

MAINE STATE LEGISLATURE

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Date: 4/5/24

MINORITY
VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE
SENATE
131ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 682, L.D. 1695, "An Act to Provide for the Direct Shipment of Spirits to Consumers"

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

'Sec. 1. 28-A MRSA §1358 is enacted to read:

§1358. Direct shipment of spirits

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

A. "Case equivalent" has the same meaning as in section 1457, subsection 1-A, paragraph B.

B. "Common carrier" means a company that transports goods upon reasonable request, on regular routes and at set rates.

C. "Direct shipper" means a distillery, small distillery, rectifier or out-of-state spirits manufacturer that has obtained a spirits direct shipper license under subsection 2.

D. "Direct shipper discount rate" means a percentage that is equal to the percentage discount rate for small distilleries that sell their products directly to consumers under section 606, subsection 4-B.

E. "Fulfillment provider" means a bonded logistics agent of a direct shipper that provides fulfillment services, including warehousing, packaging, distribution and order processing for the shipment of spirits to a consumer and arranges for transport of spirits to a consumer by a common carrier and that has obtained a fulfillment provider registration under subsection 9.

F. "Outside the State" means any state other than this State and any territory or possession of the United States, but does not include a foreign country.

2. Direct shipment of spirits; license required. A distillery, small distillery, rectifier or out-of-state spirits manufacturer holding a federal basic distilled spirits plant permit

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located within or outside the State that has been issued a certificate of label approval by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau for a product to be shipped may obtain a spirits direct shipper license by filing with the bureau an application in a form determined by the bureau accompanied by an application fee of not more than \$200, a copy of the applicant's current federal basic distilled spirits plant permit and a list of spirits labels to be shipped in accordance with this section.

3. Direct shipper application. Before sending a shipment to a resident of this State, a direct shipper shall file an application for a spirits direct shipper license under subsection 2 with the bureau on a form issued by the bureau along with a true copy of its current distillery, small distillery, rectifier or out-of-state spirits manufacturer license issued in this State or another state and a \$100 registration fee.

4. Direct shipment requirements. A direct shipper or the direct shipper's fulfillment provider may only ship spirits that were produced by or for the direct shipper, owned by the direct shipper or sold under the distillery name of the direct shipper in accordance with the direct shipper's federal basic distilled spirits plant permit to a recipient who is at least 21 years of age and that are intended for personal use and not for resale. A direct shipper or the direct shipper's fulfillment provider shall label each package to be shipped in accordance with this section so that it conspicuously reads: "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

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

6. Shipment restrictions and limitations. The following shipment restrictions and limitations apply to a direct shipper under this section.

A. A direct shipper may ship no more than one case equivalent of spirits per recipient address in a 3-month period and may not exceed 4 case equivalents of spirits per recipient address in a calendar year.

B. A direct shipper located within the State may ship to recipients in this State only spirits that the direct shipper is licensed to ship under subsection 2 and that are listed for sale in the State by the commission under section 81, subsection 3. A direct shipper under this paragraph may ship within the State no more than 60 case equivalents of spirits in a calendar year.

C. A direct shipper located outside the State may ship to recipients in this State only spirits that the direct shipper is licensed to ship under subsection 2 and that are not listed for sale in the State by the commission under section 81, subsection 3. A direct shipper under this paragraph may ship within the State no more than 60 case equivalents of spirits in a calendar year. If, within a 12-month period, a direct shipper under this paragraph ships more than 10 case equivalents of a single spirits product within the State, the direct shipper must request that that spirits product be listed by the commission under section 81, subsection 3.



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7. Prohibited shipping areas. A direct shipper may not ship to any address in an area identified by the bureau as a prohibited shipping area or a local option area.

8. License renewal. A direct shipper may annually renew its spirits direct shipper license with the bureau by paying a \$50 renewal fee and providing the bureau with a true copy of its current distillery, small distillery, rectifier or out-of-state spirits manufacturer license issued in this State or another state.

9. Fulfillment provider; registration. A direct shipper may use a fulfillment provider that is registered under this subsection.

