

MAINE STATE LEGISLATURE

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L.D. 1889

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VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

125TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 667, L.D. 1889, Bill, "An Act To Amend the Liquor Laws of the State"

Amend the bill in section 3 in paragraph M in the 2nd line (page 1, line 12 in L.D.) by inserting after the following: "more" the following: 'fixed'

Amend the bill by striking out all of section 9.

Amend the bill by striking out all of section 12 and inserting the following:

'Sec. 12. 28-A MRSA §708-B, as enacted by PL 1997, c. 483, §1, is repealed and the following enacted in its place:

§708-B. Donations to public broadcasting stations and incorporated civic organizations

1. Donations for auctions. Notwithstanding any other provisions of law, a person licensed in the State as a brewery, small brewery, winery, small winery, distillery, small distillery or wholesaler may donate a gift certificate to purchase its product or donate its product to a public broadcasting station or an incorporated civic organization licensed under section 1071 for the purpose of an auction. A certificate of approval holder may donate a gift certificate to purchase its product or donate its product to a public broadcasting station or an incorporated civic organization licensed under section 1071 for the purpose of an auction as long as the product donated is provided by a wholesaler who is reimbursed for the product by the certificate of approval holder for the cost of the donated product. Spirits donated by a distiller under this subsection must have been sold to the State for listing, pricing and distribution as required by this Title. Any donation is subject to the following.

A. A brewery, winery, distillery or wholesaler shall maintain a record of each donation, including the value of each donation and the date on which each donation was made.

B. A public broadcasting station or licensed incorporated civic organization shall ensure that the recipient of the donated item is 21 years of age or older.

1 **2. Donations for on-premises events.** Notwithstanding any other provisions of law,
 2 a person licensed in the State as a brewery, winery, distillery or wholesaler may donate its
 3 product to an incorporated civic organization that has been issued a license for an on-
 4 premises event open to the public. A certificate of approval holder may donate its
 5 product to an incorporated civic organization that has been issued a license for an on-
 6 premises event open to the public as long as the product donated is provided by a
 7 wholesaler who is reimbursed for the product by the certificate of approval holder for the
 8 cost of the donated product. Spirits donated by a distiller under this subsection must have
 9 been sold to the State for listing, pricing and distribution as required by this Title. A
 10 brewery, winery, distillery or wholesaler shall maintain a record of each donation,
 11 including the value of each donation and the date on which each donation was made.'

12 Amend the bill by striking out all of sections 15 and 16 and inserting the following:

13 '**Sec. 15. 28-A MRSA §709, sub-§2, ¶I,** as enacted by PL 2005, c. 319, §2, is
 14 repealed and the following enacted in its place:

15 I. Conducting taste testing under section 460, 1051, 1205, 1207 or 1355-A;

16 **Sec. 16. 28-A MRSA §709, sub-§2, ¶¶J and K** are enacted to read:

17 J. Providing samples authorized under section 1355-A, 1402, 1402-A or 1504; or

18 K. Donations authorized under section 708-B.'

19 Amend the bill by striking out all of section 23 and inserting the following:

20 '**Sec. 23. 28-A MRSA §1355-A** is enacted to read:

21 **§1355-A. Manufacturer licenses**

22 1. Issuance of licenses. The bureau may issue manufacturer licenses to distill,
 23 rectify, brew or bottle spirits, wine or malt liquor to distillers, rectifiers, brewers, bottlers
 24 and wineries operating under federal law and federal supervision.

25 2. Manufacturers. The following provisions apply to brewery, small brewery,
 26 winery, small winery, distillery and small distillery licensees.

27 A. A licensee may permit sampling of the liquor product on the premises:

28 (1) By employees for the purpose of quality control of the product;

29 (2) By wholesalers for the purpose of determining whether to carry the product as
 30 a wholesale product if the holder of the license pays the excise tax on the product
 31 sampled according to section 1652; and

32 (3) By the public if the holder of the license pays the excise tax on the product
 33 sampled according to section 1652.

34 B. A licensee under this section may serve to the public complimentary samples of
 35 liquor produced by the licensee at the licensed premises where liquor is produced by
 36 the licensee.

37 C. A licensee under this section may sell to nonlicensees during regular business
 38 hours from the licensed premises where liquor is produced by the licensee liquor

- 1 produced by the bottle, by the case or in bulk for consumption off the licensed
 2 premises. Spirits sold by distillers and small distillers in accordance with this
 3 paragraph must be first sold to the State, subject to the listing, pricing and distribution
 4 provisions of this Title.
- 5 D. A licensee under this section may sell from the licensed premises where liquor is
 6 produced by the licensee liquor produced by the licensee for consumption off the
 7 licensed premises.
- 8 E. A licensee may serve complimentary samples of liquor on Sunday after the hour
 9 of 9 a.m. and may sell liquor on Sunday after the hour of 9 a.m. if the municipality in
 10 which the licensed premises is located has authorized the sale of liquor on Sunday for
 11 consumption off the premises under chapter 5.
- 12 F. A licensee may charge for samples or shall otherwise comply with the conditions
 13 in paragraph E. Each sample poured is subject to a charge in an amount determined
 14 by the licensee and is subject to the sales tax on liquor under Title 36, section 1811.
 15 A licensee shall maintain a record of liquor samples subject to a charge and maintain
 16 those records for a period of 2 years.
- 17 G. A licensee that is a brewery or small brewery may sell on the premises during
 18 regular business hours and within the hours of legal sale to nonlicensees liquor
 19 produced at the licensed premises. The volume of the package may not exceed 15.5
 20 gallons and must be consumed off the premises. The sale of packages described in
 21 this paragraph must comply with keg tagging requirements provided in section 714.
 22 Each licensee shall submit a monthly report to its wholesaler detailing sales made
 23 directly from the premises. The wholesaler shall calculate the fees for any bottle
 24 deposit and submit an invoice to the licensee for expenses associated with the
 25 requirements prescribed in Title 32, chapter 28 including the retailer handling fee,
 26 state container deposit and a mutually agreed-upon pick-up fee.
- 27 H. A small winery or small brewery licensee shall keep and maintain complete
 28 records on all sales to a retail licensee.
- 29 I. A licensee may be issued one retail license under chapter 43 per licensed location
 30 for the sale of liquor to be consumed on the premises at the retail premises.
- 31 (1) The retail license must be held exclusively by the holder of the brewery,
 32 small brewery, winery, small winery, distillery or small distillery license.
- 33 (2) The retail license authorizes the sale of products of the brewery, small
 34 brewery, winery, small winery, distillery or small distillery, in addition to other
 35 liquor permitted to be sold under the retail license, to be consumed on the
 36 premises.
- 37 (3) All records related to activities under a manufacturer license issued under
 38 this section must be kept separate from records related to the retail license.
- 39 (4) A distillery or small distillery must meet the requirements of subsection 5,
 40 paragraph E.
- 41 J. A licensee may display up to 25 bottles of liquor produced by the licensee in a
 42 window of the location under paragraph D where liquor is sold for consumption off

- 1 the licensed premises. Locations licensed under subsection 4, paragraph B,
- 2 subparagraph (2) or subsection 5, paragraph B, subparagraph (3) may also display up
- 3 to 25 bottles of liquor produced by the licensee.
- 4 **3. Breweries; small breweries.** Except as otherwise provided in this section, the
- 5 following provisions apply to breweries and small breweries.
- 6 A. A holder of a brewery license may produce more than 50,000 gallons of malt
- 7 liquor per year.
- 8 B. A holder of a small brewery license may produce not more than 50,000 gallons of
- 9 malt liquor per year.
- 10 (1) Upon application by a holder of a small brewery license whose brewery has
- 11 produced malt liquor in an amount that exceeds 50,000 gallons in one year, the
- 12 bureau may renew that holder's small brewery license for only one additional
- 13 year.
- 14 (2) A holder of a small brewery license may sell or deliver its products to
- 15 licensed retailers or wholesalers. The licensee may sell, on the premises for
- 16 consumption off the premises, malt liquor produced at the licensed premises by
- 17 the bottle, by the case or in bulk to licensed retailers, including, but not limited
- 18 to, off-premises retail licensees, restaurants and clubs. Notwithstanding section
- 19 1361, the holder of a small brewery license may sell its products directly to a
- 20 retail licensee under this paragraph without selling to a wholesale licensee.
- 21 C. Notwithstanding any other provision of this Title, a brewery or small brewery
- 22 licensed in accordance with this section may sell from the establishment at the site of
- 23 the brewery licensed for the sale of alcoholic beverages to be consumed on the
- 24 premises malt liquor to be consumed off the premises under the conditions specified
- 25 in this paragraph.
- 26 (1) Only malt liquor brewed at the brewery where the on-premises establishment
- 27 is licensed may be sold at the on-premises establishment.
- 28 (2) Malt liquor must be dispensed in bottles provided by and with labels unique
- 29 to the brewery of 32 to 64 ounces in volume.
- 30 (3) No more than 6 bottles may be prefilled at any one time.
- 31 (4) A deposit may be charged per bottle. Bottles sold under this paragraph are
- 32 not subject to Title 32, chapter 28.
- 33 (5) The bottle in which the malt liquor is dispensed must be sealed by the
- 34 licensee with a seal that is tamper-evident.
- 35 (6) Malt liquor dispensed in accordance with this paragraph must be consumed
- 36 off the premises.
- 37 (7) All sales of malt liquor from the on-premises establishment for off-premises
- 38 consumption must be accompanied by a sales receipt with a time stamp that
- 39 indicates time of purchase.

