

MAINE STATE LEGISLATURE

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Amendment Name: Amendment CA (S-481) (LD 2131 2020)

Date: 8/18/2020

Date: (Filing No. S-)

VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE
SENATE
129TH LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT " " to S.P. 766, L.D. 2131, Bill, "An Act To Correct Errors, Inconsistencies and Conflicts in and To Revise the State's Liquor Laws"

Amend the bill by inserting after section 2 the following:

'Sec. 3. 28-A MRSA §2, sub-§1, as amended by PL 2005, c. 539, §1, is further amended to read:

1. Agency liquor store. "Agency liquor store" means a person who is licensed by the bureau to sell spirits, wine and malt liquor to be consumed off the premises.'

Amend the bill in section 3 in subsection 2-C by striking out all of the last sentence (page 1, lines 14 to 16 in L.D.).

Amend the bill by striking out all of section 7.

Amend the bill in section 12 in subsection 12-B by striking out all of the last sentence (page 3, lines 3 and 4 in L.D.).

Amend the bill in section 27 in subsection 32-A in the 2nd to last line (page 9, line 11 in L.D.) by inserting after the following: "liquor" the following: 'and low-alcohol spirits products consisting of malt liquor to which spirits have been added'

Amend the bill by striking out all of section 50 and inserting the following:

'Sec. 50. 28-A MRSA §83-C, sub-§2, as enacted by PL 2013, c. 476, Pt. A, §9, is amended to read:

2. Price regulation. Establish Make recommendations to the commission regarding the retail prices of spirits sold in the State and establish the wholesale and retail prices of spirits sold in this State. The bureau shall adopt rules regarding the wholesale pricing of spirits and the retail pricing of spirits sold by to agency liquor stores. An entity awarded a contract under section 90 The wholesale spirits provider is granted the privilege to distribute spirits under this Title and is immune from antitrust action so long as the entity wholesale spirits provider is in compliance with the bureau's rules and all other applicable laws and regulations;'

COMMITTEE AMENDMENT

1 Amend the bill in section 51 in paragraph C in the first line (page 14, line 23 in L.D.)
2 by striking out the following: "the manufacturer or" and inserting the following: '~~the~~
3 ~~manufacturer or~~'

4 Amend the bill in section 58 in §90 by striking out all of subsection 2 (page 16, lines
5 8 to 16 in L.D.) and inserting the following:

6 **'2. Contract for operations.** ~~The Commissioner of Administrative and Financial~~
7 ~~Services, referred to in this section as "the commissioner,"~~ commissioner shall enter into
8 a contract for warehousing, distribution and spirits administration and a contract for
9 spirits trade marketing, each for a term of 10 years. Each contract must be awarded
10 pursuant to a competitive bid process in a manner similar to the process described in Title
11 5, chapter 155, subchapter 1-A. The commissioner is prohibited from contracting with a
12 bidder ~~who also~~ that holds or has a direct financial interest in, or that has a principal
13 officer that holds or has a direct financial interest in, a license or permit in this State or
14 another state to distill, bottle or manufacture spirits. A minor investment in not more than
15 1% of the securities of a business entity that holds a license or permit in this State or
16 another state to manufacture spirits does not constitute a financial interest prohibited by
17 this subsection.'

18 Amend the bill in section 58 in §90 by striking out all of subsection 3 (page 16, lines
19 17 to 39 in L.D.) and inserting the following:

20 **'3. Development of request for bid proposals; fee.** The commissioner shall
21 develop a request for proposals designed to encourage vigorous bidding for the purpose
22 of awarding 2 contracts for the operations of the State's wholesale spirits business. The
23 commissioner shall request bids for the operation of spirits trade marketing separately
24 from bids for the combined operations of warehousing, distribution and spirits
25 administration. In order to be considered for a contract to conduct spirits trade marketing,
26 a bidder must submit a nonrefundable application fee of up to \$5,000. In order to be
27 considered for a contract to conduct warehousing, distribution and spirits administration,
28 a bidder must submit a nonrefundable application fee of up to \$20,000. The application
29 fee must be credited to an Other Special Revenue Funds account within the division of
30 purchases within the Department of Administrative and Financial Services to be used for
31 managing the application process. A request for proposals must inform potential bidders
32 of the State's target gross revenue profit margin over the term of the contract and require
33 the bidder to affirm that neither the bidder, ~~or~~ nor any of the principal officers of the
34 bidder, ~~does not hold or have~~ has a direct financial interest in a license or permit in this
35 State or ~~any other~~ another state for the ~~distillation, bottling or manufacture of alcoholic~~
36 ~~beverages~~ spirits, other than a minor investment in not more than 1% of the securities of a
37 business entity that holds such a license or permit. The request for proposals must
38 instruct potential bidders to propose the scope of operations the bidder will provide and
39 the fee for that service expressed as a percentage of revenue generated by the wholesale
40 business. The request for proposals must direct bidders to indicate if the bidder intends to
41 use subcontractors and to identify those subcontractors. The request for proposals must
42 also inform potential bidders that they may propose incentives for the bidder intended to
43 encourage responsible growth of revenue and enhanced efficiencies in services provided.'

44 Amend the bill by striking out all of section 76 and inserting the following:

45 '**Sec. 76. 28-A MRSA §460, sub-§2, ¶P** is enacted to read:

1 P. Spirits may be poured for the taste-testing event only by the owner or an employee
2 of the agency liquor store, by a sales representative licensed under section 1502 or by
3 the spirits supplier.

4 **Sec. 77. 28-A MRSA §460, sub-§2-A, ¶D**, as enacted by PL 2019, c. 79, §1, is
5 repealed.'

6 Amend the bill in section 79 in §502 in subsection 2 in the first line (page 23, line 9
7 in L.D.) by striking out the following: "**liquor**" and inserting the following: '**spirits**'

8 Amend the bill in section 79 in §502 in subsection 2 in the last line (page 23, line 10
9 in L.D.) by striking out the following: "**liquor**" and inserting the following: '**spirits**'

10 Amend the bill in section 79 in §502 in subsection 3 in the 2nd line (page 23, line 12
11 in L.D.) by inserting after the following: "**or 2**" the following: 'except that a minor
12 investment in not more than 1% of the securities of a business entity holding a license
13 described in subsection 1 or 2 does not constitute a financial interest prohibited by this
14 subsection'

15 Amend the bill in section 87 in §606 by striking out all of the first line (page 26, line
16 25 in L.D.) and inserting the following:

17 '**§606. ~~Liquor bought from bureau; sale to government agencies~~ Purchase of spirits**
18 **by licensees, government instrumentalities, airlines, ferry services, hospitals**
19 **and state institutions**'

20 Amend the bill in section 87 in §606 by striking out all subsection 3 (page 27, lines
21 10 to 13 in L.D.) and inserting the following:

22 '**3. Prospective licensees may order ~~liquor~~ spirits in advance**. Upon approval of
23 the bureau, ~~persons who have~~ a person that has been issued an agency liquor store license
24 effective at a future date or a license, to sell spirits for on-premises consumption effective
25 at a future date, may order liquor spirits in advance of the effective date of the license and
26 may advertise the effective date.'

27 Amend the bill by striking out all of sections 93 and 94 and inserting the following:

28 '**Sec. 93. 28-A MRSA §707, sub-§8, ¶B**, as enacted by PL 2019, c. 665, §10, is
29 repealed and the following enacted in its place:

30 B. "Out-of-state spirits supplier" means an out-of-state spirits manufacturer that has
31 been issued a certificate of approval under section 1381 or a person that engages in
32 the out-of-state purchase of spirits for resale to the bureau that has been issued a
33 certificate of approval under section 1381.'

34 Amend the bill in section 96 in §708 in subsection 2 in the last line (page 31, line 2 in
35 L.D.) by striking out the following "**liquor**" and inserting the following: 'malt liquor or
36 wine'

37 Amend the bill in section 96 in §708 by striking out all of subsection 7 (page 31, lines
38 23 to 37 in L.D.) and inserting the following:

39 '**7. Instant marketing promotions.** The bureau, ~~a manufacturer~~ or a spirits
40 supplier of spirits listed for sale by the commission may offer monetary rebates in the
41 form of instant redeemable coupons as approved by the commission in accordance with

