

MAINE STATE LEGISLATURE

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VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

129TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 737, L.D. 2088, Bill, "An Act To Clarify the Laws Governing Financial Relationships between Entities within the Three-tier System for Distribution of Alcohol"

Amend the bill by striking out all of section 3 and inserting the following:

'Sec. 3. 28-A MRSA §707, sub-§3-A is enacted to read:

3-A. Manufacturer or importer; prohibited financial interests. Except as authorized in subsection 7 and sections 707-A and 1355-A, a licensed in-state manufacturer, an out-of-state spirits supplier, an out-of-state manufacturer of malt liquor or wine that has been issued a certificate of approval or an out-of-state wholesaler of malt liquor or wine that has been issued a certificate of approval may not have any financial interest, direct or indirect, in any:

A. Wholesale licensee; or

B. Retail licensee.'

Amend the bill by striking out all of section 5 and inserting the following:

'Sec. 5. 28-A MRSA §707, sub-§4-A is enacted to read:

4-A. Wholesale licensee; prohibited financial interests. Except as authorized in subsection 7, a wholesale licensee may not have any financial interest, direct or indirect, in any:

A. Licensed in-state manufacturer, out-of-state spirits supplier, out-of-state manufacturer of malt liquor or wine that has been issued a certificate of approval or out-of-state wholesaler of malt liquor or wine that has been issued a certificate of approval; or

B. Retail licensee.'

Amend the bill by striking out all of section 7 and inserting the following:

'Sec. 7. 28-A MRSA §707, sub-§5-A is enacted to read:

COMMITTEE AMENDMENT

1 5-A. Retail licensee; prohibited financial interests. Except as authorized in
2 sections 707-A and 1355-A, a retail licensee may not have any financial interest, direct or
3 indirect, in any:

4 A. Licensed in-state manufacturer, out-of-state spirits supplier, out-of-state
5 manufacturer of malt liquor or wine that has been issued a certificate of approval or
6 out-of-state wholesaler of malt liquor or wine that has been issued a certificate of
7 approval; or

8 B. Wholesale licensee.'

9 Amend the bill in section 8 in subsection 6 in the 5th line (page 2, line 25 in L.D.) by
10 striking out the following: "less" and inserting the following: 'not more'

11 Amend the bill in section 10 in subsection 8 by striking out all of paragraph B (page
12 3, lines 10 to 13 in L.D.) and inserting the following:

13 'B. "Out-of-state spirits supplier" means an out-of-state manufacturer of spirits
14 products that are listed by the commission for sale in the State or a person that
15 engages in the out-of-state purchase of spirits products that are listed by the
16 commission for sale in the State and that resells those spirits products to the bureau.'

17 Amend the bill in section 11 in paragraph B in the first line (page 3, line 16 in L.D.)
18 by striking out the following: "4-A" and inserting the following: '5-A'

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

21 **SUMMARY**

22 The bill generally prohibits an entity within one tier of the 3-tier system of alcohol
23 distribution in Maine from having a financial interest in an entity within another tier of
24 the 3-tier system in Maine and extends the financial interest prohibitions of the 3-tier
25 system, which apply under current law to entities that manufacture, import or sell malt
26 liquor and wine within the State, to entities that manufacture, import or sell spirits within
27 the State. Under the bill, in-state and out-of-state manufacturers comprise the first tier of
28 alcohol distribution, in-state and out-of-state wholesalers comprise the 2nd tier of alcohol
29 distribution and in-state retailers comprise the 3rd tier of alcohol distribution.

30 This amendment retains the bill's extension of the financial interest prohibitions of
31 the 3-tier system to spirits but restructures the first and 2nd tiers of that system to match
32 the structure of the 3-tier system that applies to malt liquor and wine under current
33 practice. Under the amendment, the first tier of alcohol distribution consists of in-state
34 manufacturers of spirits, wine or malt liquor; out-of-state manufacturers of spirits, wine
35 and malt liquor that ship their products to Maine; and out-of-state entities that are not
36 manufacturers but that purchase spirits, wine or malt liquor for shipment to and eventual
37 resale in Maine. The 2nd tier of alcohol distribution includes in-state wholesalers of malt
38 liquor or wine. Because Maine is a control state, private entities are not authorized to act
39 as wholesalers of spirits within the State and there is therefore no need to include such
40 entities in the amendment's 2nd tier of alcohol distribution. As in the bill, licensed
41 retailers comprise the 3rd tier of alcohol distribution.

1 The amendment also corrects an error in the bill by specifying that the prohibited
2 financial interests between entities in different tiers of the 3-tier system do not include a
3 minor investment by an entity within one tier of the 3-tier system if that investment
4 amounts to not more than 1% of the securities of a business entity within another tier of
5 the 3-tier system.