

2	L.D. 1137			
4	DATE: 3-19-97 (Filing No. H-57)			
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6	Reproduced and distributed under the direction of the Clerk of the House.			
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10	STATE OF MAINE HOUSE OF REPRESENTATIVES 118TH LEGISLATURE			
12	FIRST REGULAR SESSION			
14	HOUSE AMENDMENT " \mathcal{U} " to committee amendment "A" to H.P. 832,			
16	L.D. 1137, Bill, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General			
18	Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the			
20	Fiscal Years Ending June 30, 1998 and June 30, 1999"			
22	Amend the amendment by striking out all of Part L.			
24	Further amend the amendment by inserting before the emergency clause the following:			
26	'PART XX			
28	Sec. XX-1. 28-A MRSA §2, sub-§8-B is enacted to read:			
30	8-B. Commission. "Commission" means the State Liquor and			
32	Lottery Commission.			
34	Sec. XX-2. 28-A MRSA §2, sub-§25-A, as enacted by PL 1989, c. 526, §§1 and 28, is amended to read:			
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38	25-A. Retail employee. "Retail employee" means any person employed by a retailer or-by-the-commission to sell liquor in a licensed establishment or state in an agency liquor store. For			
40	the purposes of violations of this Title and rules of the eommission <u>bureau</u> , a retail employee shall-be is deemed an agent			
42	of the retailer or state <u>agency</u> liquor store that employs that			
44	employee.			
46	Sec. XX-3. 28-A MRSA §2, sub-§32, as amended by PL 1993, c. 462, §4, is repealed.			
48	Sec. XX-4. 28-A MRSA §62, first ¶, as amended by PL 1993, c. 730, §15, is further amended to read:			
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The State-Liquor-Gommission commission shall establish the policy and rules concerning the administration and operation of the state liquor steres <u>operations</u>. The commission has the following powers:

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Sec. XX-5. 28-A MRSA §62, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

1. Supervision of the Bureau of Alcoholic Beverages. To supervise and direct the Director of the Bureau of Alcoholic Beverages relating to all phases of the merchandising of liquor through state liquer-steres operations and agency liquor stores;

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

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-chipment-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-7. 28-A MRSA §72-A, sub-§2, as enacted by PL 1991, c. 376, §49, is amended to read:

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

Sec. XX-8. 28-A MRSA §72-A, sub-§9, as amended by PL 1991, c. 40 780, Pt. Y, §128, is further amended to read:

42 9. Investigate and recommend changes. Carry on а continuous study and investigation of the sale of alcoholic throughout the State 44 beverages and the operation and administration of the state-operated--retail---stores state operations and recommend to the commission and the commissioner 46 any changes in the laws or rules and methods of operation that are in the best interest of the State. 48

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HOUSE AMENDMENT " \mathcal{U} ' to committee amendment "A" to H.P. 832, L.D. 1137

Sec. XX-9. 28-A MRSA §123, sub-§2, as amended by PL 1991, c. 95, §1, is further amended to read:

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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-10. 28-A MRSA §123, sub-§4, as amended by PL 1991, c. 10 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
 14 Commission to permit the operation of state-liquor-stores-and agency liquor stores on Sundays?

Sec. XX-11. 28-A MRSA §201, first ¶, as enacted by PL 1987, c. 18 45, Pt. A, §4, is amended to read:

In order to increase state revenues and to attract more of the tourist trade to the state discount liquor store in Kittery, 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:

DISCOUNT LIQUOR STORE -- KITTERY

YORK EXIT -- U.S. ROUTE 1 SOUTH

Sec. XX-12. 28-A MRSA c. 15, as enacted by PL 1987, c. 45, Pt. A, $\S4$, is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 15

AGENCY LIQUOR STORES

Sec. XX-13. 28-A MRSA §351, sub-§1, as amended by PL 1987, c. 342, §20, is further amended to read:

 42 1. Agency liquor store may not be located within 300 feet of school or church. The commission <u>bureau</u> may not establish-a
 44 state-liquor-store-or license an agency liquor store within 300 feet of any public or private school, church, chapel or parish
 46 house.

