

MAINE STATE LEGISLATURE

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1
Date: 4-11-06
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Reported by: Majority

(Filing No. S-588)

3 **Taxation**

4 Reproduced and distributed under the direction of the Secretary of the Senate.

5 **STATE OF MAINE**
6 **SENATE**
7 **122ND LEGISLATURE**
8 **SECOND REGULAR SESSION**

9 COMMITTEE AMENDMENT "A" to S.P. 792, L.D. 2048, Bill, "An Act To
10 Strengthen Maine's Craft Brewers"

11 Amend the bill in section 1 in §1653 by striking out all of subsections 2 to 4 and
12 inserting in their place the following:

13 '2. Amount of credit; schedule. A brewer eligible under subsection 1 is entitled to
14 a credit in the amount of 17.5¢ per gallon of malt liquor manufactured in this State and
15 exported for sale outside this State, calculated annually for each year the credit is claimed
16 according to the procedure in subsection 3:

17 A. For the fiscal year 2006-07, on 90% of the total amount manufactured and
18 exported in that year;

19 B. For the fiscal year 2007-08, on 80% of the total amount manufactured and
20 exported in that year, plus an additional credit of 17.5¢ per gallon on the amount in
21 excess of 110% of the amount manufactured and exported in the previous year of
22 participation;

23 C. For the fiscal year 2008-09, on 70% of the total amount manufactured and
24 exported in that year, plus an additional credit of 17.5¢ per gallon on the amount in
25 excess of 110% of the amount manufactured and exported in the previous year of
26 participation;

27 D. For the fiscal year 2009-10, on 60% of the total amount manufactured and
28 exported in that year, plus an additional credit of 17.5¢ per gallon on the amount in
29 excess of 110% of the amount manufactured and exported in the previous year of
30 participation;

31 E. For the fiscal year 2010-11, on 50% of the total amount manufactured and
32 exported in that year, plus an additional credit of 17.5¢ per gallon on the amount in
33 excess of 110% of the amount manufactured and exported in the previous year of
34 participation;

35 F. For the fiscal year 2011-12, on 40% of the total amount manufactured and
36 exported in that year, plus an additional credit of 17.5¢ per gallon on the amount in

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COMMITTEE AMENDMENT "A" to S.P. 792, L.D. 2048

1 excess of 110% of the amount manufactured and exported in the previous year of
2 participation;

3 G. For the fiscal year 2012-13, on 30% of the total amount manufactured and
4 exported in that year, plus an additional credit of 17.5¢ per gallon on the amount in
5 excess of 110% of the amount manufactured and exported in the previous year of
6 participation;

7 H. For the fiscal year 2013-14, on 20% of the total amount manufactured and
8 exported in that year, plus an additional credit of 17.5¢ per gallon on the amount in
9 excess of 110% of the amount manufactured and exported in the previous year of
10 participation;

11 I. For the fiscal year 2014-15, on 10% of the total amount manufactured and
12 exported in that year, plus an additional credit of 17.5¢ per gallon on the amount in
13 excess of 110% of the amount manufactured and exported in the previous year of
14 participation; and

15 J. For the fiscal year 2015-16, on the amount in excess of 110% of the amount
16 manufactured and exported in the previous year of participation.

17 The credit available to a brewer under this subsection may not exceed 50% of the amount
18 of excise taxes otherwise due from the brewer under section 1652.

19 **3. Procedure for claiming credit.** The credit calculated under subsection 2 on the
20 initial threshold percentage of sales for the applicable year may be claimed on the
21 brewer's monthly return under section 1652, subsection 2-A. The credit on amounts in
22 excess of 110% of the amount manufactured and exported in the applicable year may be
23 claimed on the return filed under section 1652, subsection 2-A for the last month of the
24 applicable year.

25 **4. Rules; forms.** The bureau shall adopt rules necessary for the implementation of
26 this section, including forms to be made available to brewers. Rules adopted pursuant to
27 this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-
28 A.

29 **5. Repeal.** This section is repealed March 1, 2010 unless the Commissioner of
30 Economic and Community Development certifies to the Legislature under Title 36,
31 section 6762 that the total number of new qualified employees of qualified brewers
32 statewide for which reimbursement was made under chapter 917 for calendar year 2009
33 exceeds the number of full-time equivalent employees of qualified brewers statewide for
34 calendar year 2006 by 10%.'

