987, c. 45,
12 Pt. A, §4, is repealed.

14 **Sec. 3. 28-A MRSA §62, sub-§§1 and 5**, as enacted by PL 1987, c.
45, Pt. A, §4, are amended to read:

16 **1. Supervision of the Bureau of Alcoholic Beverages.** To
18 supervise and direct the Director of the Bureau of Alcoholic
Beverages relating to all phases of the merchandising of liquor
~~through-state-liquor-stores-and-agency-liquor-stores;~~

20 **5. Spirits for sale.** To buy and have in its possession
22 spirits for sale to the-~~public~~ retail licensees. The commission
24 shall buy spirits directly and not through the State Purchasing
Agent. All spirits must be free from adulteration and
26 misbranding. In purchases of liquor the commission shall give
priority, ~~wherever~~ whenever feasible, to those products
28 manufactured or bottled in the State;

30 **Sec. 4. 28-A MRSA §62, sub-§6**, as enacted by PL 1987, c. 45,
Pt. A, §4, is repealed.

32 **Sec. 5. 28-A MRSA §123, sub-§§2 and 4**, as repealed and replaced
34 by PL 1987, c. 342, §18, are amended to read:

36 **2. Sale of liquor for consumption off the premises on days
other than Sunday.** Shall this municipality authorize the State
38 Liquor Commission to permit the operation of state liquor stores
and ~~agency-liquor-stores--and~~ to issue licenses for the sale of
liquor to be consumed off the premises of licensed establishments
40 on days other than Sunday?

42 **4. Sale of liquor for consumption off the premises on
Sundays.** Shall this municipality authorize the State Liquor
44 Commission to permit the operation of state liquor stores and
~~agency-liquor-stores--and~~ to issue licenses for the sale of liquor
46 to be consumed off the premises of licensed establishments on
Sundays?

48 **Sec. 6. 28-A MRSA §351, sub-§1**, as amended by PL 1987, c. 342,
50 §20, is further amended to read:

2 **1. Liquor store may not be located within 300 feet of**
3 **school or church.** The commission may not establish a state
4 liquor store ~~or an agency liquor store~~ within 300 feet of any
5 public or private school, church, chapel or parish house.

6 A. The commission, after holding a public hearing near the
7 proposed location, may locate ~~an agency~~ a liquor store
8 within 300 feet of a church, chapel, parish house or
9 post-secondary school when the location has the unanimous
10 approval of the members of the commission.

12 **Sec. 7. 28-A MRSA §§353 and 354,** as enacted by PL 1987, c.
13 45, Pt. A, §4, are amended to read:

14 **§353. Business hours**

15 ~~State liquor stores and agency liquor~~ Liquor stores may be
16 open for the sale and delivery of liquor between the hours of 6
17 a.m. and midnight in municipalities and unincorporated places
18 which that have voted in favor of the operation of state liquor
19 stores under local option provisions. ~~The commission shall~~
20 ~~establish the hours of operation of each state liquor store.~~

24 **§354. Sales to minors or intoxicated persons**

25 ~~No state~~ A liquor store ~~or agency liquor store~~ may not sell
26 liquor to a minor or to a visibly intoxicated person.

28 **Sec. 8. 28-A MRSA §401, sub-§1,** as enacted by PL 1987, c. 45,
29 Pt. A, §4, is amended to read:

32 **1. Commission may lease and equip facilities; location.**
33 The commission may lease and equip in the name of the state
34 ~~stores,~~ State warehouses and other merchandising facilities for
35 the sale wholesale marketing of liquor to retail licensees which
36 are necessary to carry out the purposes of this Title. The
37 commission shall designate where the facilities will be located.

38 **Sec. 9. 28-A MRSA §§402 and 403,** as enacted by PL 1987, c.
39 45, Pt. A, §4, are repealed.

42 **Sec. 10. 28-A MRSA §§451 and 452,** as enacted by PL 1987, c.
43 45, Pt. A, §4, are amended to read:

44 **§451. Liquor stores**

45 The commission may license and regulate persons as agency
46 liquor stores on an annual, seasonal or temporary basis for the
47 purposes of selling liquor in sealed bottles, containers or
48 original packages to be consumed off the premises.

2 §452. Rules governing liquor stores

4 The commission shall adopt rules for the selection and
6 operation of agency liquor stores. These rules include, but are
8 not limited to, the following:

10 1. Location. Location of agency stores, subject to section
12 453;

14 2. Storage facilities. Storage facilities for liquor;

16 3. Handling and sale. The handling and sale of liquor;

18 4. Hours. The hours of operation;

20 5. Separation from other merchandise. The separation of
22 liquor from other merchandise in the agency liquor stores;

24 6. Size and nature of facilities. The size and nature of
26 the facilities of agency liquor stores for different quantities
28 of liquor to be sold; and

30 7. Other. Any other rules necessary to carry out the
32 purposes of this chapter, except that the commission has no
34 authority to regulate retail prices set by liquor stores.

