

MAINE STATE LEGISLATURE

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ROFS

L.D. 1783

Date: 4/3/14

(Filing No. H-809)

Report A

VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1276, L.D. 1783, Bill, "An Act To Expand Consumer Choice for Wine"

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

Sec. 1. 28-A MRSA §2, sub-§14, as amended by PL 2013, c. 368, Pt. V, §9, is further amended to read:

14. Licensee. "Licensee" means a person licensed by the bureau. "Licensee" includes, but is not limited to, agency liquor stores, auction licensees and certificate of approval holders.

Sec. 2. 28-A MRSA §751, sub-§4 is enacted to read:

4. Wine purchased from auction licensee. A retail licensee shall keep a separate record of wine purchased from an auction licensee, as defined by section 1209, subsection 1, paragraph A.

Sec. 3. 28-A MRSA §1201, sub-§2, as amended by PL 1997, c. 373, §105, is further amended to read:

2. Ineligible as licensee. The Except as provided in section 1209, the bureau may not issue a license for the sale of malt liquor or wine to any person who is not engaged in a bona fide retail business other than the sale of malt liquor or wine at retail.

Sec. 4. 28-A MRSA §1209 is enacted to read:

§1209. Sale of wine by auction

Notwithstanding any provision of section 1201, chapter 55 or chapter 57 to the contrary, this section governs wine auctions.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

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- 1 A. "Auction licensee" means a wine auction house issued a license pursuant to this
2 section. An auction licensee is not an auctioneer as defined in Title 32, section 284.
- 3 B. "Private collection" means wine owned for consumption or investment purposes
4 by a person that is not licensed as a manufacturer, retailer, distributor or wholesaler in
5 any state or by the Federal Government.
- 6 C. "Wine auction" means an event at which a wine auction house sells by auction
7 wines from a private collection to private collectors who are nonlicensees, as defined
8 in section 2503, and to retailers licensed to sell wine for on-premises or off-premises
9 consumption.
- 10 D. "Wine auction house" means a person that is not a manufacturer, retailer,
11 distributor or wholesaler and that conducts a wine auction of wine owned by or
12 consigned to the wine auction house.
- 13 **2. Prohibition.** A wine auction house may not conduct a wine auction without a
14 license pursuant to this section.
- 15 **3. License; fee; affidavit.** Subject to this section, the bureau may issue a license to
16 conduct a wine auction to a wine auction house. A license issued pursuant to this
17 subsection is valid for one calendar year. The license fee per calendar year is \$500. The
18 bureau shall require an applicant for a wine auction license to provide a signed affidavit
19 attesting that the applicant has not been found in violation of a rule or a law in this State
20 or another state or of the Federal Government regarding the manufacture, sale or
21 distribution of alcoholic beverages. The bureau may not issue a wine auction license to a
22 person who has been found in violation of a regulation, rule or law in this State or another
23 state or of the Federal Government regarding the manufacture, sale or distribution of
24 alcoholic beverages.
- 25 **4. Conditions.** The following conditions apply to a wine auction licensed under this
26 section.
- 27 A. Fifteen calendar days prior to the wine auction, the auction licensee shall notify
28 the bureau of the physical address of and the date and time scheduled for the wine
29 auction and shall submit a list of the wines to be auctioned.
- 30 B. The auction licensee shall collect registration information as determined by the
31 bureau by rule from each person who is registered as a bidder for the wine auction,
32 which must include, at a minimum, the name and address of the person, and shall
33 submit the registration information to the bureau. Nothing in this paragraph prevents
34 an auction licensee from allowing a person to register as a bidder at the time of the
35 event as long as the registration information is collected and made available to the
36 bureau.
- 37 C. The auction licensee shall notify the bureau of each sale of wine at the wine
38 auction.
- 39 D. Wine sold at the wine auction may not be opened or consumed at the wine
40 auction.
- 41 E. The auction licensee shall ensure that the recipient of wine sold at the wine
42 auction is 21 years of age or older.

1 F. Each container of wine auctioned must have a permanently affixed label
2 indicating that the wine was acquired from a private collection. The label must
3 include the name of the wine auction house and the wine auction license number
4 issued by the bureau in accordance with this section.