35 Further amend the bill by striking out all of section 2 and inserting in its place the
36 following:

37 'Sec. 2. 36 MRSA §6753, sub-§3, as enacted by PL 1995, c. 669, §5, is amended
38 to read:

39 **3. Applicant.** "Applicant" means a qualified business or a qualified brewer that has
40 submitted an application to the commissioner for approval of an employment tax
41 increment financing development program.

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1 **Sec. 3. 36 MRSA §6753, sub-§7**, as amended by PL 2005, c. 351, §22 and
2 affected by §26, is further amended to read:

3 **7. Employment tax increment.** "Employment tax increment" means that level of
4 employment, payroll and state income withholding taxes attributed to qualified
5 employees employed by a qualified business or qualified brewer above the base level for
6 the qualified business or qualified brewer, adjusted pursuant to subsection 12 for shifts in
7 employment by affiliated businesses.

8 **Sec. 4. 36 MRSA §6753, sub-§9**, as enacted by PL 1995, c. 669, §5, is amended
9 to read:

10 **9. Gross employment tax increment.** "Gross employment tax increment" means
11 that level of employment, payroll and State state income tax withholding taxes attributed
12 to qualified employees employed by a qualified business or qualified brewer that is
13 greater than the base level for the qualified business or qualified brewer.

14 **Sec. 5. 36 MRSA §6753, sub-§10-A** is enacted to read:

15 **10-A. Qualified brewer.** "Qualified brewer" means a for-profit business in this
16 State that produces malt liquor for resale and that adds one or more qualified employees
17 above its base level of employment in this State.

18 **Sec. 6. 36 MRSA §6753, sub-§12**, as amended by PL 2005, c. 351, §23 and
19 affected by §26, is further amended to read:

20 **12. Qualified employees.** "Qualified employees" means new, full-time employees
21 hired in this State by a qualified business or qualified brewer and for whom a retirement
22 program subject to the Employee Retirement Income Security Act of 1974, 29 United
23 States Code, Sections 101 to 1461, as amended, and group health insurance are provided,
24 and whose income derived from employment with the applicant, calculated on a calendar
25 year basis, is greater than the most recent annual per capita personal income in the county
26 in which the qualified employee is employed and whose state income withholding taxes
27 are subject to reimbursement to the qualified business or qualified brewer under this
28 chapter. "Qualified employees" does not include employees shifted to a qualified business
29 or qualified brewer from an affiliated business. The commissioner shall determine
30 whether a shifting of employees has occurred.

31 **Sec. 7. 36 MRSA §6754**, as amended by PL 2003, c. 688, Pt. D, §6, is further
32 amended to read:

33 **§6754. Reimbursement allowed**

34 **1. Generally.** Subject to the provisions of subsection 2, a qualified business or
35 qualified brewer is entitled to reimbursement of state income withholding taxes withheld
36 during the calendar year for which reimbursement is requested and attributed to qualified
37 employees after July 1, 1996 in the following amounts.

38 A. For qualified employees employed by a qualified business in state labor market
39 areas in which the labor market unemployment rate is at or below the state
40 unemployment rate at the time of application, the reimbursement is equal to 30% of
41 withholding taxes withheld during each of the first 5 calendar years for which
42 reimbursement is requested and attributed to those qualified employees. The

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- 1 percentage of reimbursement for the 6th to 10th years of the employment tax
2 increment financing development program is established based upon the labor market
3 unemployment rate at the beginning of the 6th year.
- 4 B. For qualified employees employed by a qualified business in state labor market
5 areas in which the labor market unemployment rate is greater than the state
6 unemployment rate at the time of application, the reimbursement is equal to 50% of
7 withholding taxes withheld during each of the first 5 calendar years for which
8 reimbursement is requested and attributed to those qualified employees. The
9 percentage of reimbursement for the 6th to 10th years of the employment tax
10 increment financing development program is established based upon the labor market
11 unemployment rate at the beginning of the 6th year.
- 12 C. For qualified employees employed by a qualified business in state labor market
13 areas in which the labor market unemployment rate is greater than 150% of the state
14 unemployment rate at the time of application, the reimbursement is equal to 75% of
15 withholding taxes withheld during each of the first 5 calendar years for which
16 reimbursement is requested and attributed to those qualified employees. The
17 percentage of reimbursement for the 6th to 10th years of the employment tax
18 increment financing development program is established based upon the labor market
19 unemployment rate at the beginning of the 6th year.
- 20 D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A,
21 section 5250-I, subsection 18, employed directly in the qualified business activity of
22 a qualified Pine Tree Development Zone business, as defined in Title 30-A, section
23 5250-I, subsection 17, for whom a certificate of qualification has been issued in
24 accordance with Title 30-A, section 5250-O, the reimbursement under this subsection
25 is equal to 80% of the withholding taxes withheld each year for which reimbursement
26 is requested and attributed to those qualified employees for a period of no more than
27 10 years. In no event may reimbursement under this subsection be paid for years
28 beginning after December 31, 2018.
- 29 E. For qualified employees hired by a qualified brewer, the reimbursement is equal
30 to 50% of withholding taxes withheld during each of the 10 tax years for which
31 reimbursement is requested and attributed to those qualified employees. In no event
32 may reimbursement under this subsection be paid for years beginning after December
33 31, 2016.
- 34 **2. Limitations.** Reimbursement to a qualified business or qualified brewer under
35 this chapter is subject to the following limitations.
- 36 A. A business previously qualified and approved by the commissioner may not
37 receive reimbursement under this chapter for any period of time in which it failed to
38 maintain the minimum requirements for initial approval as a qualified business or
39 qualified brewer.
- 40 B. Reimbursement to a qualified business approved pursuant to this chapter expires
41 10 years after the date on which benefits commenced under the employment tax
42 increment financing development program.

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1 C. A business electing to take the jobs and investment tax credit under section 5215
2 may not claim reimbursement under this chapter until the full amount of allowable
3 jobs and investment tax credit benefits have been claimed.

4 D. A business may not claim reimbursement under this chapter for income
5 withholding taxes attributed to employees employed within any state tax increment
6 financing district approved under Title 30-A, chapter 206.

7 E. Employee payroll withholding amounts are limited to the standard amount
8 required to be withheld pursuant to chapter 827 and may not include any excess
9 withholding.

10 F. The aggregate annual retained employment tax increment revenues for all
11 employment tax increment financing programs may not exceed \$20,000,000, adjusted
12 by a factor equal to the percentage change in the United States Bureau of Labor
13 Statistics Consumer Price Index, United States City Average, from January 1, 1996 to
14 the date of calculation.

15 **3. Multiple labor market areas.** The commissioner may by rule establish
16 procedures for equitably apportioning reimbursement to a qualified business or a
17 qualified brewer employing qualified employees in multiple labor market areas in the
18 State.

19 **Sec. 8. 36 MRSA §6755, first ¶**, as enacted by PL 1995, c. 669, §5, is amended
20 to read:

21 A qualified business or qualified brewer that applies to the commissioner for
22 approval of its employment tax increment financing program shall submit, in a form
23 acceptable to the commissioner, the following information:

24 **Sec. 9. 36 MRSA §6758**, as amended by PL 2005, c. 351, §25 and affected by
25 §26, is further amended to read:

26 **§6758. Procedure for reimbursement**

27 **1. Reporting by qualified businesses and qualified brewers.** On or before April
28 15th of each year, each qualified business and each qualified brewer approved by the
29 commissioner pursuant to this chapter shall report the number of employees, the state
30 income taxes withheld for the immediately preceding calendar year and any further
31 information the State Tax Assessor may reasonably require.

32 **2. Determination by assessor.** On or before June 30th of each year, the assessor
33 shall determine the employment tax increment of each qualified business and qualified
34 brewer for the preceding calendar year. A qualified business or qualified brewer may
35 receive up to 80% of the employment tax increment generated by that business as
36 determined by the assessor, subject to the further limitations in section 6754, subsection
37 2. That amount is referred to as "retained employment tax increment revenues."