1 conditions established by the commission or rules established by the bureau. Agency
2 liquor store licensees may redeem the coupons only upon proof of purchase and in
3 accordance with the terms listed on the coupon. Instant redeemable coupons provided by
4 the ~~manufacturer's agent or manufacturer's sales representative~~ spirits supplier must be
5 made available to all agency liquor store licensees electing to offer the coupon in an
6 amount equal to the agency liquor store's inventory of spirits products that are subject to
7 the coupon promotion. The bureau, ~~the manufacturer~~ or the spirits supplier ~~of spirits~~ may
8 offer instant redeemable coupons to consumers through the bureau's, ~~the manufacturer's~~
9 or the spirits supplier's publicly accessible website, other digital media platforms or print
10 media. An instant redeemable coupon used in a manner provided in this subsection for a
11 spirits product sold by an agency liquor store licensee to a consumer is for the benefit of
12 the consumer who purchases the spirits product.'

13 Amend the bill in section 158 in subsection 4 in the 4th line (page 45, line 1 in L.D.)
14 by inserting after "wine with the" the following: 'full'

15 Amend the bill in section 161 in subsection 8 in the 9th to 12th lines (page 46, lines 5
16 to 8 in L.D.) by striking out the following: "The request must indicate if a sales
17 representative licensed under section 1502 will be pouring samples of liquor for taste
18 testing and verification that the sales representative has successfully completed an alcohol
19 server education course approved by the commissioner." and inserting the following: 'The
20 request must indicate if a sales representative licensed under section 1502 will be pouring
21 samples of liquor for taste testing and verification that the sales representative has
22 successfully completed an alcohol server education course approved by the
23 commissioner.'

24 Amend the bill in section 161 in subsection 8 in paragraph K in the last 2 lines (page
25 46, lines 34 and 35 in L.D.) by striking out the following: "This notification must list the
26 name of any sales representative licensed under section 1502 who will be pouring
27 samples for taste testing." and inserting the following: 'This notification must list the
28 name of any sales representative licensed under section 1502 who will be pouring
29 samples for taste testing.'

30 Amend the bill in section 161 in subsection 8 in paragraph S in the 3rd and 4th lines
31 (page 47, lines 36 and 37 in L.D.) by striking out the following: "whose name is listed on
32 the request to conduct the taste-tasting event as required by paragraph K"

33 Amend the bill in section 163 in §1052-D in subsection 7 in paragraph I in the 9th
34 and 10th lines (page 51, lines 31 and 32 in L.D.) by striking out the following: "A
35 sponsored manufacturer may provide for taste testing any spirits, wine or malt liquor that
36 the sponsored manufacturer manufactures."

37 Amend the bill in section 163 in section §1052-D in subsection 7 by striking out all
38 of paragraph J (page 51, lines 35 to 43 in L.D.) and inserting the following:

39 'J. A sponsored manufacturer may, for the purpose of promoting spirits, wine or malt
40 liquor ~~or wine~~ for distribution and sale in the State, provide for taste testing any
41 spirits, wine or malt liquor ~~or wine~~ that the sponsored manufacturer manufactures
42 outside the State and that has been registered with the United States Department of
43 the Treasury, Alcohol and Tobacco Tax and Trade Bureau. All containers of spirits,
44 wine or malt liquor ~~or wine~~ served in accordance with this paragraph, including

1 empty containers, must be removed from the State following the taste-testing event.
2 All spirits, wine and malt liquor ~~and wine~~ provided for the taste-testing event under
3 this paragraph is ~~are~~ subject to excise taxes under section 1652 and premiums, when
4 applicable, under section 1703.'

5 Amend the bill in section 168 by striking out all of paragraph G (page 54, lines 3 and
6 4 in L.D.) and inserting the following:

7 'G. Spirits served as a sample must be purchased from ~~the State or the State's~~
8 ~~contracted wholesaler~~ a reselling agent.'

9 Amend the bill in section 211 by striking out all of paragraph N (page 68, lines 16 to
10 21 in L.D.) and inserting the following:

11 'N. Wine may be poured for the taste-testing event only by the owner or an employee
12 of the off-premises retail licensee, by a sales representative licensed under section
13 1502 or, if the manufacturer of the wine being poured is licensed under section
14 1355-A, by the manufacturer or an employee of the manufacturer.'

