MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1224

H.P. 909

House of Representatives, April 8, 1993

An Act Concerning the Location and Licensure of Agency Liquor Stores.

(EMERGENCY)

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

Presented by Representative KERR of Old Orchard Beach. Cosponsored by Representative: DiPIETRO of South Portland, Senator: HARRIMAN of

Cumberland.

	Emergency preamble. Whereas, Acts of the Legislature do not
2	become effective until 90 days after adjournment unless enacted as emergencies; and
4	Whereas, certain liquor stores may be in technical violation
6	of current laws; and
8	Whereas, it is not in the best interests of the State for the Department of Administrative and Financial Services to
10	enforce the laws; and
12	Whereas, in the judgment of the Legislature, these facts
14	create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and
16	safety; now, therefore,
18	Be it enacted by the People of the State of Maine as follows:
20	Sec. 1. 28-A MRSA §452, sub-§6, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:
22	Size and nature of facilities. The size and nature of
24	the facilities of agency liquor stores for different quantities of liquor to be sold; and
26 28	Sec. 2. 28-A MRSA §452, sub-§6-A is enacted to read:
20	6-A. Seasonal license. The requirements for granting a
30	6-month seasonal license; and
32	Sec. 3. 28-A MRSA $\S453$, sub- $\S1$, as amended by PL 1991, c. 591, Pt. E, $\S34$, is further amended to read:
34	
36	 Location requirements. The commission may license an agency liquor store only when the following requirements are met.
38	A. The proposed agency liquor store is located in a municipality or unincorporated place which that has voted in
40	favor of the operation of state liquor stores under local option provisions.
42	or o
	BThe-proposed-ageney-liquor-store-is-located+
44	
46	(1)In-amunicipality-orunincorporatedplacewhere there-are-no-state-liquor-stores;-or
48	(2)On-an-island-which-is-within-a-municipality-er unincerperatedplacewheretherearestateliquer
50	steres,-but-which-is-not-connected-to-that-municipality

2	erunincorporatedplacebybridgeandwhichhasne state-liquer-steres-en-it-
4	<pre>CThe-proposed-agency-liquor-store-is-not-within-l0-miles of-an-existing-state-liquor-store-or-agency-liquor-store-</pre>
б	
8	DIf-a-state-liquor-store-closes,-the-commission-may-grant more-than-one-agency-store-license-in-a-municipality-wher the-commission-considers-it-appropriate.
10	
12	Sec. 4. 28-A MRSA §453, sub-§2, as amended by PL 1987, c. 342, §22, is repealed.
14	Sec. 5. 28-A MRSA §453, sub-§2-A, as enacted by PL 1991, c. 622, Pt. K, §3, is repealed.
1 6	G., C 20 A MADGA 94F2 L 92
18	Sec. 6. 28-A MRSA §453, sub-§3, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.
20	Sec. 7. 28-A MRSA §453-A, sub-§§1, 2, 4 and 5, as enacted by PL 1991, c. 622, Pt. K, §6, are amended to read:
22	
	1. Application. The commission shall selieit-bids accept
24	applications from the general public for each agency liquor store
26	license to be issued. Fer-licenses-to-replace an existing-sterer the-commission-may-not-accept-a-bid-lower-than-l%-of-the-taxable retail-sales-of-the-store-being-replacedr-determined-for-the
28	fiscal-year-that-ended-immediately-before-the-closure-of-the
30	
	2. Public notice. The commission shall, in accordance with
32	the Maine Administrative Procedure Act, give public notice that
34	an agency liquor store may be established in a particular municipality or unincorporated place. Thecommission shall summarize - in the public - notice the bidding requirements for the
36	agency-store-license,-including-the-minimum-bid-requiredThe commissionshallrequestallparticsin-the-municipalityor
38	unincorporatedplaceinterestedinbiddingonalicenseto establishanagencyliquorstoretheretosubmitbidsand
40	applications-to-the-commission.
42	4. Notice to municipality. Upon receipt of all
44	applieations an application for an agency liquor store license in a municipality and at least 15 days before the final selection of
46	an applicant erapplieants by the commission, the commission shall notify the municipal officers of that municipality of the
48	proposed location of each <u>the</u> applicant.

