

MAINE STATE LEGISLATURE

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DATE: 3-25-97

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "LL" to COMMITTEE AMENDMENT "A" to H.P. 832, L.D. 1137, Bill, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999"

Amend the amendment by striking out all of Part L.

Further amend the amendment by inserting before the emergency clause the following:

PART XX

Sec. XX-1. 20-A MRSA §15905, sub-§1, ¶A, as amended by PL 1995, c. 632, §1, is repealed and the following enacted in its place:

A. The state board may approve projects as long as no project approval will cause debt service costs, as defined in section 15603, subsection 8, paragraph A, to exceed the maximum limits specified in Table 1 in subsequent fiscal years.

Table 1

<u>Fiscal year</u>	<u>Maximum Debt Service Limit</u>
<u>1990</u>	<u>\$ 48,000,000</u>
<u>1991</u>	<u>\$ 57,000,000</u>

HOUSE AMENDMENT

	<u>1992</u>	\$ 65,000,000
2	<u>1993</u>	\$ 67,000,000
	<u>1994</u>	\$ 67,000,000
4	<u>1995</u>	\$ 67,000,000
	<u>1996</u>	\$ 67,000,000
6	<u>1997</u>	\$ 67,000,000
	<u>1998</u>	\$ 68,200,000
8	<u>1999</u>	\$ 72,000,000
	<u>2000</u>	\$ 74,500,000

10 **Sec. XX-2. 28-A MRSA §2, sub-§8-B** is enacted to read:

12 **8-B. Commission.** "Commission" means the State Liquor and
14 Lottery Commission.

16 **Sec. XX-3. 28-A MRSA §2, sub-§25-A**, as enacted by PL 1989, c.
18 526, §§1 and 28, is amended to read:

20 **25-A. Retail employee.** "Retail employee" means any person
22 employed by a retailer ~~or by the commission~~ to sell liquor in a
24 licensed establishment or state in an agency liquor store. For
the purposes of violations of this Title and rules of the
~~commission bureau~~, a retail employee ~~shall be~~ is deemed an agent
of the retailer or state agency liquor store that employs that
employee.

26 **Sec. XX-4. 28-A MRSA §2, sub-§32**, as amended by PL 1993, c.
28 462, §4, is repealed.

30 **Sec. XX-5. 28-A MRSA §62, first ¶**, as amended by PL 1993, c.
32 730, §15, is further amended to read:

34 The ~~State Liquor Commission~~ commission shall establish the
policy and rules concerning the administration and operation of
the state liquor ~~stores~~ operations. The commission has the
following powers:

36 **Sec. XX-6. 28-A MRSA §62, sub-§1**, as enacted by PL 1987, c.
38 45, Pt. A, §4, is amended to read:

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

46 **Sec. XX-7. 28-A MRSA §62, sub-§§5 and 6**, as amended by PL
48 1993, c. 730, §17, are amended to read:

50 **5. Spirits for sale.** To buy and have in its possession
spirits for sale to ~~the--public~~ agency liquor stores. The

commission shall buy spirits directly and not through the State
Purchasing Agent. All spirits must be free from adulteration and
misbranding; and

6. **Sell to agency liquor stores.** To sell ~~at retail in~~
~~state liquor stores in original packages, either over the counter~~
~~or by shipment to points~~ to agency liquor stores for resale
within the State, spirits of all kinds for consumption off the
premises ~~at state liquor stores to be operated under the~~
~~direction of the commission.~~

Sec. XX-8. 28-A MRSA §72-A, sub-§2, as enacted by PL 1991, c.
376, §49, is amended to read:

2. **Manage purchase of spirits and sale of alcoholic
beverages.** Manage the purchase of spirits from holders of
approval certificates and sale of alcoholic beverages through
~~state-operated retail stores,~~ agency liquor stores and licensees
in accordance with applicable laws and rules;

Sec. XX-9. 28-A MRSA §72-A, sub-§9, as amended by PL 1991, c.
780, Pt. Y, §128, is further amended to read:

9. **Investigate and recommend changes.** Carry on a
continuous study and investigation of the sale of alcoholic
beverages throughout the State and the operation and
administration of the ~~state-operated retail stores~~ state
operations and recommend to the commission and the commissioner
any changes in the laws or rules and methods of operation that
are in the best interest of the State.