A. The commission <u>bureau</u>, after holding a public hearing near the proposed location, may locate an agency liquor store within 300 feet of a church, chapel, parish house or

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HOUSE AMENDMENT """ to COMMITTEE AMENDMENT "A" to H.P. 832, L.D. 1137 pest-secondary postsecondary school when-the-location-has

the-unanimous-approval-of-the-members-of-the-commission.

Sec. XX-14. 28-A MRSA §352, as amended by PL 1993, c. 615, $\S2$, is further amended to read:

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

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1. A. G.

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

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

18 B.---A-person,--other-than-a-licensee,-buying-liquor-at--a state-liquor-store-must-pay-in-eash-or-by-major-eredit-eard.

C. A licensee buying liquor at a-state an agency liquor store or from the commission must pay in cash Θ_{F} by check or other method approved by the commission.

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

2. Checks not honored on presentation; consequences. If any check is not honored on presentation or if an agency liquor 36 store fails to pay for liquor as prescribed in subsection 1, the bureau shall withhold any license not issued or immediately take 38 back the license if already issued, voiding that license until 40 such time as the check or invoice is paid in full, together with the cost of the check failure or collection procedure. The commission or bureau may order that person to make all payments 42 to the commission by cash, certified check or money order for a period not to exceed one year. 44

Sec. XX-15. 28-A MRSA §353, as amended by PL 1993, c. 266, §6, is further amended to read:

§353. Business hours

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

Sec. XX-16. 28-A MRSA §§354 and 355, as enacted by PL 1987, 12 c. 45, Pt. A, §4, are amended to read:

14 §354. Sales to minors or intoxicated persons

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No-state-liquor-store-of <u>An</u> agency liquor store may <u>not</u> sell liquor to a minor or to a visibly intoxicated person.

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

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

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

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

CHAPTER 18

CLOSING STATE LIQUOR STORES

<u>§411. State liquor stores closed</u>

 Closing by August 31, 1997. The Bureau of Alcoholic
 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, 1997.

 2. Replacement of state liquor stores. The bureau may
 license up to 3 agency liquor stores within a 10-mile radius of each closed state liquor store except the state liquor store in
 44 Kittery. The bureau shall license one agency liquor store that must be located within a 10-mile radius of the closed state
 liquor store in Kittery. The issuance of an agency liquor store license and the operation of agency liquor stores licensed under
 48 this subsection are governed by chapter 19, except that, a license may not be issued to replace the closed state liquor

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store in Kittery unless the licensee is acceptable to the Bureau of Alcoholic Beverages and Lottery Operations.

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

14 <u>4. Requirement of at least one replacement agency liquor store before closing.</u> A state liquor store may not be closed unless at least one replacement agency liquor store with a federal wholesale registration has been licensed within 10 miles of the closed state liquor store or unless the Director of the Bureau of Alcoholic Beverages and Lottery Operations determines that reasonable alternative access is available to persons previously purchasing spirits from the closed state liquor store.
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5. Law applicable to state liquor stores until sold. Until

all state liquor stores are closed, the provisions of law applying to state liquor stores on January 1, 1997 continue to
 apply to the operation of the stores remaining open and the bureau and the Bureau of Alcoholic Beverages and Lottery
 Operations continue to have authority to act under those laws as if those laws were currently in effect.

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Sec. XX-19. 28-A MRSA §453, as amended by PL 1993, c. 380, 32 §§1 to 5, and affected by §7, is further amended to read:

34 §453. Location of agency stores

36 1. Location requirements. The commission <u>bureau</u> may license an agency liquor store only when the following 38 requirements are met.