A. A fulfillment provider that is not a common carrier and that does not hold a direct shipper, manufacturer or retail license issued by the bureau and that is not owned or controlled by a common carrier, direct shipper, manufacturer or retail licensee may register with the bureau in a manner prescribed by the bureau. A registration must include the information required in paragraph B and a registration fee of not more than \$50 per physical premises. A fulfillment provider registering pursuant to this subsection shall register with the bureau for each physical premises from which the fulfillment provider will ship spirits under this section. A fulfillment provider may only ship spirits to a recipient in the State if the fulfillment provider maintains a current registration, as applicable, under this subsection and only if the spirits shipped are provided by a direct shipper licensed under this section.

B. A fulfillment provider registration must include the following:

- (1) The address of each premises from which the fulfillment provider will ship spirits to recipients in the State;
- (2) The name, address and license number of each direct shipper on whose behalf the fulfillment provider will ship spirits to recipients in the State; and
- (3) Any other information as determined by the bureau.

C. A fulfillment provider registration must be renewed every 2 years. If there is a material change in the information provided to the bureau related to the initial registration or renewal, the fulfillment provider shall provide updated information to the bureau not later than 14 days after the change.

D. A fulfillment provider shall make all commercially reasonable efforts to verify the validity of each direct shipper license prior to making any shipments under this section. Continuous failure to verify the validity of licenses may result in the suspension of the fulfillment provider's registration and imposition of a fine.

10. Direct shipper spirits pricing. Spirits shipped under this section must be sold at the retail price determined by the commission pursuant to section 1651, subsection 1. Spirits shipped under this section by a direct shipper located outside the State under subsection 6, paragraph C must be sold at a price equivalent to the retail price for spirits sold to the State with a supplier price as reported by the direct shipper to the bureau under subsection 13. If the direct shipper modifies the supplier price from the price reported to the bureau under subsection 13, the direct shipper shall notify the bureau prior to implementing the modified price.

11. Sales tax registration and payment required. A direct shipper shall comply with the provisions of Title 36, Part 3, including all requirements relating to registration as

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a seller and the collection, reporting and remittance of the sales and use taxes of the State, and a direct shipper located outside the State shall agree to be subject to the jurisdiction of the State for purposes of the enforcement of those obligations. The requirements of this subsection apply notwithstanding any provision of law of the State to the contrary.

12. Payment to bureau. A direct shipper shall pay quarterly to the bureau amounts as follows.

A. A direct shipper within the State under subsection 6, paragraph B shall pay to the bureau the difference between the direct shipper's price charged to the bureau for that spirits product and the amount equal to the retail price for that spirits product multiplied by the direct shipper discount rate.

B. A direct shipper outside the State under subsection 6, paragraph C shall pay to the bureau the difference between the direct shipper's supplier price for that spirits product as reported to the bureau under subsection 13 and the amount equal to the retail price as determined under subsection 10 for that spirits product multiplied by the direct shipper discount rate.

13. Reporting. Reports to the bureau regarding direct shipments of spirits are governed by this subsection.

A. A direct shipper shall submit a report to the bureau quarterly in a manner and form prescribed by the bureau that includes the following:

- (1) The total number of case equivalents per spirits product shipped to recipients in the State and, for a direct shipper located in the State, shipments made outside the State;
- (2) For a direct shipper located outside the State, the supplier price and the calculated retail price under subsection 10 for each spirits product shipped to recipients in the State;
- (3) The name and residence address of shipment recipients in the State;
- (4) The name and registration of the designated fulfillment providers, if applicable;
- (5) The common carrier used to deliver each shipment; and
- (6) The date, quantity and purchase price of each shipment.

B. A fulfillment provider shall submit a report to the bureau quarterly in a manner and form prescribed by the bureau that includes the following:

- (1) The name as it appears on the direct shipper license, physical address and license number of the direct shipper on whose behalf the fulfillment provider shipped spirits under this section;
- (2) The date of each shipment;
- (3) The name and business address of the common carrier that transported the shipment and the unique tracking number for each shipment;
- (4) The weight of each package shipped; and
- (5) The name and residence address of each recipient.

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C. A common carrier shall submit a report to the bureau quarterly in a manner and form prescribed by the bureau that includes the following:

- (1) The name of the common carrier;
- (2) The name and address of the direct shipper and, if applicable, the fulfillment provider that used the common carrier for a shipment of spirits;
- (3) The name and address of each recipient;
- (4) The weight of each package delivered to each recipient;
- (5) The unique tracking number for each shipment; and
- (6) The date of delivery.

A failure by a common carrier to comply with the reporting requirements of this paragraph that continues for more than 30 days after receiving from the bureau a notice of that failure may result in the suspension of the common carrier's license to operate in the State or the imposition of any other penalty the relevant licensing authority in the State is authorized to impose.