38 **3. Deposit and payment of revenue.** On or before June 30th of each year, the
39 Commissioner of Administrative and Financial Services shall deposit an amount equal to
40 the total retained employment tax increment revenues for the preceding calendar year for
41 approved employment tax increment financing programs in the state employment tax
42 increment contingent account established, maintained and administered by the
43 Commissioner of Administrative and Financial Services. On or before July 31st of each

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1 year, the Commissioner of Administrative and Financial Services shall pay to each
2 approved qualified business and approved qualified brewer an amount equal to the
3 retained employment tax increment revenues for the preceding calendar year.

4 **Sec. 10. 36 MRSA §6760, sub-§2, ¶A,** as enacted by PL 1995, c. 669, §5 is
5 amended to read:

6 A. A person, which may include a qualified business or qualified brewer, to whom
7 the record belongs or pertains has requested be designated confidential; or

8 **Sec. 11. 36 MRSA §6761,** as enacted by PL 1995, c. 669, §5, is amended to read:

9 **§6761. Audit process**

10 This chapter may not be construed to limit the authority of the State Tax Assessor to
11 conduct an audit of a qualified business or qualified brewer. When it is determined by
12 the State Tax Assessor upon audit that a qualified business or qualified brewer has
13 received a distribution larger than that to which it is entitled under this chapter, the
14 overpayment must be applied against subsequent distributions, unless it is determined that
15 the overpayment is the result of fraud on the part of the qualified business or qualified
16 brewer, in which case the State Tax Assessor may disqualify the business from receiving
17 any future distributions. When there is no subsequent distribution, the qualified business
18 or qualified brewer to which overpayments were made is liable for the amount of the
19 overpayments and may be assessed pursuant to provisions of Part 1.

20 **Sec. 12. 36 MRSA §6762** is enacted to read:

21 **§6762. Repeal of reimbursement of qualified brewers**

22 Unless the commissioner certifies to the Legislature by March 1, 2010 that the total
23 number of new qualified employees of qualified brewers statewide for which
24 reimbursement was made under this chapter for calendar year 2009 exceeds the number
25 of full-time equivalent employees of qualified brewers statewide for calendar year 2006
26 by 10%, a qualified brewer may not claim reimbursement as a qualified brewer under this
27 chapter for income tax withholding periods beginning on or after March 1, 2010.

28 **Sec. 13. Appropriations and allocations.** The following appropriations and
29 allocations are made.

30 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

31 **Maine Revenue Services 0002**

32 Initiative: Provides one-time funds for the computer programming costs associated with
33 the tax credit for certain malt liquor manufacturers.

34			
35	GENERAL FUND	2005-06	2006-07
36	All Other	\$0	\$30,000
37			
38	GENERAL FUND TOTAL	\$0	\$30,000

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SUMMARY

This amendment makes changes to the provisions of the bill relating to the malt liquor excise tax credit to apply the credit based on the fiscal year rather than on the year of production. The amendment also replaces the income tax credit with an expansion of the employment tax increment financing program to provide an enhanced reimbursement for qualified brewers who add qualified employees. The amendment also provides that the excise tax credit and enhanced employment tax increment financing reimbursement are repealed March 1, 2010 unless the Commissioner of Economic and Community Development certifies that the number of new employees of qualified brewers for which reimbursement was made in 2009 has increased at least 10% over total 2006 employment. This amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See Attached)



122nd MAINE LEGISLATURE

LD 2048

LR 3133(02)

An Act To Strengthen Maine's Craft Brewers

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$188,859	\$171,931	\$172,641
Appropriations/Allocations				
General Fund	\$0	\$30,000	\$0	\$0
Revenue				
General Fund	\$0	(\$158,859)	(\$171,931)	(\$172,641)
Other Special Revenue	\$0	(\$2,001)	(\$2,317)	(\$2,623)

Fiscal Detail and Notes

The establishment of a tax credit against certain alcohol excise taxes will result in the loss of an estimated \$121,630 in budgeted General Fund revenue to be collected by the Department of Public Safety in fiscal year 2006-07. In addition the bill will reduce income tax by an estimated \$39,230 in fiscal year 2006-07, resulting in an additional General Fund revenue loss of \$37,229. This bill includes a one-time General Fund appropriation of \$30,000 for Maine Revenue Services' computer programming costs.