

MAINE STATE LEGISLATURE

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L.D. 1706

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M I N O R I T Y
LEGAL AND VETERANS AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1244, L.D. 1706, Bill, "An Act to Implement the Recommendations of the Task Force on Alcoholic Beverage Sales"

Amend the bill by striking out all of the emergency preamble.

Further amend the bill in Part A by striking out all of sections 14 and 15 and inserting in their place the following:

'Sec. A-14. 28-A MRSA §6, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

1. **Advertising form subject to bureau authorization.** No person may advertise liquor within the State, except in the form specifically authorized by the ~~commission~~ bureau. Radio, television, billboards, signs, newspapers, magazines and periodicals may carry advertising subject to the rules of the ~~commission~~ bureau.'

Further amend the bill in Part A in section 18 in that part designated "~~§82.~~" in subsection 2 in the last line (page 6, line 34 in L.D.) by striking out the following: "~~bureau;~~" and inserting in its place the following: 'bureau. Rules adopted pursuant to this subsection are major substantive rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A;'

Further amend the bill in Part A in section 18 in that part designated "~~§83.~~" in subsection 3 by striking out all of the 3rd sentence (page 8, lines 20 to 22 in L.D.)

Further amend the bill in Part A in section 23 in that part designated "~~§452-A.~~" in subsection 1 in paragraph B in the 2nd line (page 12, line 8 in L.D.) by inserting after the following: "measured" the following: 'by the ordinary course of travel'

Further amend the bill in Part A in section 23 in that part designated "~~§452-A.~~" by striking out all of subsection 3 and inserting in its place the following:

'3. Other inventory. The agency liquor store shall maintain an inventory of merchandise fit for human consumption, not including alcohol or tobacco products, with a wholesale value of at least \$5,000. This subsection does not apply to agency liquor stores licensed prior to the effective date of this subsection, except that if an agency liquor store license is transferred or determined to be transferred pursuant to section 605 and a new license is issued, the new licensee must comply with the requirements of this subsection.'

Further amend the bill in Part A in section 27 by striking out all of that part designated "~~§453-E.~~" and inserting in its place the following:

'§453-E. License fees

License fees for agency liquor stores are as follows.

1. Initial Fee. The initial fee is \$2,000.

2. Renewals. The fee for renewal of any agency liquor store license is \$300.'

Further amend the bill Part A in section 31 in that part designated "~~§461.~~" in the 6th line (page 16, line 12 in L.D.) by striking out the following: "noon" and inserting in its place the following: '9 a.m.'

Further amend the bill in Part A by striking out all of section 35 and inserting in its place the following:

'Sec. A-35. 28-A MRSA §710-A is enacted to read:

§710-A. Agency liquor stores; off-premise advertising

An agency liquor store may not advertise spirits in any manner beyond the licensed premises.'

Sec. 36. 28-A MRSA §802, sub-§§2 and 3, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

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2 **2. False material statement.** Knowingly making a false
material statement of fact in the application for the license; and

4 **3. Failure to maintain requirements.** Failure to have and
maintain throughout the entire license period all of the
6 requirements of definitions, laws and rules necessary to qualify
for a license.

8 A. For this offense the Administrative Court Judge may
suspend licenses for an indefinite period of time until he
10 the judge is satisfied that the licensee has conformed to
12 all qualifications required for licensing; and

14 **Sec. A-37. 28-A MRSA §802, sub-§4** is enacted to read:

16 **4. Issuance of bad check by on-premise licensee.** Payment to
an agency liquor store by an on-premise licensee for liquor
18 purchased from the agency liquor store by a check that is not
honored on presentation.

20 **Sec. A-37. 28-A MRSA §803, sub-§1**, as amended by PL 1987, c.
22 342, §51, is further amended to read:

24 **1. Violation of law or rule.** Upon discovering a violation
of federal or state law, rule or regulation relating to liquor,
26 or an infraction of a rule issued adopted by the ~~commission~~
bureau, or other cause for license suspension or revocation under
28 section 802, the Director--of--the--Bureau--of--Liquor--Enforcement
chief, or the director's chief's designee, shall:

- 30 A. Report the violation to the Administrative Court Judge
32 in a signed complaint; or
- 34 B. Issue warnings to the licensees involved.'