Sec. XX-10. 28-A MRSA §123, sub-§2, as amended by PL 1991, c.
95, §1, is further amended to read:

2. **Sale of liquor for consumption off the premises on days
other than Sunday.** Shall this municipality authorize the State
~~Liquor Commission~~ to permit the operation of ~~state liquor stores~~
and agency liquor stores on days other than Sunday?

Sec. XX-11. 28-A MRSA §123, sub-§4, as amended by PL 1991, c.
95, §3, is further amended to read:

4. **Sale of liquor for consumption off the premises on
Sundays.** Shall this municipality authorize the State ~~Liquor~~
~~Commission~~ to permit the operation of ~~state liquor stores~~ and
agency liquor stores on Sundays?

Sec. XX-12. 28-A MRSA §201, first ¶, as enacted by PL 1987, c.
45, Pt. A, §4, is amended to read:

2 In order to increase state revenues and to attract more of
4 the tourist trade to the state discount liquor store in Kittery,
6 the Maine Turnpike Authority shall erect and maintain a guidepost
no more than one mile north of the York toll station on the
southbound side of the Maine Turnpike. The guidepost shall must
be worded as follows:

8 DISCOUNT LIQUOR STORE -- KITTERY

10 YORK EXIT -- U.S. ROUTE 1 SOUTH

12 **Sec. XX-13. 28-A MRSA c. 15**, as enacted by PL 1987, c. 45, Pt.
14 A, §4, is amended by repealing the chapter headnote and enacting
the following in its place:

16 **CHAPTER 15**

18 **AGENCY LIQUOR STORES**

20 **Sec. XX-14. 28-A MRSA §351, sub-§1**, as amended by PL 1987, c.
22 342, §20, is further amended to read:

24 1. **Agency liquor store may not be located within 300 feet**
26 **of school or church.** The ~~commission~~ bureau may not establish a
state-liquor-store-or license an agency liquor store within 300
feet of any public or private school, church, chapel or parish
house.

30 A. The ~~commission~~ bureau, after holding a public hearing
32 near the proposed location, may locate an agency liquor
store within 300 feet of a church, chapel, parish house or
34 ~~post-secondary~~ postsecondary school ~~when the location has~~
~~the unanimous approval of the members of the commission.~~

36 **Sec. XX-15. 28-A MRSA §352**, as amended by PL 1993, c. 615,
§2, is further amended to read:

38 **§352. Purchase of liquor in agency liquor stores; purchase**
40 **from commission**

42 1. **Methods of payment.** This subsection governs the methods
of payment permitted for purchases of liquor from ~~state or~~ agency
44 liquor stores and for purchases of liquor from the commission by
agency liquor stores.

46 A. An agency liquor store may accept payment for liquor
48 purchases by cash, check or major credit card.

50 ~~By a person, other than a licensee, buying liquor at a~~
~~state liquor store must pay in cash or by major credit card.~~

2 C. A licensee buying liquor at a ~~state~~ an agency liquor
store or from the commission must pay in cash ~~or~~ by check
4 or other method approved by the commission.

6 D. In addition to the methods of payment permitted in
paragraph C, an agency liquor store, when approved by the
8 commission, may pay for liquor purchased from the commission
by mailing a check for payment to the commission or by other
10 method approved by the commission when notified of the
amount due or upon receiving a liquor delivery. Payments
12 that are mailed must be received or postmarked within 3 days
of receipt of a liquor delivery or notification of the
14 amount due.

16 **2. Checks not honored on presentation; consequences.** If
any check is not honored on presentation or if an agency liquor
18 store fails to pay for liquor as prescribed in subsection 1, the
bureau shall withhold any license not issued or immediately take
20 back the license if already issued, voiding that license until
such time as the check or invoice is paid in full, together with
22 the cost of the check failure or collection procedure. The
commission or bureau may order that person to make all payments
24 to the commission by cash, certified check or money order for a
period not to exceed one year.