D. If no spirits were shipped to a recipient in this State and, for a direct shipper located in the State, no spirits were shipped to a recipient outside the State during the reporting period, a report indicating such must be submitted to the bureau.

14. Audit and records retention. The bureau may perform an audit of a direct shipper's, fulfillment provider's or common carrier's records relevant to compliance with this section. A direct shipper, fulfillment provider or common carrier shall provide copies of any records requested by the bureau within 20 business days of that request.

A. A direct shipper shall maintain the books, records and documents supporting a report submitted under subsection 13, paragraph A or D for 2 years after the reporting date, unless otherwise directed by the bureau.

B. A fulfillment provider shall maintain the books, records and documents supporting a report submitted under subsection 13, paragraph B or D for 2 years after the reporting date, unless otherwise directed by the bureau.

C. A common carrier shall maintain the books, records and documents supporting a report submitted under subsection 13, paragraph C or D, including an electronic or paper copy of each recipient's signature, for 2 years after the reporting date, unless otherwise directed by the bureau.

15. Violation. A person, including a common carrier or fulfillment provider, that knowingly causes a direct shipment in violation of this section is subject to a fine of up to \$500 for a first offense and up to \$1,000 for any subsequent violation of this section. A direct shipper, fulfillment provider or common carrier who knowingly delivers spirits to a person who has not attained 21 years of age is subject to a fine of up to \$5,000. The bureau may suspend or revoke a spirits direct shipper license under subsection 2 for failure to comply with the shipping limits and reporting requirements required by this section. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rules adopted by the bureau.

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1 16. Jurisdiction. A direct shipper, as a condition of licensure, is subject to the
2 jurisdiction and enforcement authority of the State for the purposes of enforcement of this
3 section.

4 17. Beverage container law. Spirits shipped pursuant to this section are subject to
5 the provisions of Title 38, chapter 33.

6 18. Rules. The bureau shall adopt rules to carry out the purposes of this section. Rules
7 adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter
8 375, subchapter 2-A.

9 **Sec. 2. Effective date.** This Act takes effect July 1, 2026.'

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

12 **SUMMARY**

13 This amendment, which replaces the bill, allows distilleries, small distilleries and
14 rectifiers within and outside the State and out-of-state spirits manufacturers to ship their
15 spirits to recipients in the State in a manner similar to that presently allowed for wineries
16 to ship their wine products. The amendment authorizes a direct shipper of spirits to use a
17 fulfillment provider for the direct shipment of spirits. The amendment provides that
18 fulfillment providers must be registered with the Department of Administrative and
19 Financial Services, Bureau of Alcoholic Beverages and Lottery Operations in order to ship
20 spirits on behalf of a direct shipper to recipients in this State. The amendment establishes
21 reporting and record retention requirements for direct shippers, fulfillment providers and
22 common carriers. The amendment establishes shipment restrictions and limitations for both
23 in-state and out-of-state direct shippers of spirits and procedures for establishing spirits
24 pricing and for payments to the bureau for spirits shipped directly to recipients in the State,
25 rather than going through the State's warehouse. The amendment also establishes an
26 effective date of July 1, 2026.

27 **FISCAL NOTE REQUIRED**

28 (See attached)



131st MAINE LEGISLATURE

LD 1695

LR 785(02)

An Act to Provide for the Direct Shipment of Spirits to Consumers

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-6604)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$0	\$108,507	\$204,430
Appropriations/Allocations				
General Fund	\$0	\$0	\$108,507	\$204,430

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional fines will increase General Fund or other dedicated revenue by minor amounts.

Fiscal Detail and Notes

Allowing direct shipment of spirits to consumers is expected to shift some spirits sales away from in-store purchases to purchases from direct shippers. Because direct shippers with gross sales from delivery into the State at or below \$100,000 per year will not be required to collect sales tax, there may be a decrease in sales tax revenue beginning in fiscal year 2026-27. This is expected to be offset by additional licensing and registration fees.

The Bureau of Alcohol Beverages and Lottery Operations has indicated that the additional administrative requirements for allowing direct shipments of spirits to customers will require additional staff and resources to implement. Beginning in January of 2026 additional General Fund appropriations of \$108,507 will be needed for one Liquor Tax Auditor position, one Liquor License Inspector position and associated position costs.