

MAINE STATE LEGISLATURE

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Majority
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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 696, L.D. 1008, Bill, "An Act To Increase Consumer Choice for Wine"

Amend the bill by striking out all of section 1.

Amend the bill in section 2 in §1403-A by striking out all of subsection 2 (page 1, lines 17 to 21 in L.D.) and inserting the following:

2. Direct shipment of wine. A farm winery or other winery holding a federal basic wine manufacturing permit located within or outside the State may obtain a wine direct shipper license by filing with the Liquor Licensing and Tax Division an application in a form determined by the bureau accompanied by an application fee of not more than \$200 and a copy of the applicant's current federal basic wine manufacturing permit and a list of wine labels to be shipped in accordance with this section.

Amend the bill in section 2 in §1403-A by striking out all of subsection 4 (page 1, lines 26 to 37 in L.D.) and inserting the following:

4. Direct shipment requirements. A direct shipper may only ship wine that was produced by the direct shipper in accordance with the direct shipper's federal basic wine manufacturing permit to a recipient for personal use and not for resale. A direct shipper may not ship wine products commonly known as "wine coolers." A direct shipper shall label each package to be shipped in accordance with this section so that it conspicuously reads "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

5. Common carrier. Shipments made in accordance with this chapter must be made by a common carrier approved by the bureau and must be accompanied by an invoice that clearly indicates the name of the direct shipper and the name and address of the recipient. The common carrier may deliver a direct shipment of wine only to the person listed on an invoice at the address listed on the invoice. The common carrier shall request photographic identification from the person receiving the shipment and verify that the person is the intended recipient and 21 years of age or older. A signature of

COMMITTEE AMENDMENT

R. of S.

1 acknowledgment is required for all direct shipments made in accordance with this
2 section.'

3 Amend the bill in section 2 in §1403-A by striking out all of subsections 8 and 9
4 (page 2, lines 8 to 17 in L.D.) and inserting the following:

5 **'8. Sales tax registration and payment required.** As a condition of receiving a
6 certificate of approval, a shipper located outside the State shall comply with the
7 provisions of Title 36, Part 3, including all requirements relating to registration as a seller
8 and the collection, reporting and remittance of the sales and use taxes of the State, and
9 shall agree to be subject to the jurisdiction of the State for purposes of the enforcement of
10 those obligations. The requirements of this subsection apply notwithstanding any other
11 provision of law of the State.

12 **'9. Payment of excise and premium taxes.** A direct shipper located outside the
13 State shall quarterly pay to the bureau all excise and premium taxes due on sales to
14 residents of the State in the preceding quarter, the amount of such taxes to be calculated
15 as if the sales were in the State.

16 **'10. Report.** A direct shipper shall submit a report to the bureau quarterly in a
17 manner and form prescribed by the bureau that includes the total number of cases of wine
18 shipped to recipients in the State and, for a direct shipper located in the State, shipments
19 made outside the State, the name and residence address of shipment recipients in the
20 State, the common carrier used to deliver the shipments and the date, quantity and
21 purchase price of each shipment.'

22 Amend the bill in section 2 in §1403-A by striking out all of subsections 11 and 12
23 (page 2, lines 21 to 34 in L.D.) and inserting the following:

24 **'11. Violation.** A person, including a common carrier, who knowingly causes a
25 direct shipment in violation of this section is subject to a fine up to \$500 for a first
26 offense and up to \$1,000 for any subsequent violation of this section. A direct shipper or
27 common carrier who knowingly delivers wine to a person under 21 years of age is subject
28 to a fine up to \$5,000. The bureau may suspend or revoke a wine direct shipper license
29 for failure to comply with the shipping limits and reporting requirements required by this
30 section. The bureau may accept payment of an offer in compromise in lieu of suspension;
31 such payments must be determined by rules adopted by the bureau.

32 **'12. Jurisdiction.** A direct shipper, as a condition of licensure, is subject to the
33 jurisdiction and enforcement authority of the State for the purposes of enforcement of this
34 section.

