

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2002**

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 30, 2002, unless otherwise indicated.

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## CHAPTER 711

H.P. 1623 - L.D. 2123

### An Act to Implement the Recommendations of the Commission to Develop a Plan to Implement the Closure of State Liquor Stores

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 28-A MRSA §2, sub-§27-A** is enacted to read:

**27-A. Reselling agent.** "Reselling agent" means an agency liquor store with a federal and state license permitting the agency liquor store to sell spirits to a retail licensee licensed for on-premises consumption.

**Sec. 2. 28-A MRSA §453**, as amended by PL 1997, c. 373, §46, is further amended to read:

#### §453. Location of agency stores

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

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

~~C. The proposed agency liquor store is not within 3.5 miles 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 bureau may grant more than one agency store license in a municipality when the bureau 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.~~

~~**2. Replacement of state or agency liquor stores.** The alcohol bureau may not replace a state liquor store and the bureau may not replace an existing agency liquor store that closes with a new agency liquor store if there is another state or existing agency liquor store within 3.5 miles. This subsection does not~~

~~prevent the bureau from locating a replacement agency liquor store within 3.5 miles of another replacement agency liquor store for the same town.~~

**2-A. Replacement of state liquor stores.** The bureau may replace a closed state liquor store ~~closed after July 1, 1990 with 3~~ with an agency liquor stores store if:

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

B. The bureau does not issue to a person or 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. 3. 28-A MRSA §453-A, sub-§§1 and 1-A**, as amended by PL 1997, c. 373, §47, are repealed.

**Sec. 4. 28-A MRSA §453-A, sub-§2**, as amended by PL 1997, c. 373, §47, is further amended to read:

**2. Public notice.** The bureau shall, in accordance with the Maine Administrative Procedure Act, give public notice that an agency liquor store may be established in a particular municipality or unincorporated place. ~~The bureau shall summarize in the public notice the bidding requirements for the agency store license, including the minimum bid required.~~ The bureau shall request all parties in the municipality or unincorporated place interested in bidding on a license to establish an agency liquor store there to submit bids and applications to the bureau.

**Sec. 5. 28-A MRSA §453-A, sub-§5**, as amended by PL 1997, c. 373, §47, is further amended to read:

**5. Licensing decisions.** The bureau shall conduct an investigation to determine the feasibility of the location and type of facility for the agency liquor store and shall issue the license to one or more of the applicants, taking into consideration ~~the bid offered and any other~~ factors the bureau considers appropriate. When considering the issuance of a license, the bureau shall consider the proximity of the proposed agency store to existing agency stores and the potential impact the location of the proposed agency store may have on an existing agency store. The bureau may deny a license if the bureau determines the proposed agency store location is in too close proximity to an existing agency store.

Sec. 6. 28-A MRSA §453-C is enacted to read:

**§453-C. Reselling agents**

**1. Agent licensed to resell spirits purchased from the commission.** An agent licensed to resell spirits and fortified wine purchased from the State to a retail licensee licensed for on-premises consumption must be licensed as a reselling agent. An agent is prohibited from reselling liquor to a retail licensee licensed for on-premises consumption except for spirits and fortified wine purchased from the commission or a state liquor store. A reselling agent may not resell fortified wine purchased from wholesalers licensed to sell beer and wine in the State.

**2. License fee.** The fee for a state license to resell spirits and fortified wine to a retail licensee licensed for on-premises consumption is \$50 annually.

Sec. 7. 28-A MRSA §605, sub-§2-A is enacted to read:

**2-A. Transfer to surviving spouse or designated heir.** When the term of the license of a deceased licensee expires, the bureau shall transfer the license for the existing location to the surviving spouse or a designated heir of the deceased licensee if the surviving spouse or designated heir submits a request for the transfer of that license at least 60 days prior to the expiration of the license. The bureau may deny the transfer of the license if the surviving spouse or designated heir does not meet all of the eligibility requirements for that license set forth in this chapter. If both the surviving spouse and the designated heir request transfer of the license, the bureau shall reissue the license by the same process used if no surviving spouse or designated heir requested that the license be transferred.

Sec. 8. 28-A MRSA §606, sub-§8, as amended by PL 1997, c. 24, Pt. L, §4, is further amended to read:

**8. Limits on price.** An agency liquor store may not sell 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. An agency liquor store shall sell all spirits and fortified wine purchased from the commission at the retail price established by the commission.

See title page for effective date.

**CHAPTER 712**

**S.P. 822 - L.D. 2202**

**An Act to Ensure that 25% of Workers' Compensation Cases with Permanent Impairment Remain Eligible for Duration-of-disability Benefits in Accordance With the Workers' Compensation Act**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 39-A MRSA §213, sub-§1,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**1. Benefit and duration.** While the incapacity for work is partial, the employer shall pay the injured employee a weekly compensation equal to 80% of the difference between the injured employee's after-tax average weekly wage before the personal injury and the after-tax average weekly wage that the injured employee is able to earn after the injury, but not more than the maximum benefit under section 211. Compensation must be paid for the duration of the disability if the employee's permanent impairment, determined according to subsection 1-A and the impairment guidelines adopted by the board pursuant to section 153, subsection 8 resulting from the personal injury is in excess of 15% to the body. In all other cases an employee is not eligible to receive compensation under this section after the employee has received 260 weeks of compensation under section 212, subsection 1, this section or both. The board may in the exercise of its discretion extend the duration of benefit entitlement beyond 260 weeks in cases involving extreme financial hardship due to inability to return to gainful employment. This authority may not be delegated to a hearing officer and such decisions must be made expeditiously.

**Sec. 2. 39-A MRSA §213, sub-§1-A** is enacted to read:

**1-A. Determination of permanent impairment.** For purposes of this section, "permanent impairment" includes only permanent impairment resulting from:

A. The work injury at issue in the determination and any preexisting physical condition or injury that is aggravated or accelerated by the work injury at issue in the determination; or

B. For dates of injury on or after January 1, 2002, the work injury at issue in the determination and: