

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 488

(Filing No. S-243 )

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STATE OF MAINE  
SENATE  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 157, L.D. 488, Bill, "An Act Concerning the Operation of Agency Liquor Stores"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

Sec. 1. 28-A MRSA §453, sub-§1, ¶B, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

Sec. 2. 28-A MRSA §453, sub-§1, ¶C, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

C. The proposed agency liquor store is not within 10 3.5 miles of an existing state liquor store or an existing agency liquor store that was licensed before May 1, 1993.

Sec. 3. 28-A MRSA §453, sub-§1, ¶D, as enacted by PL 1991, c. 591, Pt. E, §34, is amended to read:

D. If a state liquor store closes, the commission may grant more than one agency store license in a municipality when the commission considers it appropriate. Agency liquor stores licensed before May 1, 1993 that replace closed state liquor stores are exempt from the distance requirement in paragraph C.

Sec. 4. 28-A MRSA §453, sub-§2, as amended by PL 1987, c. 342, §22, is further amended to read:

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

**COMMITTEE AMENDMENT**

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COMMITTEE AMENDMENT "A" to S.P. 157, L.D. 488

2 liquor store within 10 3.5 miles. This subsection does not  
3 prevent the commission from locating a replacement agency liquor  
4 store within 3.5 miles of another replacement agency liquor store  
5 for the same town.

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

8 (1) ~~Was licensed before December 1, 1979, and~~

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

11 **Sec. 5. 28-A MRSA §453, sub-§3, as enacted by PL 1987, c. 45,**  
12 **Pt. A, §4, is repealed.**

13 **Sec. 6. 28-A MRSA §453-A, sub-§§5-A and 8 are enacted to read:**

14 **5-A. Hearings on applications.** The commission, in  
15 accordance with the provisions of the Maine Administrative  
16 Procedure Act, shall conduct a hearing to take testimony,  
17 consider comment and deliberate on applications. In addition to  
18 giving any notice required by the Maine Administrative Procedure  
19 Act, the commission shall give notice of public hearing in  
20 writing to any existing agency liquor stores located within 5  
21 miles of the applicant's proposed store location by regular mail  
22 at least 15 days prior to the hearing.

23 **8. Measurement of distance.** All distances described in  
24 this section must be determined by the most reasonable direct  
25 route of travel.

26 **Sec. 7. Retroactivity.** Those sections of this Act that amend  
27 the Maine Revised Statutes, Title 28-A, section 453 apply  
28 retroactively to July 1, 1990.'

29 Further amend the bill by inserting at the end before the  
30 statement of fact the following:

31 **FISCAL NOTE**

32 This bill allows the Bureau of Alcoholic Beverages and  
33 Lottery Operations to resume its plans to open 3 agency liquor  
34 stores for every state liquor store that is closed and avoids  
35 reductions of General Fund revenues. The bill also eliminates  
36 future additional legal challenges to the bureau, which could  
37 also result in revenue losses.  
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STATEMENT OF FACT

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This amendment seeks to balance the interests of existing state and agency liquor stores and future agency liquor stores in terms of location and competition. The amendment changes the requirement that a proposed agency store may not be within 10 miles of an existing state liquor store or agency store to a requirement that a proposed agency store may not be within 3.5 miles of an existing state liquor store or existing agency store that was licensed before May 1, 1993.

Under the amendment, the State Liquor Commission may not replace a state or agency liquor store that closes with an agency store if there is another state or agency store within 3.5 miles. However, this requirement does not prevent the commission from locating replacement agency stores within 3.5 miles of another replacement agency store for the same town.

The amendment creates a public hearings process that requires the State Liquor Commission to conduct hearings on all applications for new agency stores. The commission must give notice pursuant to the Maine Administrative Procedure Act and must give written notice of the hearing date 15 days prior to the hearing to any existing agency liquor stores within 5 miles of the applicant's proposed store.

The amendment strikes language from the original bill dealing with agency liquor stores selling to on-premise licensees and the use of mail-in rebate coupons for spirits, since these issues have already been addressed in separate pieces of legislation.

The amendment also adds a fiscal note to the bill.

Reported by Senator Carey for the Committee on Legal Affairs.  
Reproduced and Distributed Pursuant to Senate Rule 12.  
(6/1/93) (Filing No. S-243)