5 G. A wine auction house may not conduct more than 12 wine auctions per year.

6 H. Wine to be sold at auction may not be stored on the premises where the wine
7 auction is conducted.

8 I. The auction licensee may not sell wine that the auction licensee purchased or
9 received from a person who holds a license issued by any state or the Federal
10 Government to manufacture, bottle, distribute or otherwise sell wine at wholesale or
11 retail.

12 J. The auction licensee shall maintain a record of each container of wine, listed by
13 name and the number of containers available and including the origin of each
14 container of wine, that will be for sale at a wine auction with an affidavit attesting
15 that the wine was acquired from a private collection. The auction licensee shall
16 provide, upon request from the bureau, the record under this paragraph.

17 **5. Sales and use tax; excise tax.** An auction licensee shall comply with the
18 provisions of Title 36, Part 3 including all requirements relating to the collection,
19 reporting and remittance of the sales and use taxes of the State on sales of wine at a wine
20 auction to nonlicensees intended for private consumption. An auction licensee shall
21 comply with the provisions of chapter 65 relating to the collection, reporting and
22 remittance of excise taxes of the State on sales of wine at auction. Excise taxes must be
23 paid within 60 days of the wine auction. If an auction licensee fails to remit the excise
24 taxes within 60 days, the bureau may prohibit the auction licensee from holding
25 subsequent wine auctions until the excise taxes are paid in full. Failure to pay sales and
26 excise taxes required by this subsection may result in revocation or suspension of a wine
27 auction license.

28 **6. Beverage container deposit.** Containers of wine that are not labeled in
29 accordance with Title 32, section 1865 and are sold at a wine auction pursuant to this
30 section are not subject to Title 32, chapter 28.

31 **7. Purchase and resale by retailers.** A retailer licensed under this Title for
32 consumption of wine on the premises or off the premises may purchase wine offered at a
33 wine auction conducted pursuant to this section and may resell that wine in accordance
34 with the retailer's license issued under this Title.

35 **8. Storage and transportation.** An auction licensee shall notify the bureau of the
36 physical address in the State where wine that is to be sold at auction is stored and the
37 method by which wine purchased at auction will be transported.

38 **9. Rules.** The bureau shall adopt rules to implement this section. Rules adopted
39 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
40 subchapter 2-A.

41 **Sec. 5. Appropriations and allocations.** The following appropriations and
42 allocations are made.

R.O.F.S

1 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
2 **Alcoholic Beverages - General Operation 0015**

3 Initiative: Provides funding for one Office Associate II position and related costs to
4 conduct licensing activities.

5	GENERAL FUND	2013-14	2014-15
6	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
7	Personal Services	\$0	\$72,763
8	All Other	\$0	\$4,024
9			
10	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$76,787</u>
11			

12 **SUMMARY**

13 This amendment replaces the bill. The amendment establishes a license for a person
14 to conduct wine auctions. Wine sold at auction by a wine auction licensee must be wine
15 that was acquired from a private collection and not from anyone licensed to produce or to
16 sell or distribute wine at retail or wholesale. A wine auction license allows for up to 12
17 auctions per year. Wines sold at auction may be purchased by registered bidders,
18 including persons licensed to sell wine for off-premises or on-premises consumption. An
19 auction licensee must pay all required sales and excise taxes. If a licensee fails to pay
20 taxes within a prescribed period of time, the license may be suspended or revoked.

21 **FISCAL NOTE REQUIRED**

22 (See attached)

COMMITTEE AMENDMENT



126th MAINE LEGISLATURE

LD 1783

LR 2727(02)

An Act To Expand Consumer Choice for Wine

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-809)
Committee: Veterans and Legal Affairs
Fiscal Note Required: Yes

Fiscal Note

	FY 2013-14	FY 2014-15	Projections FY 2015-16	Projections FY 2016-17
Net Cost (Savings)				
General Fund	\$0	\$51,787	\$51,787	\$51,787
Appropriations/Allocations				
General Fund	\$0	\$76,787	\$76,787	\$76,787
Revenue				
General Fund	\$0	\$25,000	\$25,000	\$25,000

Fiscal Detail and Notes

This bill establishes a license for a person to conduct wine auctions. The bill includes a General Fund appropriation for one Office Associate II position and related costs to the Department of Administrative and Financial Services to conduct licensing activities associated with these auctions. General Fund revenues would increase by \$25,000 beginning in fiscal year 2014-15, assuming 50 wine auction licenses are issued annually.