

MAINE STATE LEGISLATURE

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L.D. 1906

Date: 3/25/22

(Filing No. S-4(63))

VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

130TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 668, L.D. 1906, "An Act Regarding Rulemaking and Pricing under the Bureau of Alcoholic Beverages and Lottery Operations"

Amend the bill by striking out the title and substituting the following:

'An Act To Streamline and Modernize the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 28-A MRSA §81, sub-§5 is enacted to read:

5. Retail price; reconsideration. The commission shall, in accordance with section 1651 and after considering any recommendation submitted by the bureau, establish the retail price of spirits sold in the State. The director of the bureau shall notify the affected spirits supplier of the commission's decision establishing the retail price and of the affected spirits supplier's opportunity to request reconsideration of the retail price determination at an adjudicatory hearing conducted by the commission in accordance with Title 5, chapter 375, subchapter 4. The decision of the commission issued after an adjudicatory hearing requested under this subsection is final agency action for the purposes of judicial review under Title 5, chapter 375, subchapter 7. The commission shall adopt rules establishing the procedures for the conduct of adjudicatory hearings under this subsection, including but not limited to the deadline for an affected spirits supplier to request a hearing. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. For purposes of this subsection, "affected spirits supplier" means a spirits supplier that supplies a spirits product that is the subject of a retail price determination of the State.

Sec. 2. 28-A MRSA §84, sub-§6, as amended by PL 2019, c. 13, §8, is further amended to read:

6. Implement a spirits sales data reporting system. Collect from reselling agents data on spirits sales made by each reselling agent to establishments licensed to sell spirits

1 for on-premises consumption. The data must include, but is not limited to, the amount and
 2 date of sale of each product code sold to on-premises licensees by the reselling agent. For
 3 the purposes of this subsection, "product code" has the same meaning as in section 461.
 4 For the purposes of collecting on-premises spirits sales data from reselling agents, the
 5 director shall enter into a contract with a trade association representing states that control
 6 and manage the sale of spirits. The contract must require the trade association to compile
 7 aggregate data for each product code on the monthly sales made by reselling agents to
 8 establishments licensed to sell spirits for on-premises consumption and to make that data
 9 and the data provided in subsection 6-A available to spirits suppliers. The contract must
 10 also require that neither the bureau nor the trade association may make publicly available
 11 any information that would specifically identify the reselling agent, including, but not
 12 limited to, the reseller's name, the name of the reseller's agency liquor store, the reseller's
 13 agency liquor store's address or the address of any associated storage facility of the reselling
 14 agent; ~~and~~

15 **Sec. 3. 28-A MRSA §84, sub-§6-A** is enacted to read:

16 **6-A. Wholesale spirits sales data.** Provide to the trade association awarded the
 17 contract under subsection 6 data on spirits sales made each month by the State to agency
 18 liquor stores. The data must include, but is not limited to, aggregate sales of each product
 19 code sold to agency liquor stores by the State. For the purposes of this subsection, "product
 20 code" has the same meaning as in section 461; and

21 **Sec. 4. 28-A MRSA §1404**, as amended by PL 1997, c. 373, §128, is further
 22 amended to read:

23 **§1404. Unbonded wholesale licensees**

24 **1. Procedure for unbonded wholesale licensees.** Unbonded wholesale licensees
 25 shall order and purchase malt liquor and wine under the following procedures.

- 26 A. The bureau shall furnish all purchase order forms.
- 27 ~~B. The unbonded wholesale licensee shall complete the forms in quintuplicate.~~
- 28 C. The unbonded wholesale licensee ordering malt liquor or wine shall mail 3 copies
 29 submit to the bureau, in a manner specified by the bureau, a copy of the completed
 30 purchase order form to the bureau with a check payment for the amount of excise taxes
 31 required to cover the amount of the order.
- 32 ~~D. The unbonded wholesale licensee may mail the original copy of the order to the~~
 33 ~~brewery or winery or wholesaler with whom the licensee wishes to place the order.~~
- 34 E. On receipt of the 3 copies copy of the completed purchase order form and a check
 35 payment for excise taxes submitted under paragraph C, the bureau shall promptly
 36 process the payment and submit copies and return one copy of the completed purchase
 37 order form indicating that excise taxes have been paid to the unbonded wholesale
 38 licensee and send one to the brewery, winery or foreign wholesaler designated to
 39 receive certificate of approval holder with which the unbonded wholesale licensee
 40 wishes to place the order. The bureau shall keep the 3rd copy on file.
- 41 F. ~~No brewery, winery or foreign wholesaler~~ A certificate of approval holder may not
 42 ship or release malt liquor or wine for delivery in Maine the State until notified by the
 43 bureau that the excise tax has been paid in accordance with this section.

