

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 792

S.P. 259

In Senate, February 15, 2005

An Act To Allow Limited Partnerships between Brewers and Wholesalers

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HOBBS of York.
Cosponsored by Representative FISHER of Brewer and
Senator: MITCHELL of Kennebec, Representatives: OTT of York, PATRICK of Rumford.

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

2
4 **Sec. 1. 28-A MRSA §707, sub-§4**, as repealed and replaced by PL 1987, c. 342, §42, is amended to read:

6 **4. Certificate of approval holder or Maine manufacturer; interest in wholesaler or retail license.** No Except as provided in section 1363, subsection 3, a certificate of approval holder or in-state manufacturer may not have any financial interest, direct or indirect, in any:

12 A. Maine wholesale license; or

14 B. Maine retail license.

16 **Sec. 2. 28-A MRSA §1363**, as amended by PL 1997, c. 373, §118, is further amended to read:

18 **§1363. Manufacture of malt liquor or table wine; credit; furnishing materials and equipment; limited partnership**

22 **1. Certificate of approval holder not interested in wholesale license.** No Except as provided in subsection 3, an officer, director or stockholder of a corporation which that is the holder of a manufacturer's certificate of approval may not be interested, either directly or indirectly, as a director, officer or stockholder in any other corporation which that holds a wholesale license.

30 **2. Loans by certificate of approval holder.** Except as provided in paragraphs A and B and subsection 3, no a manufacturer or certificate of approval holder may not, either directly or indirectly, loan any money, credit or their equivalent to any wholesale licensee for equipping, fitting out, maintaining or conducting, either in whole or in part, a business establishment where malt liquor or wine is sold.

38 A. A certificate of approval holder may extend the usual and customary commercial credit for malt liquor or table wine sold and delivered.

42 B. A manufacturer or holder of a certificate of approval may furnish a wholesale licensee materials and equipment for the use of the wholesale licensee or the wholesale licensee's employees, such as:

46 (1) Painting the wholesale licensee's vehicles;

2 (2) Supplying legal advertising signs used by the
wholesale licensee in the course of the wholesale
licensee's business; and

4
6 (3) Supplying uniforms for the employees of the
wholesale licensee.

8 **3. Limited partnership between certificate of approval**
holder and wholesale licensee. Notwithstanding any provision of
10 this Title, a certificate of approval holder or its affiliate or
subsidiary may participate as a limited partner in a limited
12 partnership as defined in Title 31, section 402 in which the
wholesale licensee is the general partner and may lend money to
14 the partnership and to the general partner.

16 A. Notwithstanding the provisions of Title 31, section 433,
subsection 1, a certificate of approval holder or its
18 affiliate or subsidiary that participates in a limited
partnership pursuant to this subsection may not require as a
20 term or condition to any such partnership agreement that the
certificate of approval holder or its affiliate or
22 subsidiary be given any right to participate in the control
of the partnership's business.

24 B. Notwithstanding the provisions of Title 31, chapter 11,
26 a limited partnership established pursuant to this
subsection terminates within 10 years of the date of filing
28 the certificate of limited partnership pursuant to Title 31,
section 421.

30
32 **SUMMARY**

34 Currently, because brewers are not permitted by law to have
36 a financial interest in a wholesaler, brewers cannot provide
financing to prospective wholesalers who may have the necessary
38 business expertise but who lack sufficient capital with which to
buy a malt liquor distributorship.

40 This bill allows brewers and wholesalers to form limited
42 partnerships where the brewer would be the limited partner while
the wholesaler would be the general partner. Consistent with the
44 Maine Revised Uniform Limited Partnership Act, only the general
partner would be involved in day-to-day management. The bill
46 also provides a 10-year maximum term for any brewer and
wholesaler limited partnership.