26 **Sec. XX-16. 28-A MRSA §353**, as amended by PL 1993, c. 266,
28 §6, is further amended to read:

30 **§353. Business hours**

32 ~~State-liquor-stores-and-agency~~ Agency liquor stores may be
open for the sale and delivery of liquor between the hours of 6
34 a.m. and 1 a.m. in municipalities and unincorporated places that
have voted in favor of the operation of state agency liquor
36 stores under local option provisions. Notwithstanding any local
option decisions to the contrary, ~~state-liquor-stores-and~~ agency
38 liquor stores may be open from noon Sunday to 1 a.m. the next
day. ~~The-commission-shall-establish-the-hours-of-operation-of~~
40 ~~each-state-liquor-store.~~

42 **Sec. XX-17. 28-A MRSA §§354 and 355**, as enacted by PL 1987,
c. 45, Pt. A, §4, are amended to read:

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

46 ~~No-state-liquor-store-or~~ An agency liquor store may not sell
48 liquor to a minor or to a visibly intoxicated person.

50 **§355. Closed in cases of riots; hurricanes; flood**

2 The Governor or the commission may, in cases of riots,
hurricanes and floods, order any or all ~~state-liquor-stores-or~~
4 agency liquor stores to close.

6 Sec. XX-18. 28-A MRSA c. 17, as amended, is repealed.

8 Sec. XX-19. 28-A MRSA c. 18 is enacted to read:

10 CHAPTER 18

12 CLOSING STATE LIQUOR STORES

14 §411. State liquor stores closed

16 1. Closing by August 31, 1997. The Bureau of Alcoholic
18 Beverages and Lottery Operations shall take any action necessary
to close all state liquor stores as expeditiously as possible
with the goal of closing all state liquor stores by August 31,
20 1997.

22 2. Replacement of state liquor stores. The bureau may
license up to 3 agency liquor stores within a 10-mile radius of
24 each closed state liquor store except the state liquor store in
Kittery. The bureau shall license one agency liquor store that
26 must be located within a 10-mile radius of the closed state
liquor store in Kittery. The issuance of an agency liquor store
28 license and the operation of agency liquor stores licensed under
this subsection are governed by chapter 19, except that, a
30 license may not be issued to replace the closed state liquor
store in Kittery unless the licensee is acceptable to the Bureau
32 of Alcoholic Beverages and Lottery Operations.

34 3. Replacement of Kittery discount store. The commission
shall contract with one agency liquor store licensee to replace
36 the state discount liquor store in Kittery. The replacement
agency liquor store must contract with the commission to sell
38 state-owned consignment inventory of spirits and fortified wines
at discount prices established by the commission. The contract
40 must specify the conditions of operation of the store, which need
not be the same as conditions applicable to other agency liquor
42 stores.

44 4. Requirement of at least one replacement agency liquor
store before closing. A state liquor store may not be closed
46 unless at least one replacement agency liquor store with a
federal wholesale registration has been licensed within 10 miles
48 of the closed state liquor store or unless the Director of the
Bureau of Alcoholic Beverages and Lottery Operations determines
50 that reasonable alternative access is available to persons
previously purchasing spirits from the closed state liquor store.

2 **5. Law applicable to state liquor stores until sold.** Until
3 all state liquor stores are closed, the provisions of law
4 applying to state liquor stores on January 1, 1997 continue to
5 apply to the operation of the stores remaining open and the
6 bureau and the Bureau of Alcoholic Beverages and Lottery
7 Operations continue to have authority to act under those laws as
8 if those laws were currently in effect.

10 **Sec. XX-20. 28-A MRSA §453**, as amended by PL 1993, c. 380,
11 §§1 to 5, and affected by §7, is further amended to read:

12 **§453. Location of agency stores**

14 **1. Location requirements.** The commission bureau may
15 license an agency liquor store only when the following
16 requirements are met.

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

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

28 D. If a state liquor store closes, the commission bureau
29 may grant more than one agency liquor store license in a
30 municipality when the commission bureau considers it
31 appropriate. ~~Agency liquor stores licensed before May 1,~~
32 ~~1993 that replace closed state liquor stores are exempt from~~
33 ~~the distance requirement in paragraph C.~~

34 ~~2. Replacement of state or agency liquor stores. The~~
35 ~~commission may not replace a state or existing agency liquor~~
36 ~~store that closes with an agency liquor store if there is another~~
37 ~~state or existing agency liquor store within 3.5 miles. This~~
38 ~~subsection does not prevent the commission from locating a~~
39 ~~replacement agency liquor store within 3.5 miles of another~~
40 ~~replacement agency liquor store for the same town.~~

42 **2-A. Replacement of state liquor stores closed in fiscal**
43 **year 1991-92.** The commission bureau may replace a state liquor
44 store closed after July 1, 1990 with 3 agency liquor stores if:

46 A. The agency liquor stores are within a 10-mile radius of
47 the location of the closed state liquor store; and

50 B. The commission bureau does not issue to a person or

2 corporation more than 2 of the 3 licenses issued to replace
a state liquor store. For purposes of this restriction,
4 each partner of a partnership, each corporation that owns an
interest in another corporation and each person who owns 20%
6 or more of the shares or other interest in a corporation is
deemed to own a license granted to the partnership or
corporation.

8
10 **Sec. XX-21. 28-A MRSA §606, sub-§1,** as repealed and replaced
by PL 1993, c. 276, §2, is amended to read:

12 **1. Purchase of liquor.** Subject to the restrictions
provided in subsection 1-A, a person licensed to sell spirits
14 must purchase liquor from ~~a state or~~ an agency liquor store.
Licenses may purchase liquor for resale from the agency discount
16 liquor store at the same price permitted for purchase of liquor
for resale from any agency liquor store that does not offer a
18 retail discount. This subsection does not apply to public
service corporations operating interstate.

20
22 **Sec. XX-22. 28-A MRSA §606, sub-§1-A, ¶A,** as repealed and
replaced by PL 1993, c. 276, §3, is repealed.

24 **Sec. XX-23. 28-A MRSA §606, sub-§1-B,** as enacted by PL 1991,
c. 622, Pt. K, §8, is repealed.

26
28 **Sec. XX-24. 28-A MRSA §606, sub-§4,** as amended by PL 1987, c.
342, §29, is further amended to read:

30 **4. Discount for agency liquor stores.** The commission shall
sell spirits and fortified wines to agency liquor stores for a
32 price of at least 8% less than the real list price established
~~for the state liquor stores~~ under chapters 65 and 67.

34
36 **Sec. XX-25. 28-A MRSA §606, sub-§8,** as enacted by PL 1995, c.
53, §1, is amended to read:

38 **8. Limits on price.** An agency liquor store may not sell
~~liquor at any price equal to or higher than the retail sales~~
40 spirits and fortified wine for less than 103% of the price paid
by the agency liquor store. An agency liquor store may not sell
42 spirits to persons other than on-premises licensees for more than
the list price set in accordance with chapters 65 and 67.

44
46 **Sec. XX-26. 28-A MRSA §708, sub-§5,** as enacted by PL 1993, c.
615, §4, is amended to read:

48 **5. Combination packages.** Notwithstanding subsection 3,
agency liquor store licensees may offer for sale any package or
50 combination of packages of spirits that the commission has
approved for sale ~~in state liquor stores.~~

2 **Sec. XX-27. 28-A MRSA §1651, sub-§1**, as amended by PL 1993, c.
3 615, §5, is further amended to read:

4
5 **1. State liquor tax.** Except as provided in subsection 2,
6 the commission shall determine and set the list price at which to
7 sell all spirits and fortified wine that will produce a an
8 aggregate state liquor tax of not less than 65% based on the
9 delivered case cost F.O.B. liquor warehouse sufficient to pay all
10 liquor related expenses of the Bureau of Alcoholic Beverages and
11 Lottery Operations and to return to the General Fund an amount
12 substantially equal to the amount of state liquor tax collected
13 in the previous fiscal year. With the exception of the discount
14 agency liquor store in Kittery, list prices must be uniform
15 statewide.

