

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2089

S.P. 738

In Senate, January 28, 2020

An Act To Clarify Certificate of Approval Requirements under the State's Liquor Laws

Reported by Senator LUCHINI of Hancock for the Joint Standing Committee on Veterans and Legal Affairs pursuant to Resolve 2019, chapter 15, section 3.

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 28-A MRSA §2, sub-§8**, as amended by PL 1997, c. 373, §11, is repealed
3 and the following enacted in its place:

4 **8. Certificate of approval holder.** "Certificate of approval holder" means:

5 A. An in-state manufacturer of malt liquor, wine or spirits licensed under section
6 1355-A;

7 B. An out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine
8 who has been issued a certificate of approval under section 1361; or

9 C. An out-of-state spirits supplier who has been issued a certificate of approval by
10 the bureau under section 1381.

11 **Sec. 2. 28-A MRSA §2, sub-§31-C** is enacted to read:

12 **31-C. Spirits supplier.** "Spirits supplier" means a person who provides spirits for
13 sale by the bureau in the State, including:

14 A. An in-state or out-of-state spirits manufacturer;

15 B. A person who engages in the out-of-state purchase of spirits for resale to the
16 bureau; and

17 C. An agent or representative of a person described in paragraph A or B.

18 **Sec. 3. 28-A MRSA §1351**, as amended by PL 1997, c. 373, §112, is further
19 amended to read:

20 **§1351. Certificate of approval**

21 **1. Certificate of approval required.** All ~~in-state manufacturers~~, out-of-state
22 manufacturers ~~and of malt liquor or wine~~, out-of-state wholesalers of malt liquor or wine
23 ~~and out-of-state spirits suppliers~~ must obtain a certificate of approval from the bureau.

24 **2. Definition.** For purposes of this section, "out-of-state spirits supplier" means a
25 person described in section 2, subsection 31-C, paragraphs A and B.

26 **Sec. 4. 28-A MRSA §1364, sub-§5** is enacted to read:

27 **5. Limitation on definition of "certificate of approval holder."** Notwithstanding
28 section 2, subsection 8, as used in this section, "certificate of approval holder" means an
29 in-state manufacturer of malt liquor or wine licensed under section 1355-A or an out-of-
30 state manufacturer of or out-of-state wholesaler of malt liquor or wine who has been
31 issued a certificate of approval under section 1361.

32 **Sec. 5. 28-A MRSA c. 51, sub-c. 5** is enacted to read:

33 **SUBCHAPTER 5**

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SPIRITS

§1381. Certificate of approval; spirits

1. Definition. For purposes of this section, "out-of-state spirits supplier" means a person described in section 2, subsection 31-C, paragraphs A and B.

2. Certificate of approval required. An out-of-state spirits supplier may not transport spirits into the State or cause spirits to be transported into the State unless the out-of-state spirits supplier has obtained a certificate of approval from the bureau in accordance with this section.

3. Fee for certificate of approval. The fee for a certificate of approval under this section is \$1,000 per year, except that the fee for an out-of-state spirits supplier who transports or causes to be transported 120 gallons of spirits or less per year is \$100. Payment of the fee must accompany the application for the certificate of approval.

4. Conditions on certificate of approval. A certificate of approval under this section is subject to the laws of the State and the rules of the bureau.

5. Shipment restrictions. Except as provided in sections 2073 and 2075, a person who has been issued a certificate of approval under this section may only transport spirits into the State or cause spirits to be transported into the State if the spirits are delivered to a wholesale liquor provider.

Sec. 6. 28-A MRSA §1401-A is enacted to read:

§1401-A. Limitation on definition of "certificate of approval holder"

Notwithstanding section 2, subsection 8, as used in this chapter, unless the context otherwise indicates, "certificate of approval holder" means an in-state manufacturer of malt liquor or wine licensed under section 1355-A or an out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval under section 1361.

Sec. 7. 28-A MRSA §1451, sub-§1-A is enacted to read:

1-A. Certificate of approval holder. Notwithstanding section 2, subsection 8, "certificate of approval holder" means an in-state manufacturer of malt liquor or wine licensed under section 1355-A or an out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval under section 1361.

SUMMARY

This bill is reported out by the Joint Standing Committee on Veterans and Legal Affairs pursuant to Resolve 2019, chapter 15. The committee has not taken a position on the substance of the bill and by reporting this bill out the committee is not suggesting and does not intend to suggest that it agrees or disagrees with any aspect of this bill. The

1 committee is reporting the bill out for the sole purpose of obtaining a printed bill that can
2 be referred to the committee for a public hearing and subsequent committee action in the
3 normal course. The committee is taking this action to ensure clarity and transparency in
4 the legislative review of the proposal.

5 This bill resolves an inconsistency in the State's liquor laws by clarifying that an out-
6 of-state spirits supplier must obtain a certificate of approval from the Department of
7 Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery
8 Operations before it may transport spirits into the State for sale to the bureau or cause
9 spirits to be transported into the State for sale to the bureau. The out-of-state spirits
10 suppliers who must obtain a certificate of approval under the bill include both out-of-state
11 spirits manufacturers and persons who engage in the out-of-state purchase of spirits for
12 resale to the bureau.

13 The bill also clarifies which of the existing laws applicable to certificate of approval
14 holders apply to out-of-state spirits suppliers, who are included in the definition of
15 "certificate of approval holder" under the bill. For example, the bill exempts out-of-state
16 spirits suppliers from the statutory requirement that certificate of approval holders enter
17 into a distribution contract with a wholesaler who is licensed to sell malt liquor or wine
18 within the State. These contracts are unnecessary because, under existing law, all spirits
19 products must be sold to the bureau, which contracts with the entity that provides
20 warehousing and distribution services for spirits products within the State.