15 Amend the bill by inserting after section 211 the following:

16 '**Sec. 212. 28-A MRSA §1205, sub-§2-A, ¶D**, as enacted by PL 2019, c. 79, §2,
17 is repealed.'

18 Amend the bill in section 214 by striking out all of paragraph N (page 69, lines 1 to 6
19 in L.D.) and inserting the following:

20 'N. Malt liquor may be poured for the taste-testing event only by the owner or an
21 employee of the off-premises retail licensee, by a sales representative licensed under
22 section 1502 or, if the manufacturer of the malt liquor being poured is licensed under
23 section 1355-A, by the manufacturer or an employee of the manufacturer.'

24 Amend the bill by inserting after section 214 the following:

25 '**Sec. 215. 28-A MRSA §1207, sub-§2-A, ¶D**, as enacted by PL 2019, c. 79, §3,
26 is repealed.'

27 Amend the bill by striking out all of section 218.

28 Amend the bill in section 219 in the first 2 lines (page 69, lines 29 and 30 in L.D.) by
29 striking out the following: "c. 360, §§1 to 3, c. 404, §§26 and 27 and c. 529, §§4 to 6"
30 and inserting the following: 'c. 665, §11'

31 Amend the bill in section 219 in §1355-A in subsection 2-B by striking out all of
32 paragraph B (page 74, lines 4 to 6 in L.D.) and inserting the following:

33 'B. The licensee is in violation of section 707, subsection 2, 3-A or 5-A, if the
34 violation existed in the same manner at the time the license was initially issued or at
35 the time the license was renewed.'

36 Amend the bill by striking out all of section 222.

37 Amend the bill by striking out all of section 225.

38 Amend the bill by inserting after section 227 the following:

1 'Sec. 228. 28-A MRSA §1381, sub-§5, as enacted by PL 2019, c. 615, §4 and
2 affected by §7, is amended to read:

3 **5. Shipment restrictions.** Except as provided in sections ~~2073~~ 2073-A and ~~2075~~
4 2073-E, a person that has been issued a certificate of approval under this section may
5 ~~only~~ transport spirits into the State or cause spirits to be transported into the State only if
6 the spirits are delivered to a warehouse designated by the commission under section 81.'

7 Amend the bill by striking out all of section 230.

8 Amend the bill by striking out all of section 248.

9 Amend the bill in section 266 in §2073-B in subsection 2 by striking out all of
10 paragraph B (page 96, lines 7 to 10 in L.D.) and inserting the following:

11 'B. A person may transport spirits the person transported into the State pursuant to
12 section 2073-A, subsection 2, paragraph C to:

13 (1) A warehouse designated by the commission under section 81;

14 (2) A bottler or rectifier licensed under section 1355-A;

15 (3) A winery, small winery or tenant winery licensed under section 1355-A, for
16 the production of fortified wine; or

17 (4) A brewery, small brewery or tenant brewery licensed under section 1355-A,
18 for the production of low-alcohol spirits products containing malt liquor.'

19 Amend the bill in section 266 in §2073-B in subsection 2 by striking out all of
20 paragraph C (page 96, lines 11 to 18 in L.D.) and inserting the following:

21 'C. A licensed in-state manufacturer of spirits may transport spirits produced by the
22 manufacturer or may cause a common carrier or contract carrier authorized by the
23 Department of Public Safety to transport spirits produced by the manufacturer to:

24 (1) A warehouse designated by the commission under section 81;

25 (2) A bottler or rectifier licensed under section 1355-A;

26 (3) A winery, small winery or tenant winery licensed under section 1355-A, for
27 the production of fortified wine;

28 (4) A brewery, small brewery or tenant brewery licensed under section 1355-A,
29 for the production of low-alcohol spirits products containing malt liquor;

30 (5) Any location to which the licensed in-state manufacturer of spirits is
31 authorized to transport its own products under section 1355-A; or

32 (6) The state line for transportation outside the State.'