16 C. The commission shall add any cost to the State related
17 to handling containers returned for refund pursuant to Title
18 32, section 1863-A to the established price without markup.

19 **Sec. XX-28. 28-A MRSA §1651, sub-§2, ¶C**, as amended by PL
20 1995, c. 181, §1, is further amended to read:

21 C. Notwithstanding the other provisions of this section,
22 with approval of the Commissioner of Administrative and
23 Financial Services, the commission may reduce the price of
24 discontinued or slow-selling items of liquor and fortified
25 wine. The reduced price may not be less than the actual
26 cost of the discontinued liquor items.

27 **Sec. XX-29. 28-A MRSA §1651, sub-§2, ¶E**, as enacted by PL
28 1987, c. 45, Pt. A, §4, is amended to read:

29 E. Notwithstanding the other provisions of this section,
30 the commission may establish special prices on certain
31 listed liquor spirits and fortified wine items to be made
32 available to the consumer at all state stores. These
33 special prices must may not be lower than the price
34 established for the same listed item at the 2 discount state
35 agency liquor stores store authorized under section 403 411,
36 subsection 3.

37 **Sec. XX-30. 28-A MRSA §2073, sub-§3, ¶¶B to F**, as enacted by PL
38 1987, c. 45, Pt. A, §4, are amended to read:

39 B. For-hire carriers and contract carriers, authorized by
40 the Department of Public Safety, may transport liquor to
41 state agency liquor stores, to liquor warehouses, to
42 licensees, to purchasers of liquor at state agency liquor
43 stores and from manufacturers to liquor warehouses, state

2 agency liquor stores and to the state line for
transportation outside the State.

4 C. Licensees may transport liquor from state agency liquor
stores to their places of business.

6 D. Manufacturers may transport liquor within the State to
8 liquor warehouses and ~~state liquor stores~~, to persons
authorized under paragraph E and to the state line for
10 transportation outside the State.

12 E. The ~~commission~~ bureau may permit in writing the
importation of liquor into the State and the transportation
14 of liquor from ~~place-to-place~~ place-to-place within the
State to the following destinations for the specified
16 purposes:

18 (1) To hospitals and state institutions, for medicinal
purposes only, liquor made available to them from
20 stocks of liquor seized by the Federal Government;

22 (2) To industrial establishments in the State for
industrial uses;

24 (3) To schools, colleges and state institutions for
laboratory use only;

28 (4) To any licensed pharmacist in the State for use in
the compounding of prescriptions and other medicinal
30 use, but not for sale by pharmacists unless compounded
with or mixed with other substances; or

32 (5) To any physician, surgeon, osteopath,
34 chiropractor, optometrist, dentist or veterinarian for
medicinal use only.

36 F. The ~~commission~~ bureau may authorize hospitals and state
38 institutions to purchase liquor, for medicinal purposes
only, from wholesale licensees and state agency liquor
40 stores. ~~Such~~ This authorization must be in writing.

42 **Sec. XX-31. 28-A MRSA §2075, sub-§2**, as amended by PL 1993, c.
730, §47, is further amended to read:

44 **2. Transportation of spirits within the State.** No A person
46 may not transport or cause to be transported any spirits within
the State in a quantity greater than 4 quarts unless the spirits
48 were purchased from ~~a state or~~ an agency liquor store.

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

2 1. **Delivery of liquor.** Except with the ~~commission's~~
3 bureau's written permission, no a person may not knowingly
4 transport to or cause to be delivered to any person other than
5 the commission any spirits not purchased from ~~a state liquor~~ an
6 agency liquor store or the commission.

