

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 1987

S.P. 781

December 18, 2007

An Act To Allow Direct-to-consumer Wine Sales

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 18, 2007. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 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 BROMLEY of Cumberland.

Cosponsored by Representative SMITH of Monmouth and Senators: DAMON of Hancock, NUTTING of Androscoggin, Representatives: DILL of Cape Elizabeth, EBERLE of South Portland, PINGREE of North Haven, SAMSON of Auburn, SILSBY of Augusta.

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

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

3 **§1403-A. Purchase of wine by mail**

4 **1. Direct shipment of wine to residents.** A person currently licensed in another
5 state as an alcoholic beverage producer, supplier, importer, wholesaler, distributor or
6 retailer who obtains a certificate of approval as provided in section 1351 and a
7 nonresident shipper's license as provided in this section may ship wine directly to a
8 resident of this State for that resident's personal use if the resident is 21 years of age or
9 older and has registered with the State in accordance with subsection 4.

10 **2. Nonresident shipper application.** Before sending a shipment to a resident of
11 this State, a nonresident shipper must hold a certificate of approval as provided in section
12 1351 and file an application for a license with the bureau on a form issued by the bureau
13 along with a true copy of its current alcoholic beverage license issued in another state and
14 a \$100 registration fee.

15 **3. Delivery to resident 21 years of age or older.** Wine shipped pursuant to this
16 section may be shipped only to a resident 21 years of age or older who has registered with
17 the State in accordance with subsection 4 and must be for the recipient's personal use only
18 and not for resale. A shipment must be subject to in-person delivery to the resident who
19 has ordered the shipment or a person residing at the resident's household who is 21 years
20 of age or older. All containers used for shipment of wine under this section must be
21 conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF
22 PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY."

23 **4. Resident registration.** A resident, 21 years of age or older, who purchases wine
24 for shipment pursuant to this section must first register with the State on forms developed
25 for this purpose by the bureau.

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

28 **6. License renewal.** A nonresident shipper may annually renew its license with the
29 bureau by paying a \$100 renewal fee and providing the bureau with a true copy of its
30 current alcoholic beverage license issued in another state.

31 **7. Payment of state taxes.** As a condition of receiving a certificate of approval as
32 provided in section 1351, a nonresident shipper must comply with Title 36, Parts 1 and 3,
33 specifically including, without limitation, all requirements relating to registration as a
34 seller and the collecting, reporting and remittance of Maine sales and use taxes, and must
35 agree to be subject to the jurisdiction of this State for purposes of the enforcement of
36 those obligations. The requirements of this subsection apply notwithstanding any other
37 provision of state law.

1 **8. Annual report.** A nonresident shipper shall report to the bureau annually by
2 January 1st of each year the total number of bottles of wine shipped into the State in the
3 preceding calendar year.

4 **9. Audit.** The bureau may perform an audit of a nonresident shipper's records at
5 any time.

6 **10. Violation.** Violation of this section is a Class D crime. A violation of this
7 section constitutes a violation of the Maine Unfair Trade Practices Act. The bureau may
8 enforce the requirements of this section by administrative proceedings to suspend or
9 revoke a nonresident shipper's license. The bureau may accept payment of an offer in
10 compromise in lieu of suspension; such payments must be determined by rule adopted by
11 the bureau.

12 **11. Adoption of rules.** The bureau shall adopt rules to carry out the purposes of
13 this section, including but not limited to rules requiring specific labeling and registration
14 requirements for nonresident shippers in order to ensure compliance with the laws
15 governing alcoholic beverage containers in Title 32, chapter 28. Rules adopted pursuant
16 to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
17 2-A.

18 **Sec. 2. 28-A MRSA §2077-B, sub-§1,** as enacted by PL 1997, c. 501, §6, is
19 amended to read:

20 **1. Prohibition.** A person may not sell, furnish, deliver or purchase liquor from an
21 out-of-state company by mail order, except wine pursuant to section 1403-A.

22 **Sec. 3. 36 MRSA §1754-B, sub-§1, ¶H,** as amended by PL 2007, c. 328, §6, is
23 further amended to read:

24 H. Every person that makes retail sales in this State of tangible personal property or
25 taxable services on behalf of the owner of that property or the provider of those
26 services; ~~and~~

27 **Sec. 4. 36 MRSA §1754-B, sub-§1, ¶I,** as enacted by PL 2007, c. 328, §7, is
28 amended to read:

29 I. Every person not otherwise required to be registered that sells tangible personal
30 property to the State and is required to register as a condition of doing business with
31 the State pursuant to Title 5, section 1825-B; and

32 **Sec. 5. 36 MRSA §1754-B, sub-§1, ¶J** is enacted to read:

33 J. Every person that holds a nonresident shipper's license under Title 28-A, section
34 1403-A.

35 **SUMMARY**

36 This bill allows direct-to-consumer sales of wine to state-registered buyers.