33 Amend the bill by striking out all of section 283 and inserting the following:

34 'Sec. 283. 36 MRSA §1811, sub-§1, ¶D, as amended by PL 2019, c. 607, Pt. B,
35 §5, is further amended to read:

- 1 D. For sales occurring on or after October 1, 2019, the rate of tax is 5.5% on the
2 value of all tangible personal property and taxable services, except the rate of tax is:
- 3 (1) Eight percent on the value of prepared food;
- 4 (2) Eight percent on the value of liquor sold in licensed establishments as
5 defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A,
6 chapter 43 and liquor sold for on-premises consumption by a licensed brewery,
7 small brewery, winery, small winery, distillery or small distillery pursuant to
8 Title 28-A, section 1355-A, subsection 2, paragraph ~~F~~ B;
- 9 (3) Nine percent on the value of rental of living quarters in any hotel, rooming
10 house or tourist or trailer camp;
- 11 (4) Ten percent on the value of rental for a period of less than one year of:
- 12 (a) An automobile;
- 13 (b) A pickup truck or van with a gross vehicle weight of less than 26,000
14 pounds rented from a person primarily engaged in the business of renting
15 automobiles; or
- 16 (c) A loaner vehicle that is provided other than to a motor vehicle dealer's
17 service customers pursuant to a manufacturer's or dealer's warranty; and
- 18 (5) Ten percent on the value of adult use marijuana, adult use marijuana products
19 and, if sold by a person to an individual who is not a qualifying patient,
20 marijuana and marijuana products beginning on the first day of the calendar
21 month in which adult use marijuana and adult use marijuana products may be
22 sold in the State by a marijuana establishment licensed to conduct retail sales
23 pursuant to Title 28-B, chapter 1.'

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

26 **SUMMARY**

27 This amendment, which is the unanimous report of the committee, makes the
28 following changes to the bill.

29 1. It makes several changes to the provisions of the bill affecting the definitions of
30 terms used in the State's liquor laws, including by clarifying that agency liquor stores sell
31 not only spirits but also malt liquor and wine, streamlining the definitions of "hotel guest"
32 and "bed and breakfast guest" and clarifying that tenant breweries may produce not only
33 malt liquor but also low-alcohol spirits products.

34 2. It makes several technical corrections to the bill, including removing statutory
35 language made redundant by the bill's new definition of "spirits supplier" and moving the
36 provision of the bill identifying which products a sponsored spirits manufacturer may
37 provide for sampling at a taste-testing festival to the appropriate paragraph of the statute
38 governing those taste-testing festivals.

1 3. It reorganizes language in the bill to reflect that the Department of Administrative
2 and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations makes
3 recommendations to the State Liquor and Lottery Commission regarding the retail prices
4 of spirits sold in the State before the bureau establishes the wholesale price of those
5 spirits.

6 4. It corrects an error of law indicating that licensed Class A restaurants and Class A
7 restaurants/lounges must purchase spirits that they will offer to customers as
8 complimentary samples from the bureau and instead provides that those spirits must be
9 purchased from reselling agents.

10 5. It removes the requirements in current law that retailers who seek written
11 permission from the bureau to conduct spirits, wine or malt liquor taste-testing events
12 provide the names of any licensed sales representatives who will be pouring samples at
13 those events.

14 6. It harmonizes the bill with Public Law 2019, chapter 615 and Public Law 2019,
15 chapter 665, including by removing provisions of the bill amending statutes repealed in
16 those laws, removing provisions of the bill enacting statutes already enacted in those
17 laws, aligning the definition of "out-of-state spirits supplier" enacted in Public Law 2019,
18 chapter 665, section 10 with the provisions of Public Law 2019, chapter 615 and
19 correcting cross-references.

20 7. It aligns the liquor importation and transportation statutes with other provisions of
21 the bill and current law by clarifying that wineries, small wineries and tenant wineries
22 may import spirits or purchase spirits manufactured in the State for the purpose of
23 producing fortified wine and that breweries, small breweries and tenant breweries may
24 import spirits or purchase spirits manufactured in the State for the purpose of producing
25 low-alcohol spirits products containing malt liquor.

26 **FISCAL NOTE REQUIRED**

27 **(See attached)**



129th MAINE LEGISLATURE

LD 2131

LR 3164(02)

An Act To Correct Errors, Inconsistencies and Conflicts in and to Revise the State's Liquor Laws

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services as a result of revisions to the State's liquor laws are anticipated to be minor and can be absorbed within existing budgeted resources.