1 (8) Sale of malt liquor from the on-premises establishment for off-premises
 2 consumption may not be made after 10:00 p.m.

3 The bureau may adopt rules to enforce this paragraph. Rules adopted in accordance
 4 with this paragraph are routine technical rules in accordance with Title 5, chapter
 5 375, subchapter 2-A.

6 **4. Wineries; small wineries.** Except as otherwise provided in this section, the
 7 following provisions apply to wineries and small wineries.

8 A. A holder of a winery license may produce more than 50,000 gallons per year of
 9 wines, sparkling wines and fortified wines.

10 B. A holder of a small winery license may produce not more than 50,000 gallons per
 11 year of wines, sparkling wines and fortified wines.

12 (1) A holder of a small winery license may sell or deliver its products to licensed
 13 retailers or wholesalers. The licensee may sell, on the premises for consumption
 14 off the premises, wine produced at the licensed premises by the bottle, by the
 15 case or in bulk to licensed retailers, including, but not limited to, off-premises
 16 retail licensees, restaurants and clubs. Notwithstanding section 1361, the licensee
 17 may sell its products directly to a retail licensee under this paragraph without
 18 selling to a wholesale licensee.

19 (2) A holder of a small winery license, upon application to and approval of the
 20 bureau and payment of the license fees, may obtain licenses for off-premises
 21 consumption for up to 2 additional locations other than the location of the in-state
 22 manufacturer licensed under this section. The holder of the licenses is not
 23 required to conduct any bottling or production at the additional licensed locations
 24 but may conduct all activities permitted by this section at the additional licensed
 25 locations.

26 C. A holder of a winery or small winery license may fortify wine produced by the
 27 winery license holder and import spirits solely for this purpose.

28 (1) If a small winery license holder produces fortified wine pursuant to this
 29 paragraph, the combined total of wine, sparkling wine and fortified wine
 30 produced at the small winery may not exceed 50,000 gallons per year.

31 For purposes of this subsection, "fortified wine" means wine to which spirits have been
 32 added as long as the resulting liquor does not exceed 24% alcohol by volume.

33 **5. Distilleries; small distilleries.** Except as otherwise provided in this section, the
 34 following provisions apply to distilleries and small distilleries.

35 A. A holder of a distillery license may distill, rectify, blend and bottle more than
 36 50,000 gallons of spirits per year.

37 B. A holder of a small distillery license may distill, rectify, blend and bottle not more
 38 than 50,000 gallons of spirits per year.

39 (1) The small distillery off-premises license fee is \$100.

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1 (2) Upon application by a holder of a small distillery license whose distillery has
2 produced spirits in an amount that exceeds 50,000 gallons in one year, the bureau
3 may renew that holder's small distillery license for only one additional year.

4 (3) A holder of a small distillery license, upon application to and approval of the
5 bureau and payment of the license fees, may obtain licenses for off-premises
6 consumption for up to 2 additional locations other than the location of the in-state
7 manufacturer licensed under this section. The holder of the licenses is not
8 required to conduct any bottling or production at the additional licensed locations
9 but may conduct all activities permitted by this section at the additional licensed
10 locations.