35 **'13. Not subject to beverage container law.** Notwithstanding Title 32, chapter 28,
36 wine shipped pursuant to this section does not require a refund value for beverage
37 container control purposes.

38 **'14. Rules.** The bureau shall adopt rules to carry out the purposes of this section.
39 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
40 chapter 375, subchapter 2-A.'

41 Amend the bill in section 2 in §1403-A by renumbering the subsections to read
42 consecutively.

COMMITTEE AMENDMENT

1 Amend the bill by inserting after section 8 the following:

2 **'Sec. 9. Bureau to implement within budgeted resources.** The Department
3 of Public Safety's bureau as defined in the Maine Revised Statutes, Title 28-A, section 2,
4 subsection 6 shall implement the provisions of this Act within budgeted resources.'

5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
6 section number to read consecutively.

7 **SUMMARY**

8 This amendment strikes the provision in the bill that allows a farm winery to ship
9 wine under its farm winery license and instead requires a farm winery to obtain a wine
10 direct shipper license. The amendment increases the application and license fee from
11 \$100 to \$200. The amendment clarifies that the wine shipment must be made to the
12 person that is listed on the shipment invoice and that photo identification is required to
13 verify the correct recipient and that the recipient is at least 21 years of age. It also
14 requires a common carrier who ships wine to show proof of receipt by the purchaser by
15 requiring a signed acknowledgement of the shipment. The amendment specifies that
16 wine coolers are not permitted to be shipped under a wine direct shipper license. The
17 amendment provides for greater detail in the reports submitted by direct shippers and
18 provides that direct shippers are subject to the jurisdiction of the State for the purpose of
19 enforcing direct shipment laws. The amendment strikes a provision that makes direct
20 shipment without a license a violation of the Maine Unfair Trade Practices Act. It
21 specifies that any person who knowingly causes a direct shipment to occur or receives a
22 direct shipment when made without a license may be fined up to \$500 for a first offense
23 and up to \$1,000 for each subsequent offense. It also provides for up to a \$5,000 fine for
24 any direct shipper or common carrier who delivers to any person not 21 years of age or
25 older. The amendment provides that wine shipped under a wine direct shipper license is
26 not subject to the bottle deposit laws. The amendment requires the Department of Public
27 Safety to administer the direct shipment of wine provisions within budgeted resources.

FISCAL NOTE REQUIRED
(See attached)



124th MAINE LEGISLATURE

LD 1008

LR 16(02)

An Act To Increase Consumer Choice for Wine

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

Committee: Legal and Veterans Affairs

Fiscal Note Required: Yes

Fiscal Note

| | 2009-10 | 2010-11 | Projections 2011-12 | Projections 2012-13 |
|-----------------------------|------------|------------|------------------------|------------------------|
| Net Cost (Savings) | | | | |
| General Fund | (\$97,000) | (\$97,000) | (\$97,000) | (\$97,000) |
| Revenue | | | | |
| General Fund | \$97,000 | \$97,000 | \$97,000 | \$97,000 |
| Other Special Revenue Funds | \$3,000 | \$3,000 | \$3,000 | \$3,000 |

Correctional and Judicial Impact Statements

Increases the number of civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill allows for the direct shipment of wine from certain in-state and out-of-state wineries to the consumer. Maine Revenue Services (MRS) will collect additional sales tax annually from the increased sales resulting in additional annual General Fund revenue of \$57,000 and additional Local Government Fund revenue of \$3,000. Additional costs to MRS associated with the increased sales tax collection can be absorbed within existing budgeted resources.

Additional General Fund revenue of \$40,000 is estimated from issuance of wine direct shipper licenses. This assumes 200 licenses issued. Additional costs to the Department of Public Safety associated with reviewing reports from issuing the licenses and reviewing reports from direct shippers can be absorbed within existing budgeted resources.