

MAINE STATE LEGISLATURE

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3
R.O.F.S.

L.D. 1987

Date: 4-8-08

(Filing No. S-515)

LEGAL AND VETERANS AFFAIRS

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STATE OF MAINE

SENATE

123RD LEGISLATURE

FIRST SPECIAL SESSION
Minority

COMMITTEE AMENDMENT "A" to S.P. 781, L.D. 1987, Bill, "An Act To
Allow Direct-to-consumer Wine Sales"

Amend the bill by striking out all of section 1 and inserting the following:

'Sec. 1. 28-A MRSA §1403-A is enacted to read:

§1403-A. Direct shipment of wine

1. Direct shipment of wine to residents. A person currently licensed in this State or another state as an alcoholic beverage producer, supplier, importer, wholesaler, distributor or retailer who obtains a direct shipper's license as provided in this section may ship wine directly to a resident of this State for that resident's personal use if the resident is 21 years of age or older.

2. Direct shipper application. Before sending a shipment to a resident of this State, a direct shipper must file an application for a license with the bureau on a form issued by the bureau along with a true copy of its current alcoholic beverage license issued in this State or another state and a \$100 registration fee.

3. Delivery to resident 21 years of age or older. Wine shipped pursuant to this section may be shipped only to a resident 21 years of age or older and must be for the recipient's personal use only and not for resale. A direct shipper or 3rd-party carrier contracted by the direct shipper may deliver wine only to the person listed on the invoice or an adult member of the household, either of whom must provide a valid form of identification demonstrating proof of age. All containers used for shipment of wine under this section must be conspicuously labeled by the direct shipper with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY." A 3rd-party carrier contracted by a direct shipper shall register with the bureau as a direct shipper carrier on a form provided by the bureau and shall include on the form a description of the carrier's practice for verifying that recipients of alcoholic beverage shipments are 21 years of age or older.

1 **4. Bottle size and case limit.** A direct shipper may not ship a container of wine of
2 less than 750 milliliters and may ship no more than 12 cases, each of which may contain
3 no more than 12 750-milliliter bottles or an equivalent volume, to any one recipient
4 address in a calendar year.

5 **5. Prohibited shipping areas.** A direct shipper may not ship to any address in an
6 area identified by the bureau as a prohibited shipping area or a local option area.

7 **6. License renewal.** A direct shipper may annually renew its license with the bureau
8 by paying a \$100 renewal fee and providing the bureau with a true copy of its current
9 alcoholic beverage license issued in this State or another state.

10 **7. Payment of state taxes.** As a condition of receiving a direct shipper license as
11 provided in this section, a direct shipper must comply with sections 1652 and 1703 and
12 Title 36, Parts 1 and 3, specifically including, without limitation, all requirements relating
13 to registration as a seller and the collecting, reporting and remittance of Maine sales and
14 use taxes and must agree to be subject to the jurisdiction of this State for purposes of the
15 enforcement of those obligations.

16 **8. Quarterly report.** A direct shipper shall report to the bureau quarterly beginning
17 January 1st of each year the name and address of each recipient of wine in the State and
18 the total number of bottles shipped to any one address during the reporting period.
19 Reports required by this subsection must be submitted on forms provided by the bureau.

20 **9. Audit.** The bureau may perform an audit of a direct shipper's records relevant to
21 compliance with this section. A direct shipper shall provide copies of any records
22 requested by the bureau within 3 business days of that request.

23 **10. Violation.** A direct shipper or 3rd-party carrier who delivers or causes to be
24 delivered wine to a person who has not attained 21 years of age in violation of subsection
25 3 commits a Class D crime. Direct shipment of wine without a direct shipper license
26 constitutes a violation of the Maine Unfair Trade Practices Act. The bureau may suspend
27 a direct shipper's license for failure to comply with the shipment limits and reporting
28 requirements required by this section. The bureau may revoke a direct shipper's license
29 for subsequent failure to comply with the shipment limits and reporting requirements.
30 The bureau may accept payment of an offer in compromise in lieu of suspension; such
31 payments must be determined by rule adopted by the bureau.

