

MAINE STATE LEGISLATURE

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Date: 4/5/12

L.D. 905
(Filing No. H-915)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 664, L.D. 905, Bill, "An Act To Improve Maine's Liquor Distribution System"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Distribution and Sale of Spirits'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 28-A MRSA §83, sub-§5, as enacted by PL 1997, c. 373, §28, is amended to read:

5. Investigate and recommend changes. The alcohol bureau shall carry out a continuous study and investigation of the sale of alcoholic beverages throughout the State and the operation and administration of state activities and recommend to the Commissioner of Administrative and Financial Services any changes in the laws or rules and methods of operation that are in the best interest of the State. By December 1, 2012, the commissioner shall conduct a cost-benefit analysis of the discount price at which agency liquor stores purchase spirits and fortified wine from the State or wholesale liquor provider contracted by the State that includes consideration of how the discount price may be adjusted to allow agency liquor stores' revenue trends to mirror proportionally any upward trend in spirits sales and revenue realized by the State or the State's wholesale liquor provider. The commissioner shall update the cost-benefit analysis at least every 2 years and shall make the analysis available, upon request, to the joint standing committee of the Legislature having jurisdiction over alcoholic beverages matters.

Sec. 2. 28-A MRSA §83, sub-§5-A is enacted to read:

5-A. Sales incentives to agents; rules. The alcohol bureau may adopt rules to provide for a sales incentive program for agency liquor stores. The alcohol bureau shall consider federal regulations that govern sales incentives for alcoholic beverages and the effect of a sales incentive program on General Fund revenue and pending or existing contracts with a wholesale liquor provider when developing an incentive program.

COMMITTEE AMENDMENT

R. 4. 8.

1 Notwithstanding subsection 1, rules adopted in accordance with this subsection are major
2 substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

3 **Sec. 3. 28-A MRSA §1651, sub-§2, ¶C**, as amended by PL 2005, c. 539, §9, is
4 further amended to read:

5 C. Notwithstanding the other provisions of this section, with approval of the
6 Commissioner of Administrative and Financial Services, the alcohol bureau may
7 reduce the price ~~of discontinued items~~ of liquor that, as determined by the alcohol
8 bureau by rule, is unlikely to be sold for the list price. The reduced price may not be
9 less than the actual cost of the discontinued liquor items. Rules adopted to implement
10 this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter
11 2-A.

12 **Sec. 4. 28-A MRSA §2074-A** is enacted to read:

13 **§2074-A. Illegal storage, purchase or sale of spirits by an on-premises licensee;**
14 **penalty**

15 A person licensed for the sale of spirits for consumption on the licensed premises
16 who violates section 606, subsection 1-A or violates state rules or federal regulations
17 governing the storage, purchase and sale of spirits, including but not limited to the
18 prohibition against reusing or refilling liquor bottles, and the disposition of empty liquor
19 bottles, is subject to suspension or revocation of the license under chapter 33 as follows.

20 **1. Suspension of privilege to sell spirits.** A person who commits a violation
21 described by this section is subject to a 90-day suspension for a first offense, a 180-day
22 suspension for a 2nd offense and a one-year suspension for a 3rd or subsequent offense.

23 **2. Revocation.** The bureau may recommend revocation of a license to sell spirits for
24 consumption on the premises if a licensee commits more than 3 violations as described by
25 this section.

26 **Sec. 5. Transfer of funds; Department of Administrative and Financial**
27 **Services.** Notwithstanding any other provision of law, on or before August 15, 2012,
28 the State Controller shall transfer \$92,000 from the Lottery Operations program, State
29 Lottery Fund account within the Department of Administrative and Financial Services to
30 the Liquor Enforcement program, Other Special Revenue Funds account within the
31 Department of Public Safety for the purpose of contracting for auditing of on-premises
32 retailers to ensure compliance with applicable laws and regulations requiring those on-
33 premises retailers to purchase spirits from licensed reselling agents in the State.

34 **Sec. 6. Appropriations and allocations.** The following appropriations and
35 allocations are made.

36 **PUBLIC SAFETY, DEPARTMENT OF**
37 **Liquor Enforcement 0293**

38 Initiative: Provides a one-time allocation for contracted auditing services of on-premises
39 retailers to ensure compliance with applicable laws and regulations requiring them to
40 purchase spirits from a licensed reselling agent in the State.

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	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS		
All Other	\$0	\$92,000
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$92,000</u>

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SUMMARY

7 This amendment replaces the bill, which was a concept draft. The amendment
8 authorizes the Department of Administrative and Financial Services, Bureau of Alcoholic
9 Beverages and Lottery Operations to adopt rules to create a program of sales incentives
10 for agency liquor stores and rules to help facilitate the sale of slow-moving liquor
11 products at agency liquor stores. The amendment also allows the Department of Public
12 Safety's division of liquor licensing and enforcement to seek suspension or revocation of
13 an on-premises license if the licensee violates the law that requires that all spirits be
14 purchased from an agency liquor store or if the licensee reuses or refills liquor bottles in
15 violation of state rules or federal regulations.

16 This amendment also requires the Department of Public Safety to contract for an
17 auditor for the purpose of enforcing the law requiring on-premises licensees to purchase
18 spirits from licensed reselling agents in the State. The amendment adds an appropriations
19 and allocations section.

20

FISCAL NOTE REQUIRED

21

(See attached)



125th MAINE LEGISLATURE

LD 905

LR 1592(02)

An Act To Improve Maine's Liquor Distribution System

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-915)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
Net Cost (Savings)				
General Fund	\$0	\$92,000	\$0	\$0
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$92,000	\$0	\$0
Revenue				
General Fund	\$0	(\$92,000)	\$0	\$0

Fiscal Detail and Notes

The bill includes a one-time Other Special Revenue Funds allocation of \$92,000 in fiscal year 2012-13 for contracted auditing services of on-premises retailers to ensure compliance with applicable laws and regulations requiring them to purchase spirits from a licensed reselling agent in the state. Funding for this allocation will come from a transfer from the Department of Administrative and Financial Services, Lottery Operations program and will reduce General Fund revenue by \$92,000.

Additional costs to the Departments of Administrative and Financial Services and Public Safety associated with rulemaking, conducting the cost benefit analysis, assessing the impact of an increase in the number of licensed agency stores and reporting the results and developing a system to facilitate the electronic filing of reports and remittances of taxes related to spirits, malt liquor and wine can be absorbed within existing budgeted resources.