

# MAINE STATE LEGISLATURE

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R.O.S.

L.D. 433

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 151, L.D. 433, Bill, "An Act to Expand Payment Options on Sales of Alcoholic Beverages by Licensees"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 28-A MRSA §705, sub-§1, as amended by PL 1993, c. 266, §9, is repealed and the following enacted in its place:

1. Sales for cash. Except as provided in subsection 1-B, a wholesale licensee, the employee of a wholesale licensee or a reselling agent as defined by section 2, subsection 27-A may not sell or offer to sell any liquor except for cash or payment by check or electronic funds transfer as provided in subsection 1-A.

Sec. 2. 28-A MRSA §705, sub-§§1-A to 1-E are enacted to read:

1-A. Electronic funds transfer. For the purposes of this section, "electronic funds transfer" means using an electronic device for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

A. Electronic funds transfers are permissible under the following conditions:

- (1) Any agreement to engage in electronic funds transfer for payment for beer or wine between manufacturers, wholesale licensees or retail licensees must be voluntary and in writing. A manufacturer,

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2 wholesale licensee or retail licensee may not refuse to  
3 do business with or otherwise limit business with  
4 another manufacturer, wholesale licensee or retail  
5 licensee for declining to pay for beer or wine by  
6 electronic funds transfer;

7  
8 (2) When electronic funds transfer is the form of  
9 payment, the form of payment must be noted on the  
10 invoice at the time of delivery and acknowledged in  
11 writing by the buyer or the buyer's employee. The note  
12 on the invoice constitutes an irrevocable promise to  
13 pay. All parties to electronic funds transfer  
14 transactions will maintain records of those  
15 transactions for two years from the date of the  
16 transaction and make those records available for  
17 inspection by the bureau upon request;

18 (3) Initiation of the electronic funds transfer must  
19 occur on the next business day after the delivery of  
20 the product;

21 (4) Parties engaging in electronic funds transfers  
22 under this section pay their own costs associated with  
23 electronic funds transfers; and

24  
25 (5) Any electronic funds transfer transaction that is  
26 not completed due to insufficient funds is subject to  
27 the provisions of the Uniform Commercial Code.

28  
29 1-B. Sales on credit. Credit may be extended:

30  
31 A. By a hotel or club to bona fide registered guests or  
32 members;

33  
34 B. By a hotel or Class A restaurant to the holder of a  
35 credit card that authorizes the holder to charge goods or  
36 credits; and

37  
38 C. By an on-premises licensee to the host of a private,  
39 prearranged function without a credit card.

40  
41 1-C. Right of action. A right of action does not exist to  
42 collect claims for credits extended contrary to this section.

43  
44 1-D. Credit for deposits. This section does not prohibit a  
45 licensee from giving credit to a purchaser for the actual amount  
46 of the deposit on beverage containers as defined in Title 32,  
47 section 1862, subsection 2 or on the packages or original  
48 containers as a credit on any sale or from paying the amount

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actually charged for such a deposit on the packages or original containers.

1-E. Goods in exchange for product prohibited; exception. A wholesale licensee or a wholesale licensee's employee or agent may not sell, offer to sell or furnish any liquor to any person on a passbook or store order or receive from any person any goods, wares, merchandise or other articles in exchange for liquor. This paragraph does not apply to beverage container deposits on packages or original containers that were originally purchased from that licensee by the person returning the packages or original containers.'

**SUMMARY**

This amendment replaces the bill. It amends the law that requires the sale of liquor between manufacturers, wholesale licensees and retail licensees to be made in cash. This amendment permits the use of electronic funds transfers to conduct those transactions.