

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1688

S.P. 595

March 23, 2007

### **An Act To Allow the Use of Credit Cards To Purchase Wine, Beer and Spirits from Distributors**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in black ink, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator PLOWMAN of Penobscot.

Cosponsored by Senators: BRYANT of Oxford, McCORMICK of Kennebec, WESTON of Waldo, Representatives: EMERY of Cutler, TRINWARD of Waterville.

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

2             **Sec. 1. 28-A MRSA §3**, as amended by PL 1997, c. 373, §§21 and 22, is further  
3     amended to read:

4     **§3. Payments by check or credit card**

5             **1-A. Alcohol bureau may accept payment by personal check.** The alcohol bureau  
6     may accept payment by personal check or credit card from licensees for the purchase of  
7     liquor.

8             **1-B. Liquor Licensing and Tax Division may accept checks.** The Liquor  
9     Licensing and Tax Division may accept checks for license fees, application fees, permits,  
10    excise taxes, premiums and any other fees authorized by this Title.

11            **2. Checks not honored on presentation; consequences.** If any check is not  
12    honored on presentation by the State, the bureau shall withhold the license if not issued,  
13    or immediately take back the license if issued, voiding it until the person who paid by  
14    personal check has paid all costs of check failure. The alcohol bureau or the bureau may  
15    order that person to make all payments to the alcohol bureau or to the bureau only by  
16    cash, certified check or money order for a period not to exceed one year.

17            **Sec. 2. 28-A MRSA §705**, as amended by PL 2003, c. 349, §§1 and 2, is further  
18    amended to read:

19            **§705. Sales for cash, check, credit card or electronic funds transfer; sales to certain**  
20            **persons restricted**

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

26            **1-A. Electronic funds transfer.** For the purposes of this section, "electronic funds  
27    transfer" means using an electronic device for the purpose of ordering, instructing or  
28    authorizing a financial institution to debit or credit an account.

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

30               (1) Any agreement to engage in electronic funds transfer for payment for beer or  
31               wine between manufacturers, wholesale licensees or retail licensees must be  
32               voluntary and in writing. A manufacturer, wholesale licensee or retail licensee  
33               may not refuse to do business with or otherwise limit business with another  
34               manufacturer, wholesale licensee or retail licensee for declining to pay for beer or  
35               wine by electronic funds transfer;

36               (2) When electronic funds transfer is the form of payment, the form of payment  
37               must be noted on the invoice at the time of delivery and acknowledged in writing  
38               by the buyer or the buyer's employee. The note on the invoice constitutes an

1           irrevocable promise to pay. All parties to electronic funds transfer transactions  
2           will maintain records of those transactions for 2 years from the date of the  
3           transaction and make those records available for inspection by the bureau upon  
4           request;

5           (3) Initiation of the electronic funds transfer must occur on the next business  
6           day after the delivery of the product;

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

9           (5) Any electronic funds transfer transaction that is not completed due to  
10          insufficient funds is subject to the provisions of the Uniform Commercial Code.

11       **1-B. Sales on credit.** Credit may be extended:

12       A. By a hotel or club to bona fide registered guests or members;

13       B. By a hotel or Class A restaurant to the holder of a credit card that authorizes the  
14       holder to charge goods or credits; and

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

17       **1-C. Right of action.** A right of action does not exist to collect claims for credits  
18       extended contrary to this section.

19       **1-D. Credit for deposits.** This section does not prohibit a licensee from giving  
20       credit to a purchaser for the actual amount of the deposit on beverage containers as  
21       defined in Title 32, section 1862, subsection 2 or on the packages or original containers  
22       as a credit on any sale or from paying the amount actually charged for such a deposit on  
23       the packages or original containers.

24       **1-E. Goods in exchange for product prohibited; exception.** A wholesale licensee  
25       or a wholesale licensee's employee or agent may not sell, offer to sell or furnish any  
26       liquor to any person on a passbook or store order or receive from any person any goods,  
27       wares, merchandise or other articles in exchange for liquor. This paragraph does not  
28       apply to beverage container deposits on packages or original containers that were  
29       originally purchased from that licensee by the person returning the packages or original  
30       containers.

31       **2. Prohibited sales of liquor or imitation liquor to be consumed off the premises.**  
32       A licensee or licensee's employee or agent may not sell, furnish, give or deliver malt  
33       liquor, imitation liquor or wine to be consumed off the premises to:

34       E. A minor. Any licensee who accepts an order or receives payment for liquor or  
35       imitation liquor from a minor violates this paragraph.

36       **2-A. Prohibited sales of liquor to be consumed off the premises.** A licensee or  
37       licensee's employee or agent may not sell, furnish, give or deliver malt liquor or wine to  
38       be consumed off the premises to a person who is visibly intoxicated.

