

MAINE STATE LEGISLATURE

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Date: 6/9/17

L.D. 794
(Filing No. H-472)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 574, L.D. 794, Bill, "An Act Regarding the Taxation of Flavored Malt Beverages"

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-§16-A, as amended by PL 2011, c. 629, §4, is further amended to read:

16-A. Low-alcohol spirits product. "Low-alcohol spirits product" means a product containing spirits that has an alcohol content of 8% or less by volume. Beginning July 1, 2019, "low-alcohol spirits product" does not mean a flavoring, such as an extract or concentrate, added to a malt beverage or wine that:

- A. May or may not contain alcohol;
- B. Is not intended to be consumed alone as a beverage or a food product but serves as a flavor enhancement to a beverage or a food product; and
- C. Is not, prior to being added to a malt beverage or wine, subject to excise tax under chapter 65.

Sec. 2. 28-A MRSA §2, sub-§31, as amended by PL 1999, c. 535, §2, is further amended to read:

31. Spirits. "Spirits" means any liquor produced by distillation or, if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind. "Spirits" does not include low-alcohol spirits products or fortified wine. Beginning July 1, 2019, "spirits" does not mean an additive or flavoring, such as an extract or concentrate, that:

- A. Contains alcohol;
- B. Is not intended to be consumed alone as a beverage or a food product but serves as a flavor enhancement to a beverage or a food product; and
- C. Is not subject to excise tax under chapter 65.

COMMITTEE AMENDMENT

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Sec. 3. Classification of certain malt-based or wine-based products for tax purposes; intent. The Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations may not impose the tax described under the Maine Revised Statutes, Title 28-A, section 1652, subsection 1-A or the tax described under Title 28-A, section 1365 on any malt liquor-based or wine-based product not previously listed by the bureau as of June 1, 2017 or subject to a tax under Title 28-A, section 1652, subsection 1-A or section 1365 based on the fact that a flavoring, extract or concentrate has been added to the product that:

- 1. May or may not contain alcohol;
- 2. Is not intended to be consumed alone as a beverage or a food product but serves as a flavor enhancement to a beverage or a food product; and
- 3. Is not, prior to being added to a malt beverage or wine, subject to excise tax under chapter 65.

This section is not intended to affect the application of the tax described under Title 28-A, section 1652, subsection 1-A or the tax described under Title 28-A, section 1365 to any malt liquor-based or wine-based product described in this section that was listed with the bureau prior to June 1, 2017.¹

SUMMARY

This amendment replaces the bill. The amendment clarifies the definition of "low-alcohol spirits product" and the definition of "spirits" to exclude additives and flavorings, such as extracts and concentrates, that may contain alcohol but are not intended to be consumed alone but serve as a flavor enhancement to food products or beverages. This amendment also specifies that the changes made by this legislation are not intended to affect the taxation of such products prior to July 1, 2019.

FISCAL NOTE REQUIRED

(See attached)



128th MAINE LEGISLATURE

LD 794

LR 1674(02)

An Act Regarding the Taxation of Flavored Malt Beverages

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-472)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$0	\$0	\$1,686,475	\$1,686,475
Revenue				
General Fund	\$0	\$0	(\$1,686,475)	(\$1,686,475)

Fiscal Detail and Notes

Under current statute, manufacturers of low-alcohol spirits products are taxed at a rate of \$1.24 per gallon and in-state manufacturers of low-alcohol spirits products are taxed an additional rate of \$0.30 per gallon for a combined tax rate of \$1.54 per gallon. This bill clarifies that food flavorings or similar products with an alcohol content that are added to malt liquor products solely to impart flavor during the production process do not cause these products to be classified as low-alcohol spirits products. The State has been taxing these products at the higher combined rate of \$1.54 per gallon and will now tax them at the lower \$0.35 per gallon rate applied to malt liquor products. This will reduce General Fund revenue collected by the Bureau of Alcoholic Beverages and Lottery Operations by an estimated \$1,686,475 starting in fiscal year 2019-20.