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

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

D. If a state liquor store closes, the commission <u>bureau</u> may grant more than one agency <u>liquor</u> store license in a

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it

municipality when the commission <u>bureau</u> considers appropriate. Agency-liquor-stores-licensed-before-May-l, 1993-that-replace-closed-state-liquor-stores are exempt-from the-distance-requirement-in-paragraph-C-

б 2.---Replacement--of--state-or--agency--liquor--stores.---The eemmission--may-not--replace--a-state-or--existing-agency--liquor 8 store-that-closes-with an agency-liquor store -if -there -is - another state-or-existing-agency-liquor-store-within-3.5-miles---This subsection--docs--not--prevent--the--commission--from--locating--a 10 replacement -- agency -- liquor -- store - within - 3.5- - miles -- of -- another replacement-agency-liquor-store-for-the-same-town. 12

2-A. Replacement of state liquor stores closed in fiscal year 1991-92. The commission bureau may replace a state liquor store closed after July 1, 1990 with 3 agency liquor stores if: 16

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

The commission bureau does not issue to a person or Β. corporation more than 2 of the 3 licenses issued to replace a state liquor store. For purposes of this restriction, each partner of a partnership, each corporation that owns an interest in another corporation and each person who owns 20% or more of the shares or other interest in a corporation is deemed to own a license granted to the partnership or corporation.

Sec. XX-20. 28-A MRSA §606, sub-§1, as repealed and replaced by PL 1993, c. 276, §2, is amended to read:

Purchase of liquor. Subject to the restrictions 1. provided in subsection 1-A, a person licensed to sell spirits 34 must purchase liquor from a - state - or an agency liquor store. 36 Licensees may purchase liquor for resale from the agency discount liquor store at the same price permitted for purchase of liquor for resale from any agency liquor store that does not offer a 38 retail discount. This subsection does not apply to public service corporations operating interstate. 40

Sec. XX-21. 28-A MRSA §606, sub-§1-A, ¶A, as repealed and 42 replaced by PL 1993, c. 276, §3, is repealed.

Sec. XX-22. 28-A MRSA §606, sub-§1-B, as enacted by PL 1991, c. 622, Pt. K, $\S8$, is repealed. 46

Sec. XX-23. 28-A MRSA §606, sub-§4, as amended by PL 1987, c. 342, §29, is further amended to read:

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HOUSE AMENDMENT

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4. Discount for agency liquor stores. The commission shall sell spirits <u>and fortified wines</u> to agency liquor stores for a price of <u>at least</u> 8% less than the real <u>list</u> price established for-the-state-liquor-stores <u>under chapters 65 and 67</u>.

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Sec. XX-24. 28-A MRSA §606, sub-§8, as enacted by PL 1995, c. 53, §1, is amended to read:

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

16 Sec. XX-25. 28-A MRSA §708, sub-§5, as enacted by PL 1993, c. 615, §4, is amended to read:

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

Sec. XX-26. 28-A MRSA §1651, sub-§1, as amended by PL 1993, c. 615, §5, is further amended to read:

State liquor tax. Except as provided in subsection 2, 1. the commission shall determine and set the <u>list</u> price at which to 28 sell all spirits and fortified wine that will produce a <u>an</u> 30 aggregate state liquor tax of-not-less--than-65%-based-on-the delivered-case-cost-F.O.B.-liquor-warehouse sufficient to pay all liquor related expenses of the Bureau of Alcoholic Beverages and 32 Lottery Operations and to return to the General Fund an amount substantially equal to the amount of state liquor tax collected 34 in the previous fiscal year. With the exception of the discount 36 agency liquor store in Kittery, list prices must be uniform statewide.

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

Sec. XX-27. 28-A MRSA §1651, sub-§2, ¶C, as amended by PL 1995, c. 181, §1, is further amended to read:

C. Notwithstanding the other provisions of this section,
 with approval of the Commissioner of Administrative and
 Financial Services, the commission may reduce the price of
 discontinued or slow-selling items of liquor and fortified

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HOUSE AMENDMENT " \mathcal{U} to committee amendment "a" to h.p. 832, l.d. 1137

wine. The--reduced -price-may-not-be-less-than-the-astual cost-of-the-discontinued-liquor-items.