32 **11. Adoption of rules.** The bureau shall adopt rules to carry out the purposes of this
33 section, including but not limited to rules requiring specific labeling and registration
34 requirements for direct shippers in order to ensure compliance with the laws governing
35 alcoholic beverage containers in Title 32, chapter 28. Rules adopted pursuant to this
36 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

37 Amend the bill in section 5 in paragraph J in the first line (page 2, line 33 in L.D.) by
38 striking out the following: "nonresident" and inserting the following: 'direct'

39 Amend the bill by inserting after section 5 the following:

40 **'Sec. 6. Appropriations and allocations.** The following appropriations and
41 allocations are made.

COMMITTEE AMENDMENT "A" to S.P. 781, L.D. 1987

1 **PUBLIC SAFETY, DEPARTMENT OF**2 **Liquor Enforcement 0293**

3 Initiative: Appropriates funds for an office associate position and an inspector position
 4 and technology, supplies and mailing costs to issue direct shipper licenses and track
 5 reports from direct shippers for direct-to-consumer sales of wine.

6	GENERAL FUND	2007-08	2008-09
7	POSITIONS - LEGISLATIVE COUNT	0.000	2.000
8	Personal Services	\$0	\$113,909
9	All Other	\$0	\$9,880
10			
11	GENERAL FUND TOTAL	\$0	\$123,789

12
 13 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
 14 section number to read consecutively.

15 **SUMMARY**

16 This amendment strikes the section of the bill that establishes a nonresident shipper's
 17 license and replaces it with a section that establishes a direct shipper license. A direct
 18 shipper license allows in-state or out-of-state licensed entities to ship up to 12 cases of
 19 wine to recipients who are 21 years of age or older. The direct shipper or 3rd-party
 20 carrier contracted by the shipper must be shown proof of age in order to make a delivery.
 21 Wine shipments must be conspicuously labeled that they contain alcohol and may be
 22 delivered only to a person 21 years of age or older. The amendment clarifies that a direct
 23 shipper is required to pay all applicable taxes, including excise and premium taxes on
 24 wine. The amendment also provides greater detail in what is required to be reported by
 25 direct shippers and lists specific penalties for specific violations of laws governing the
 26 direct shipment of wine. The amendment also adds an appropriations and allocations
 27 section.

28 **FISCAL NOTE REQUIRED**
 29 (See attached)

**123rd MAINE LEGISLATURE****LD 1987****LR 3147(02)****An Act To Allow Direct-to-consumer Wine Sales****Fiscal Note for Bill as Amended by Committee Amendment "A"****Committee: Legal and Veterans Affairs****Fiscal Note Required: Yes**

Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Net Cost (Savings)				
General Fund	\$0	\$17,131	\$20,006	\$25,084
Appropriations/Allocations				
General Fund	\$0	\$123,789	\$127,976	\$134,145
Revenue				
General Fund	\$0	\$106,658	\$107,970	\$109,061
Other Special Revenue Funds	\$0	\$3,152	\$3,290	\$3,349

Correctional and Judicial Impact Statements

Establishes new Class D crimes and decreases the number of Class E crimes and civil violations. Impact will be primarily to the county jail system. The average costs to the county for a Class D crime is \$6,795 based on an average length of stay of 62 days at \$109.60 per day. There is expected to be an insignificant impact on the caseload of the Judicial Department.

Fiscal Detail and Notes

The General Fund revenue increase resulting from an increase in the number of shippers who register and remit sales tax is estimated to be \$58,658 in fiscal year 2008-09. Assuming that 15% of the current shippers would participate in these sales, licensing fees could also increase by \$60,000. The revenue increase would be partially offset by an estimated loss of excise taxes and premium taxes on wine of \$12,000. The Department of Public Safety, Bureau of Liquor Enforcement, will require a General Fund appropriation of \$123,789 in fiscal year 2008-09 for an office associate and inspector position, technology, supplies and mailing to issue shipper licenses and track reports for direct-to-consumer sales of wine.