36 Further amend the bill in Part A in section 45 in the 5th
line (page 22, line 32 in L.D.) by striking out the following:
38 "August 31, 1996" and inserting in its place the following:
'December 31, 1996'

40 Further amend the bill in Part A in section 45 in the 9th to
42 12th lines (page 22, lines 36 to 39 in L.D.) by striking out the
following:

44 "or unless the Director of the Bureau of Alcoholic Beverages and
46 Lottery Operations determines that reasonable alternative access
is available to persons previously purchasing spirits from the
48 state liquor store being closed"

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Further amend the bill in Part A in section 47 by inserting at the end the following: 'If transportation costs are separately charged to purchasers, the charge must be uniform for all purchasers throughout the State, regardless of location.'

Further amend the bill in Part A by striking out all of sections 50 and 51 and inserting in their place the following:

'Sec. A-50. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1996-97

PUBLIC SAFETY, DEPARTMENT OF

Bureau of Liquor Enforcement

Positions - Legislative Count	(4.0)
Personal Services	\$142,000
All Other	40,000
Capital Expenditures	68,000

Provides funds for 4 new Liquor Enforcement Officer I positions and related expenses.

DEPARTMENT OF PUBLIC SAFETY
TOTAL \$250,000

Sec. A-51. Allocation. The following funds are allocated from the Alcoholic Beverage Fund to carry out the purposes of this Part.

1996-97

ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF

Bureau of Alcoholic Beverages and
Lottery Operations

Positions - Legislative Count	(-96.0)
Positions - Other Count	(-3.0)
Personal Services	(\$1,059,620)
All Other	(1,378,342)
Capital Expenditures	50,000

TOTAL (2,387,962)

2 Deallocates funds as a result of closing all
state liquor stores by December 31, 1996. A
4 listing of positions to be eliminated is on
file in the Bureau of the Budget.

6 **Executive Branch Departments and Independent
Agencies - Statewide**

8 Personal Services 350,000

10 Allocates funds for the unfunded liability
12 and retiree health insurance savings
achieved through the position eliminations.

14
16 **DEPARTMENT OF ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(\$2,037,962)'

18 Further amend the bill in Part B by striking out all of
20 section 48.

22 Further amend the bill in Part B by striking out all of
section 76.

24 Further amend the bill by striking out the emergency clause.

26 Further amend the bill by relettering or renumbering any
28 nonconsecutive Part letter or section number to read
consecutively.

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

34 **FISCAL NOTE**

36

1996-97

38

APPROPRIATIONS/ALLOCATIONS

40

General Fund \$250,000

42

Other Funds (2,037,960)

44

REVENUES

46

General Fund \$1,400,000

48

50

This bill will result in a net increase of General Fund
revenue of \$1,400,000, which is offset by a General Fund
appropriation of \$250,000 to result in net General Fund savings

R. 28

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2 of \$1,150,000 in fiscal year 1996-97. Net General Fund savings
in fiscal years 1997-98 and 1998-99, respectively, are estimated
4 to be \$2,400,000 and \$2,600,000.

6 The Bureau of Alcoholic Beverages and Lottery Operations
within the Department of Administrative and Financial Services
8 has estimated that this bill will result in net increases in the
transfers to the General Fund from the bureau's alcoholic
10 beverages operations of approximately \$2,900,000 in fiscal year
1996-97, \$4,500,000 in fiscal year 1997-98 and \$4,400,000 in
12 fiscal year 1998-99. The privatization of retail liquor sales
represents a number of uncertainties in estimating the change in
14 net transfers to the General Fund, as a result of the lack of
control over retail prices and the effect of this on the level of
16 future sales. A more conservative estimate of the change in the
transfers, assuming lower gross profit margins for the wholesale
18 operations of the bureau and lower sales estimates, generates
additional General Fund revenue of \$900,000 in fiscal year
20 1996-97, \$2,500,000 in fiscal year 1997-98 and \$2,800,000 in
fiscal year 1998-99.