5. Licensing decisions. The commission shall conduct an investigation to determine the feasibility of the location and

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	type of facility for the agency liquor store and shall issue the
2	a license to eneermoreoftheapplicants,takinginte
*	eensideration thebid effered and any other factors the
4	eemmissieneensidersapprepriate an applicant who meets the
	qualifications of section 601 and any rules of the commission
6	relating to qualifications for an agency store license.
8 .	Sec. 8. 28-A MRSA §453-A, sub-§5-A is enacted to read:
10	5-A. Hearings on applications. The commission, in
	accordance with Title 5, chapter 375, subchapter IV, shall
12	conduct a hearing to take testimony, consider comments and conduct deliberations on applications. Notice of the public
14	hearing must include, in addition to any notice required by Title
	5, chapter 375, subchapter IV, notice in writing to any existing
16	agency liquor store located within 5 miles of a license
	applicant's proposed store location by regular mail at least 15
18	days before the hearing.
	days before the mearing.
20	Sec. 9. 28-A MRSA §453-A, sub-§8 is enacted to read:
22	O Management of distances 111 distances described in
44	8. Measurement of distances. All distances described in
24	this section must be determined by the most reasonable direct
2 4	route of travel.
26	Sec. 10. 28-A MRSA §453-B, as enacted by PL 1991, c. 622, Pt.
28	K, §6, is repealed and the following enacted in its place:
	§453-B. License fees
30	
	1. Annual license. An initial annual license fee to
32	operate an agency liquor store is \$3,000 and is effective for 12
	months from the date of issuance. The fee to renew an annual
34	license to operate an agency liquor store is \$750.
36	2. Seasonal license. The initial seasonal license fee to
	operate an agency liquor store is \$1,500 and is effective for 6
38	months from the date of issuance. The fee to renew a seasonal
	license to operate an agency liquor store is \$375.
10	
- 5	Sec. 11. 28-A MRSA §456-A, as amended by PL 1991, c. 622,
12 ′	Pt. K, §7, is repealed.
: .	ic. v. A., is ishedied.
14	Sec. 12. 28-A MRSA §457, as amended by PL 1987, c. 623, §6,
± '	
16	is repealed.
16	Sec. 13. 28-A MRSA \$457-A is enacted to read:
	JCL. IJ. 40°A MINJA VYJ/*A IS ENACTED TO FEAD:

§457-A. Nontransferability of agency liquor store license

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2	If an agency liquor store is sold or conveyed, the origina
	licensee may not transfer the license to the transferee. To
4	operate an agency liquor store, the transferee must obtain a initial license.
6	· ·
	Sec. 14. Application. The Maine Revised Statutes, Title 28-A
8	section 453, subsection 1, paragraphs B and C and subsection 2 de
	not apply to state agency liquor stores licensed on or after July
10	1, 1990.
12	Sec. 15. Retroactivity. Section 14 takes effect retroactively
	to July 1, 1990.
14	
	Emergency clause. In view of the emergency cited in the
16	preamble, this Act takes effect when approved.
18	
	STATEMENT OF FACT
20	
-0	This bill provides a free-market system for the licensing of
22	all agency liquor stores. Under this bill, the 10-mile location
22	rule and the bidding procedures are eliminated and a new
24	
24	licensing and renewal fee structure is created.
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26	The bill corrects a conflict that appears to exist between
	laws enacted in 1987 and recently enacted legislation allowing
28	for the replacement of state liquor stores with private agency
	liquor stores. By repealing pertinent provisions, this bill
30	reduces confusion over acceptable locations for agency liquor
	stores licensed under the Legislature's plan to close certain
32	state liquor stores and replace them with agency liquor stores.
	The purpose of the proposed changes is to afford a smooth
34	transition for existing agency liquor store licensees and to
	provide a reasonable application procedure for future license
36	applicants.