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

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E. Notwithstanding the other provisions of this section, the commission may establish special prices on certain listed liquer <u>spirits</u> and fortified wine items to be made available to the consumer at--all--state--steres. These special prices must <u>may</u> not be lower than the price established for the same listed item at the 2 discount state <u>agency</u> liquor steres <u>store</u> authorized under section 403 <u>411</u>, <u>subsection 3</u>.

Sec. XX-29. 28-A MRSA §2073, sub-§3, ¶¶B to F, as enacted by PL 1987, c. 45, Pt. A, §4, are amended to read:

Β. For-hire carriers and contract carriers, authorized by the Department of Public Safety, may transport liquor to state <u>agency</u> liquor stores, to liquor warehouses, to licensees, to purchasers of liquor at state agency liquor stores and from manufacturers to liquor warehouses, state. line agency liquor stores and to the state for transportation outside the State.

C. Licensees may transport liquor from state <u>agency</u> liquor stores to their places of business.

D. Manufacturers may transport liquor within the State to liquor warehouses and--state--liquer--steres, to persons authorized under paragraph E and to the state line for transportation outside the State.

E. The commission <u>bureau</u> may permit in writing the importation of liquor into the State and the transportation of liquor from place--to--place <u>place-to-place</u> within the State to the following destinations for the specified purposes:

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

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

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

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

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

F. The eemmission <u>bureau</u> may authorize hospitals and state institutions to purchase liquor, for medicinal purposes only, from wholesale licensees and state <u>agency</u> liquor stores. Such <u>This</u> authorization must be in writing.

Sec. XX-30. 28-A MRSA §2075, sub-§2, as amended by PL 1993, c. 730, §47, is further amended to read:

2. Transportation of spirits within the State. No <u>A</u> person may <u>not</u> transport or cause to be transported any spirits within the State in a quantity greater than 4 quarts unless the spirits were purchased from a-state-of <u>an</u> agency liquor store.

Sec. XX-31. 28-A MRSA §2076, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

Delivery of liquor. Except with the commission's <u>bureau's</u> written permission, no <u>a</u> person may <u>not</u> knowingly
 transport to or cause to be delivered to any person other than the commission any spirits not purchased from a-state-liquor an
 aqency liquor store or the commission.

Sec. XX-32. 28-A MRSA §2229, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

§2229. Disposal of forfeited liquors

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Court or judge to order forfeited liquor to be turned
 over to the commission. All liquers spirits declared forfeited
 by a court under this Title shall must, by order of the court
 rendering the final judgment, be turned over to the commission
 bureau. All malt liquor or wine declared forfeited by a court
 under this Title must, by order of the court rendering final
 judgment, be turned over to the bureau. Liquor forfeited under
 this section must be disposed of in the same manner as abandoned
 liquor under section 2230.

2.---Sale--of - forfeited --liquor--by--commission.---Except--as 48 provided--in--paragraph--A,--the--commission--shall--sell--forfeited liquor-in-the-state-liquor-stores-throughout-the-State. 50