11 C. To be eligible for a distillery or small distillery license, a person must hold a basic
12 permit for distilling, rectifying, blending and bottling spirits from the United States
13 Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau.

14 D. Spirits produced by a holder of a distillery or small distillery license must be sold
15 to the State and are subject to the listing, pricing and distribution provisions of this
16 Title.

17 E. A holder of a distillery or small distillery license may be issued one license under
18 chapter 43 per distillery location for a connected establishment for the sale of liquor
19 to be consumed on the premises at the distillery.

20 (1) For the purposes of this paragraph, "connected establishment" means a Class
21 A restaurant or a Class A restaurant/lounge that is owned exclusively by the
22 holder of the in-state manufacturer license.

23 (2) All records of the manufacturer license must be kept separate from the
24 records of the retail licensee.

25 F. A distillery or small distillery may provide samples to the public of liquors
26 produced by the distillery that have been sold to the State in accordance with
27 paragraph D and repurchased by the distillery or small distillery.'

28 Amend the bill in section 28 by striking out all of subsection 4 (page 9, lines 33 to 35
29 in L.D.) and inserting the following:

30 '**4. Full-bottle samples.** The maximum amount of unopened full-bottle samples
31 given to a retail licensee may not exceed 9 gallons of malt beverage and 9 liters of wine
32 annually. A full-bottle sample is an unopened bottle of wine or malt beverage given to a
33 retail licensee, which may be consumed by a retail licensee on or off the premises; and'

34 Amend the bill by striking out all of section 29 (page 9, lines 36 and 37 and page 10,
35 lines 1 and 2 in L.D.) and inserting the following:

36 '**Sec. 29. 28-A MRSA §1402-A, sub-§5,** as enacted by PL 1997, c. 228, §1, is
37 repealed.'

38 Amend the bill in section 32 by striking out all of subsection 5 (page 10, lines 19 to
39 21 in L.D.) and inserting the following:

40 '**5. Full-bottle samples.** The maximum amount of unopened full-bottle samples of
41 distilled spirits given to a retail licensee by a sales representative may not exceed 3 liters

COMMITTEE AMENDMENT

1 per year per distiller represented by that sales representative, ~~and~~. Individual samples
2 may not exceed one liter. A full-bottle sample is an unopened bottle of spirits provided to
3 an agency liquor store or an on-premises retail licensee licensed to sell spirits.'

4 Amend the bill by striking out all of section 33 (page 10, lines 22 to 26 in L.D.) and
5 inserting the following:

6 'Sec. 33. 28-A MRSA §1504, sub-§6, as enacted by PL 2007, c. 113, §1, is
7 repealed and the following enacted in its place:

8 6. Retail sampling. Samples poured from a bottle of spirits designated for retail
9 sampling may be provided to an on-premises licensee licensed to serve spirits and to an
10 agency liquor store on the premises of the agency liquor store if the person receiving the
11 sample is 21 years of age or older and is in a supervisory or managerial position with the
12 agency liquor store. Bottles of spirits designated for retail sampling must be properly
13 sealed between samplings.'

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

16 **SUMMARY**

17 This amendment amends the definition of "outdoor stadium" in the liquor laws to
18 clarify that the number of seats in the stadium are fixed seats. It strikes the section of the
19 bill that requires that master files be established for all applicants. It clarifies that
20 donations of liquor to public broadcasting stations or incorporated civic organizations
21 with liquor licenses are permitted by small manufacturers of wine, beer and spirits. The
22 amendment strikes the increases proposed in the bill of the amount of wine and spirits
23 samples that may be given to a retail licensee by a small manufacturer, wholesaler or
24 sales representative. The amendment also makes several nonsubstantive changes to
25 language in the bill to correct errors in the bill and for the purpose of clarity.

26 **FISCAL NOTE REQUIRED**

27 (See attached)



125th MAINE LEGISLATURE

LD 1889

LR 2833(02)

An Act To Amend the Liquor Laws of the State

Fiscal Note for Bill as Amended by Committee Amendment "A" S-532

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Minor revenue decrease - General Fund

Fiscal Detail and Notes

This legislation could result in a minor decrease in General Fund revenue not requiring any change to the budget.