

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

---

Legislative Document

No. 1358

---

S.P. 444

In Senate, April 7, 2021

### **An Act To Provide for the Direct Shipment of Spirits to Consumers**

---

Received by the Secretary of the Senate on April 5, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed.

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

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator STEWART of Aroostook.  
Cosponsored by Representative: PIERCE of Falmouth.

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

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

4 **5. Shipment restrictions.** Except as provided in sections 1382, 2073 and 2075, a  
5 person that has been issued a certificate of approval under this section may only transport  
6 spirits into the State or cause spirits to be transported into the State only if the spirits are  
7 delivered to a warehouse designated by the commission under section 81.

8 **Sec. 2. 28-A MRSA §1382** is enacted to read:

9 **§1382. Direct shipment of spirits by distilleries**

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

12 A. "Direct shipper" means a distillery licensed under subsection 2 that holds a current  
13 manufacturer license under section 1355-A or, for a distillery outside the State, a  
14 current manufacturer license from that state, territory or possession of the United  
15 States.

16 B. "Outside the State" means in any other state or territory or possession of the United  
17 States but does not include a foreign country.

18 **2. Direct shipment of spirits; licensure.** A direct shipper may ship spirits within the  
19 State subject to the licensure requirements of this section. A distillery that holds a federal  
20 basic spirits manufacturing permit may obtain an annual spirits direct shipper license by  
21 filing with the bureau an application in a form determined by the bureau accompanied by  
22 an application fee of not more than \$200 and a copy of the applicant's current federal basic  
23 spirits manufacturing permit.

24 **3. Direct shipper application.** Before sending a shipment to a resident of this State,  
25 a direct shipper must file an application for a spirits direct shipper license under subsection  
26 2 with the bureau on a form issued by the bureau along with a true copy of its current  
27 manufacturer license under section 1355-A or issued outside the State and a \$100  
28 registration fee.

29 **4. Direct shipment of spirits; requirements.** A direct shipper may ship only spirits  
30 produced by the direct shipper in accordance with the direct shipper's federal permit. A  
31 direct shipper may ship spirits to a recipient only for personal use and not for resale. A  
32 direct shipper shall label each package to be shipped in accordance with this section so that  
33 it conspicuously reads "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21  
34 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

35 **5. Common carrier.** Shipments made in accordance with this section must be made  
36 by a common carrier and must be accompanied by a shipping label that clearly indicates  
37 the name of the direct shipper and the name and address of the recipient. The common  
38 carrier shall obtain the signature of a person 21 years of age or older at the address listed  
39 on the shipping label prior to delivery of the shipment. The common carrier shall request  
40 photographic identification from the person signing for the shipment and verify that the  
41 person is 21 years of age or older.

1           **6. Bottle size and case limit.** A direct shipper may not ship a container of spirits of  
2 less than 750 milliliters and may ship no more than 4 cases, each of which may contain no  
3 more than 9 liters or an equivalent volume, to any one recipient address in a calendar year.

4           **7. Prohibited shipping areas.** A direct shipper may not ship to any address identified  
5 by the bureau as within a prohibited shipping area or a municipality that has voted in any  
6 particular local option election against the sale of all types of liquor.

7           **8. License renewal.** A direct shipper may annually renew its spirits direct shipper  
8 license with the bureau by paying a \$50 renewal fee and providing the bureau with a true  
9 copy of its manufacturer license under section 1355-A or issued outside the State.

10           **9. Sales tax registration and payment required.** As a condition of receiving a  
11 certificate of approval, a shipper located outside the State shall comply with the provisions  
12 of Title 36, Part 3, including all requirements relating to registration as a seller and the  
13 collection, reporting and remittance of the sales and use taxes of the State, and shall agree  
14 to be subject to the jurisdiction of the State for purposes of the enforcement of those  
15 obligations. The requirements of this subsection apply notwithstanding any provision of  
16 law of the State to the contrary.

17           **10. Payment of excise taxes.** A direct shipper located outside the State shall annually  
18 pay to the bureau an excise tax of \$11.96 per gallon of spirits sold to residents of the State  
19 in the preceding year. Spirits shipped by a direct shipper located outside the State are not  
20 subject to any premium or additional tax under Title 28-A or Title 36.

21           **11. Report.** A direct shipper shall submit a report to the bureau annually in a manner  
22 and form prescribed by the bureau that includes the total number of cases of spirits shipped  
23 to recipients in the State and the name and residence address of shipment recipients in the  
24 State, the common carrier used to deliver the shipments and the date, quantity and purchase  
25 price of each shipment.

26           **12. Audit.** The bureau may perform an audit of a direct shipper's records relevant to  
27 compliance with this section. A direct shipper shall provide copies of any records requested  
28 by the bureau within 10 business days of that request.

29           **13. Violation.** A person, including a common carrier, who knowingly causes a direct  
30 shipment in violation of this section is subject to a fine up to \$500 for a first offense and  
31 up to \$1,000 for any subsequent violation of this section. A direct shipper or common  
32 carrier who knowingly delivers spirits to a person under 21 years of age is subject to a fine  
33 up to \$5,000. The bureau may suspend or revoke a spirits direct shipper license for failure  
34 to comply with the shipping limits and reporting requirements required by this section. The  
35 bureau may accept payment of an offer in compromise in lieu of suspension; such payments  
36 must be determined by rules adopted by the bureau.

37           **14. Jurisdiction.** A direct shipper, as a condition of licensure, is subject to the  
38 jurisdiction and enforcement authority of the State for the purposes of enforcement of this  
39 section.

40           **15. Not subject to beverage container law.** Notwithstanding Title 38, chapter 33, a  
41 container of spirits shipped pursuant to this section does not require a refund value for  
42 beverage container control purposes.



1 carrier, requires that a recipient be 21 years of age or older with identification and requires  
2 the direct shipper to register for and pay sales tax. Out-of-state direct shippers also must  
3 pay an excise tax of \$11.96 per gallon but are not subject to any other premium or additional  
4 tax under the Maine Revised Statutes, Title 28-A or Title 36. The direct shipper is required  
5 to report to the bureau and is subject to audit by the bureau.