36 Sec. 11. 28-A MRSA §453, as amended by PL 1989, c. 502, Pt.
38 B, §§26 to 28, is further amended to read:

40 §453. Location of stores

42 1. Location requirements. The commission may license an
44 agency a liquor store only when the following requirements are
46 met.

48 A. The proposed agency liquor store is located in a
50 municipality or unincorporated place which that has voted in
favor of the operation of state liquor stores under local
option provisions.

~~B. The proposed agency liquor store is located:~~

~~(1) In a municipality or unincorporated place where
there are no state liquor stores; or~~

~~(2) On an island which is within a municipality or
unincorporated place where there are state liquor
stores, but which is not connected to that municipality
or unincorporated place by bridge and which has no
state liquor stores on it.~~

2 C. The proposed agency liquor store is not within 10 miles
of an existing state liquor store ~~or agency liquor store.~~

4 **2. Replacement of liquor stores.** ~~Except as provided in~~
~~paragraph A, the~~ The commission may not replace a state ~~or agency~~
6 liquor store which that closes with an ~~agency~~ another liquor
store if there is ~~another state or agency~~ a liquor store within
8 10 miles.

10 A. ~~The commission may replace an agency liquor store if~~
~~that agency liquor store:~~

12 (1) ~~Was licensed before December 1, 1979; and~~

14 (2) ~~Is within 10 miles of a state or agency liquor~~
16 ~~store.~~

18 **3. Measurement of distances.** All distances described in
this section shall must be determined by the most reasonable
20 direct route of travel.

22 **4. Procedure for selection of liquor store location.** The
commission shall issue a license for an ~~agency~~ a liquor store
24 within a municipality or unincorporated place by the following
procedure.

26 A. The commission shall, in accordance with Title 5,
28 chapter 375, give public notice that an ~~agency~~ a liquor
store may be established in a particular municipality or
30 unincorporated place. The commission shall request all
parties in the municipality or unincorporated place,
32 interested in establishing an ~~agency~~ a liquor store there,
to apply to the commission.

34 B. The commission shall provide all applicants with the
36 necessary information for the establishment of an ~~agency~~ a
liquor store.

38 C. Upon receipt of all applications for an ~~agency~~ a liquor
40 store license in a municipality, the commission shall notify
the municipal officers of that municipality of the proposed
42 location of each applicant at least 15 days before the final
selection of an applicant or applicants by the commission.

44 D. The commission shall conduct an investigation to
46 determine the most feasible location and type of facility
for the agency liquor store.

48 E. The commission shall notify any applicant denied a
50 license the reasons for the denial by certified mail to the
mailing address given by the applicant in the application
52 for an ~~agency~~ a liquor store license.

2 **5. Aggrieved applicants.** Any applicant aggrieved by a
4 decision made by the commission may appeal the decision by filing
6 a complaint with the Administrative Court and serving a copy of
8 the complaint upon the commission. The complaint must be filed
and served within 15 days of the mailing of the commission's
decision.

10 **Sec. 12. 28-A MRSA §454,** as enacted by PL 1987, c. 45, Pt. A,
§4, is repealed.

12 **Sec. 13. 28-A MRSA §§454-A to 454-E** are enacted to read:

14 **§454-A. Applications**

16 Each applicant for a liquor store license must file an
18 application in the form prescribed by the commission. The
20 application is in addition to any other application filed with
the Bureau of Alcoholic Beverages concerning other liquor
licensing privileges.

22 **§454-B. Eligibility**

24 **1. Qualification for a license.** The commission may issue a
26 license to operate a liquor store to an applicant only upon a
28 finding that the applicant meets the eligibility requirements in
30 section 601, and that the applicant is of sound judgment and good
character, subscribes to sound business principles and meets all
requirements of financial responsibility. For purposes of this
chapter, unless otherwise indicated, the term "applicant" means:

32 A. For an applicant who is a natural person, the individual;

34 B. For an applicant that is a partnership, each person with
36 an interest in the partnership; and

38 C. For an applicant that is a corporation, the officers or
40 directors of the corporation and each shareholder with a
42 controlling interest in the corporation. In the case of a
publicly owned corporation, "controlling interest" means
direct or indirect ownership of more than 50% of the shares
of the corporation.