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A --- If -- any -- liquor -- is -determined -by - the - court -- to -be -unfit -or 2 unsatisfactory-for-consumption-or-retail-sale,-the-court-may order-the-liquor-to-be-destroyed by -any -officer-competent-to 4 serve-the-process-on-which-it-was-ferfeited.--The-officer shall-make-the-return-accordingly-to-the-courtб (1) -- The-liquor-shall-be-destroyed-by-pouring-it-upon 8 the-ground-or-into-a-public-sewer. 3. Unfit liquor. If any liquor is determined by the court 10 to be unfit or unsatisfactory for consumption or retail sale, the court may order the liquor to be destroyed by any officer 12 competent to serve the process on which it was forfeited. The officer shall make the return accordingly to the court. The 14 liquor must be destroyed in an environmentally approved manner. 16 Sec. XX-33. 28-A MRSA §2230, sub-§2, ¶B, as enacted by PL 18 1993, c. 730, §51, is amended to read: Secure the liquor for a period of 30 days, after which 20 time the agency shall transfer the liquor to the bureau. 22 The bureau shall dispose of any spirits, malt liquor or wine and-shall-transfer-any-spirits-to-the commission-for-sale-at state-liquor-stores. 24 Sec. XX-34. Assistance to employees. The State shall provide 26 assistance, within existing programs, to employees who are laid 28 off as a result of the closing of state liquor stores and the contracting of wholesale liquor functions. This assistance may include, but is not limited to, retraining, career planning and 30 assistance in obtaining other employment and may be provided before or after an employee leaves state employment. 32 34 Sec. XX-35. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of 36 this Part. 1997-98 38 1998-99 40 MENTAL HEALTH, MENTAL **RETARDATION AND SUBSTANCE** 42 **ABUSE SERVICES, DEPARTMENT OF** 44 **Community Development Fund -**MR 46 All Other \$1,831,441 \$1,545,745 48 Provides funds for day 50 programming other and

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	•	HOUSE AMENDMENT " $\mathcal U$ " to committee Amen 1137	DMENT "A" to H	.P. 832, L.D.
	2	services to people with mental retardation who are on a waiting list for services.		
	4			·
	6	DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTAN ABUSE SERVICES	NCE	
	8	TOTAL	1,831,441	1,545,745
	10	Sec. XX-36. Allocation. The foll	owing funds a	re allocated
•	12	from the Alcoholic Beverage Fund to this Part.		
	14		1997-98	1998-99
	16			
	18	ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
	20	Alcoholic Beverages - General Operation		
	22	Positions - Legislative Count Positions - FTE Count	(-101.000) (-5.784)	(-101.000) (-5.784)
	24	Personal Services	(31,01)	(3,866,438)
	26	All Other	(684,920)	(1,539,173)
	26 28	TOTAL	(684,920)	(5,405,611)
	30	Provides for the deallocation of funds in Personal Services		
		and All Other as a result of		
•	32	closing state-run liquor stores.		
	34	Alcoholic Beverages - General Operation		
	36			
	38	All Other	(581,211)	(590,510)
	40	Provides for the deallocation of funds as a result of		
	42	closing the state-run liquor stores. The deallocation is		
	44	related to freight expense.		
	46	DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		·
	48	TOTAL	(1,266,131)	(5,996,121)
	50	SECTION XX-36	<u></u>	

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TOTAL ALLOCATIONS

(\$1,266,131) (\$5,996,121)'

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

FISCAL NOTE

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1997-98 1998-99

12 APPROPRIATIONS/ALLOCATIONS

14	General Fund	\$1,831,441	\$1,545,745
	Other Funds	(1,266,131)	(5,996,121)
16			

REVENUES

General Fund \$3,662,882 \$3,091,489

This amendment will decrease the General Fund cost of the 22 bill by \$1,831,441 in fiscal year 1997-98 and \$1,545,744 in fiscal year 1998-99.

SUMMARY

28 This amendment strikes Part L of the committee amendment, which generated \$3,000,000 in additional General Fund revenue in 30 fiscal year 1998-99 by allowing greater pricing liquor flexibility, authorizing discounts to licensees and by 32 authorizing the opening of up to 2 discount liquor stores at Exit 3 of the Maine Turnpike.

This amendment proposes to close all state-operated liquor stores by August 31, 1997 and to privatize the sale of liquor in Maine. It also provides that 1/2 of the additional General Fund revenue realized from privatization be appropriated to the Department of Mental Health. Mental Retardation and Substance Abuse Services for services to people with mental retardation.

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44 SPONSORED BY:

(Representative WINSOR)

TOWN: Norway

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