22 The effect of this change on General Fund revenue from sales
taxes and premium taxes on liquor sales is not expected to be
24 significant. However, General Fund revenue from license fees
collected by the Bureau of Liquor Enforcement within the
26 Department of Public Safety will generate additional General Fund
revenue of \$500,000 in fiscal year 1996-97 and \$75,000 annually
28 beginning in fiscal year 1997-98.

30 The Bureau of Liquor Enforcement will incur additional
enforcement costs as a result of the privatization of retail
32 liquor sales. This bill includes a General Fund appropriation of
\$250,000 in fiscal years 1996-97 for these enforcement costs,
34 which include 4 new liquor enforcement agents. Estimated costs
in fiscal years 1997-98 and 1998-99 are approximately \$200,000
36 annually.

38 This bill includes a net deallocation from the Alcoholic
Beverage Fund of \$2,037,962 to reflect the savings in the Bureau
40 of Alcoholic Beverages and Lottery Operations administrative
expenses. The estimated costs to run the alcoholic beverages
42 operations are estimated to be \$1,740,000 in fiscal year 1997-98
and \$1,375,000 in fiscal year 1998-99. These reductions in
44 administrative costs of the bureau are reflected in the estimated
increases in transfers to the General Fund.'

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COMMITTEE AMENDMENT

STATEMENT OF FACT

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This amendment, which is the minority report of the Joint Standing Committee on Legal and Veterans Affairs, does the following.

1. It removes provisions of the bill that would have lifted the current regulation of advertising of spirits. Under this amendment, all the current restrictions on advertising are maintained. In addition, this amendment prohibits off-premises advertising of spirits by agency liquor stores.

2. It exempts existing agency liquor stores from the requirement in the bill that agency stores carry at least \$5,000 of merchandise fit for human consumption. The exemption terminates when a license is transferred and a new license issued. The amendment also removes a reference to edible merchandise and replaces it with a reference to merchandise fit for human consumption.

3. It provides that liquor rules adopted by the Bureau of Liquor Enforcement are "major substantive" rules for purposes of the Maine Administrative Procedure Act. As a result, all new rules adopted by the bureau implementing state liquor laws will be subject to legislative review and approval.

4. It replaces the license fee structure proposed in the bill. Under this amendment, the initial fee for an agency liquor store is \$2,000 and the renewal fee is \$300. Under current law, an initial license is issued pursuant to a bidding procedure. Renewals, under current law, are \$300.

5. It removes the provision of the bill that would have permitted the Bureau of Alcoholic Beverages and Lottery Operations to close a state liquor store if the bureau determined that reasonable alternative access was available to persons previously purchasing spirits from the state store. Under this amendment, no state liquor store may be closed unless an agency store is opened within 10 miles of the closed state store.

6. It requires that, during the transition to privatization of the wholesale liquor business, billings by the Bureau of Alcoholic Beverages and Lottery Operations for transportation costs associated with the wholesale sale of spirits to on-premise licensees be uniform throughout the State.

7. It removes the provision of the bill that would have allowed the Bureau of Alcoholic Beverages and Lottery Operations to provide price discounts to reselling agency liquor stores.

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2 8. It provides that the license of an on-premise liquor
licensee may be suspended or revoked if the licensee attempts to
purchase liquor from an agency liquor store using a bad check.

4

6 9. It permits agency liquor stores to be open on Sunday
from 9 a.m. to 1 a.m. the next day, notwithstanding any local
option decisions to the contrary. This is consistent with a
change enacted last year to the general provision governing hours
of sale in the Maine Revised Statutes, Title 28-A, section 4.

10

12 10. It changes the date by which state stores must be
closed. Under the bill, the closure date for all state stores is
August 31, 1996. Under this amendment, the closure date is
December 31, 1996.

14

16 11. It makes technical changes to the bill and removes Part
B, section 76, which created a technical conflict with another
bill acted upon in this session.

18

20 12. It removes the emergency preamble and emergency clause
from the bill.

22

24 13. It adds a fiscal note and an appropriation and an
allocation section to the bill.