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Sec. 5. 28-A MRSA §1405, sub-§1, as amended by PL 1997, c. 373, §129, is further amended to read:

1. Procedures for bonded wholesale licensees. Bonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

- A. The bureau shall furnish all purchase order forms.
- ~~B. The bonded wholesale licensee shall complete the forms in triplicate.~~
- C. The bonded wholesale licensee shall submit ~~the original~~ a copy of the completed purchase order form to the ~~brewery, winery or foreign wholesaler~~ certificate of approval holder with whom he which the bonded wholesale licensee wishes to place the order.
- D. The bonded wholesale licensee shall ~~then mail~~ submit to the bureau ~~one~~, in a manner specified by the bureau, a copy of the completed purchase order form and retain ~~one~~ a copy for the licensee's files.

Sec. 6. Report. Not later than January 15, 2023, the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations shall submit a report to the joint standing committee of the Legislature having jurisdiction over alcoholic beverages matters that describes the process by which the State Liquor and Lottery Commission established in the Maine Revised Statutes, Title 5, section 12004-G, subsection 14 establishes the retail price of spirits sold in the State; describes the process by which the bureau develops recommended retail prices for the commission's consideration; explains how any pricing formula or calculator employed by the bureau to establish such recommended retail prices operates, the factors that affect a retail price calculated using such a formula or calculator and the reasons that the bureau chose to incorporate those factors in the formula or calculator; and informs the committee of the status of the commission's adoption of rules pursuant to the Maine Revised Statutes, Title 28-A, section 81, subsection 5. The committee may submit legislation related to the report to the 131st Legislature in 2023.'

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

SUMMARY

This amendment replaces the bill and makes the following changes to the State's liquor laws.

- 1. It requires the State Liquor and Lottery Commission to adopt routine technical rules establishing procedures by which a spirits supplier may, after the commission establishes the retail price of that spirits supplier's own spirits product, request a reconsideration of that retail price determination at an adjudicatory hearing.
- 2. Under current law, the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations must enter into a contract with a trade association representing states that control and manage the sale of spirits for the monthly collection of data, by product code, on spirits sales made by each reselling agent to establishments licensed to sell spirits for on-premises consumption. The amendment requires the trade association to compile and make available aggregate data, by product

COMMITTEE AMENDMENT “ A ” to S.P. 668, L.D. 1906 (S-4163)

1 code, on the monthly sales made by reselling agents to establishments licensed to sell spirits
2 for on-premises consumption. The amendment also requires the bureau to provide to the
3 same trade association monthly data, by product code, on aggregate spirits sales made by
4 the State to agency liquor stores. The trade association must make this data available to
5 spirits suppliers.

6 3. It streamlines the paperwork requirements by updating the procedures for purchase
7 order forms that bonded and unbonded wholesale licensees must fill out when ordering
8 malt liquor or wine.

9 4. It requires the bureau to submit a report to the joint standing committee of the
10 Legislature having jurisdiction over alcoholic beverages matters by January 15, 2023 that
11 describes the processes by which the commission establishes the retail price of spirits sold
12 in the State, describes the process by which the bureau develops recommended retail prices
13 for the commission's consideration, explains how any pricing formula or calculator
14 employed by the bureau to establish such recommended retail prices operates and informs
15 the committee of the status of the commission's establishment of a process for a spirits
16 supplier to seek a reconsideration of a commission retail price determination. The
17 committee is authorized to submit legislation related to the report to the 131st Legislature
18 in 2023.

19 **FISCAL NOTE REQUIRED**

20 (See attached)



130th MAINE LEGISLATURE

LD 1906

LR 2511(02)

An Act Regarding Rulemaking and Pricing under the Bureau of Alcoholic Beverages and Lottery Operations

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-463)

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 the provisions of this bill are anticipated to be minor and can be absorbed within existing budgeted resources.