44 **2. Denial of license.** Finding any of the following is a
46 ground for license denial:

48 A. Conviction of a Class A, Class B or Class C crime, or
any crime of moral turpitude; or

50 B. Conviction of any local, state or federal tax law
52 violation.

2 **§454-C. Bond required**

4 Every liquor store licensee must furnish a bond with a
6 surety to the commission before conducting any business under the
8 license. The amount of the bond must be determined by the
10 commission, but may not exceed the amount of \$100,000. The
12 purpose of the bond is to insure the licensee's financial
14 responsibility and to ensure that sufficient funds are available
16 to satisfy any penalty assessed under this chapter.

18 If a licensee holds more than one license, the commission
20 may determine that only one bond is required, provided that the
22 bond covers all of the licensed operations of the licensee.

24 **§454-D. Issuance of licenses**

26 Licenses for sale and distribution of spirits in liquor
28 stores may be issued by the commission upon application and under
30 such regulations as the commission may prescribe. A person
32 licensed under this section may not sell liquor for consumption
34 on the premises where sold.

36 Any license issued by the commission applies only to the
38 applicant and the premises designated on the application, unless
40 transferred pursuant to section 605, subsection 1.

42 **§454-E. Fees**

44 The fee for a full-year license for the sale of liquor in a
46 liquor store is \$1,200. The fee for a seasonal license for the
48 sale of liquor in a liquor store is \$600. The fee for a
50 temporary license for the sale of liquor in a liquor store is
52 \$100 per month for the license period.

Sec. 14. 28-A MRSA §455, as enacted by PL 1987, c. 45, Pt. A,
§4, is amended to read:

§455. Liquor for liquor stores

~~Agency-liquor~~ Liquor stores shall must buy their liquor from
~~state-liquor-stores~~ the commission under section 606.

Sec. 15. 28-A MRSA §606, sub-§1, as amended by PL 1987, c.
342, §28, is further amended to read:

1. **All licensees must buy liquor from commission;**
exception. Except as provided in paragraph A, all persons
licensed to sell spirits shall must purchase all such liquor from
~~state-liquor-stores~~ the commission. ~~Agency-liquor~~ The commission
shall sell liquor to licensees at uniform prices to be set by the
commission and approved by the Governor. Liquor stores may not
sell liquor to retail licensees for resale.

2 A. This subsection does not apply to public service
corporations operating interstate.

4 Sec. 16. 28-A MRSA §606, sub-§4, as amended by PL 1987, c.
6 342, §29, is repealed.

8 Sec. 17. 28-A MRSA §1651, sub-§2, ¶C, as enacted by PL 1987,
c. 45, Pt. A, §4, is amended to read:

10 C. Notwithstanding the other provisions of this section,
12 with approval of the Commissioner of Finance, the commission
may reduce the price of discontinued items of liquor. The
14 reduced price must may not be less than the actual cost of
the discontinued liquor items and the commission may not
16 discontinue an item for a period of at least 6 months after
that item has been listed ~~and on sale in state liquor stores.~~

18 Sec. 18. 28-A MRSA §1651, sub-§2, ¶E, as enacted by PL 1987,
20 c. 45, Pt. A, §4, is repealed.

22 Sec. 19. 28-A MRSA §2075, sub-§2, as enacted by PL 1987, c.
24 45, Pt. A, §4, is amended to read:

26 2. **Transportation of spirits within the State.** No A person
may not transport or cause to be transported any spirits within
the State in a quantity greater than 4 quarts unless the spirits
28 were purchased from ~~a state~~ the commission or a liquor store
licensed in this State.

30 Sec. 20. 28-A MRSA §2076, sub-§1, as enacted by PL 1987, c.
32 45, Pt. A, §4, is amended to read:

34 1. **Delivery of liquor.** Except with the commission's
written permission, ne a person may not knowingly transport to or
36 cause to be delivered to any person other than the commission any
spirits not purchased from a state liquor store or the commission.

38 Sec. 21. 28-A MRSA §2229, sub-§2, as enacted by PL 1987, c.
40 45, Pt. A, §4, is amended to read:

42 2. **Sale of forfeited liquor by commission.** Except as
provided in paragraph A, the commission shall sell forfeited
44 liquor ~~in the state~~ to liquor stores throughout the State.

46 A. If any liquor is determined by the court to be unfit or
unsatisfactory for consumption or retail sale, the court may
48 order the liquor to be destroyed by any officer competent to
serve the process on which it was forfeited. The officer
50 shall make the return accordingly to the court.

(1) The liquor shall must be destroyed by pouring it
upon the ground or into a public sewer.

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STATEMENT OF FACT

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This bill eliminates state liquor stores, but continues the
state regulation of liquor stores operated by private persons and
the state regulation of wholesaling of liquor.

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