8 **Sec. XX-33. 28-A MRSA §2229**, as enacted by PL 1987, c. 45,
9 Pt. A, §4, is amended to read:

10 **§2229. Disposal of forfeited liquors**

12 1. **Court or judge to order forfeited liquor to be turned**
13 **over to the commission.** All ~~liquors~~ spirits declared forfeited
14 by a court under this Title shall must, by order of the court
15 rendering the final judgment, be turned over to the ~~commission~~
16 bureau. All malt liquor or wine declared forfeited by a court
17 under this Title must, by order of the court rendering final
18 judgment, be turned over to the bureau. Liquor forfeited under
19 this section must be disposed of in the same manner as abandoned
20 liquor under section 2230.

22 ~~2. Sale of forfeited liquor by commission. Except as~~
23 ~~provided in paragraph A, the commission shall sell forfeited~~
24 ~~liquor in the state liquor stores throughout the State.~~

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

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

36 3. **Unfit liquor.** If any liquor is determined by the court
37 to be unfit or unsatisfactory for consumption or retail sale, the
38 court may order the liquor to be destroyed by any officer
39 competent to serve the process on which it was forfeited. The
40 officer shall make the return accordingly to the court. The
41 liquor must be destroyed in an environmentally approved manner.

42 **Sec. XX-34. 28-A MRSA §2230, sub-§2, ¶B**, as enacted by PL
43 1993, c. 730, §51, is amended to read:

46 B. Secure the liquor for a period of 30 days, after which
47 time the agency shall transfer the liquor to the bureau.
48 The bureau shall dispose of any spirits, malt liquor or wine
49 ~~and shall transfer any spirits to the commission for sale at~~
50 ~~state liquor stores.~~

Alcoholic Beverages - General Operation

2			
	Positions - Legislative Count	(-101,000)	(-101,000)
4	Positions - FTE Count	(-5,784)	(-5,784)
	Personal Services		(3,866,438)
6	All Other	(684,920)	(1,539,173)
8	TOTAL	<u>(684,920)</u>	<u>(5,405,611)</u>
10	Provides for the deallocation		
	of funds in Personal Services		
12	and All Other as a result of		
	closing state-run liquor		
14	stores.		

16 Alcoholic Beverages - General Operation

18	All Other	(581,211)	(590,510)
20	Provides for the deallocation		
	of funds as a result of		
22	closing the state-run liquor		
	stores. The deallocation is		
24	related to freight expense.		

26 DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

28	TOTAL	<u>(1,266,131)</u>	<u>(5,996,121)</u>
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30 SECTION

32	TOTAL ALLOCATIONS	<u>(\$1,266,131)</u>	<u>(\$5,996,121)</u>
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34
36 Further amend the amendment by relettering or renumbering
any nonconsecutive Part letter or section number to read
consecutively.

FISCAL NOTE

40		1997-98	1998-99
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42 APPROPRIATIONS/ALLOCATIONS

44	General Fund	\$3,662,882	\$3,091,489
46	Other Funds	(1,266,131)	(5,996,121)

48 REVENUES

50	General Fund	\$3,662,882	\$3,091,489
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2 This amendment will have no net effect on General Fund
appropriations and revenue and a balanced budget is maintained
4 for fiscal year 1997-98 and fiscal year 1998-99.

6 Ongoing General Fund revenue from this amendment will more
than offset the future General Fund costs beginning in fiscal
8 year 1999-2000.

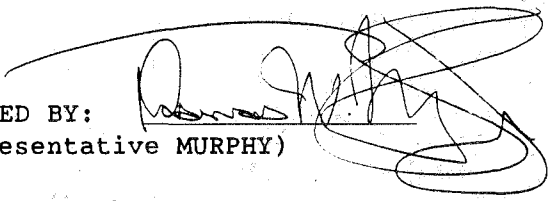
10

SUMMARY

12 This amendment repeals Part L of the committee amendment
dealing with liquor pricing and liquor operations and replaces it
14 with the Governor's original proposal, privatizing retail liquor
sales and closing all state liquor stores. This amendment uses
16 the additional General Fund revenue to fund an increase in the
maximum debt service limits for fiscal years 1997-98, 1998-99 and
18 1999-2000 and to increase funding to General Purpose Aid for
Local Schools.

20

22

24 SPONSORED BY: 
(Representative MURPHY)

26

TOWN: Kennebunk

28