

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1937

S.P. 671

In Senate, January 26, 2022

**An Act To Clarify the Exemption from Income Tax and
Withholding Tax Liability for Certain Out-of-state Suppliers of
Spirits Purchased by the Bureau of Alcoholic Beverages and Lottery
Operations**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Taxation suggested 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 LUCHINI of Hancock.
Cosponsored by Representative TERRY of Gorham and
Senators: President JACKSON of Aroostook, SANBORN of Cumberland, Representatives:
BICKFORD of Auburn, CLOUTIER of Lewiston, Speaker FECTEAU of Biddeford.

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

2 **Sec. 1. 36 MRSA §5202-D** is enacted to read:

3 **§5202-D. Exemption for certain out-of-state suppliers of spirits sold to the Bureau of**
4 **Alcoholic Beverages and Lottery Operations**

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

7 A. "Bureau" means the Bureau of Alcoholic Beverages and Lottery Operations within
8 the Department of Administrative and Financial Services and includes a contractor or
9 agent of the bureau.

10 B. "Spirits" has the same meaning as in Title 28-A, section 2, subsection 31.

11 **2. No tax liability or nexus for sale, shipment or storage of spirits.** For tax years
12 beginning on or after January 1, 2021, a person domiciled in another state that approves an
13 order or request from outside this State for spirits placed by the bureau is not liable under
14 this Part and may not be considered to have a sufficient nexus to impose liability for any
15 tax imposed pursuant to this Part or to require a pass-through entity to withhold tax for any
16 tax imposed pursuant to this Part based solely on the following in-state activities:

17 A. The sale of spirits to the bureau, regardless of whether the amount of the sales
18 exceeds the thresholds for nexus specified in section 5200-B, subsection 1;

19 B. The shipment of spirits from outside this State to any warehouse operated or used
20 by the bureau or to another facility as directed by the bureau;

21 C. The storage of spirits at any warehouse operated by or used by the bureau or at
22 another facility as directed by the bureau, regardless of whether the value of those
23 spirits exceeds the thresholds for nexus specified in section 5200-B, subsection 1; or

24 D. Any other activity required by the bureau in order to facilitate the fulfillment of
25 orders of spirits placed by the bureau.

26 Spirits manufactured or produced outside this State and brought into this State based on an
27 order or request of the bureau when such order or request is approved from outside this
28 State are not subject to tax liability under this Part notwithstanding any delay in transfer of
29 title for those spirits or storage of those spirits at a warehouse operated or used by the
30 bureau pending the transfer of title to the bureau.

31 **3. Effect on protection or exemption from taxation due to other laws.** This section
32 may not be construed to reduce any protection or exemption from taxation that arises under
33 15 United States Code, Sections 381 to 384 or any other provision of law.

34 **4. Rules.** The assessor shall adopt rules to implement this section. Rules adopted
35 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
36 subchapter 2-A.

37 **SUMMARY**

38 This bill provides an exemption from income taxation or tax withholding for certain
39 manufacturers of spirits or suppliers of spirits located outside the State that sell or ship
40 spirits pursuant to an order or request placed by the Department of Administrative and

1 Financial Services, Bureau of Alcoholic Beverages and Lottery Operations or an agent or
2 contractor of the bureau. The bill also clarifies that spirits manufactured or produced
3 outside the State and brought into the State pursuant to an order or request of the bureau
4 are exempt from taxation, regardless of whether those spirits are stored at a warehouse
5 operated or used by the bureau or at another facility as directed by the bureau, and
6 regardless of whether the amount of the sales or the value of those spirits exceeds the
7 thresholds for the determination of nexus as specified in the Maine Revised Statutes, Title
8 36, section 5200-B, subsection 1.