

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1695

S.P. 682

In Senate, April 18, 2023

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

Reference to the Committee on Veterans and Legal Affairs 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 STEWART of Aroostook.

Cosponsored by Senators: HICKMAN of Kennebec, PIERCE of Cumberland, POULIOT of Kennebec, Representatives: DILL of Old Town, O'CONNELL of Brewer, RUDNICKI of Fairfield.

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

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

3 **§1358. Direct shipment of spirits products**

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

6 A. "Direct shipper" means a distillery, small distillery or rectifier that has obtained a
7 spirits direct shipper license under subsection 2.

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

10 **2. Direct shipment of spirits products.** A distillery, small distillery or rectifier
11 holding a federal basic distilled spirits plant permit located within or outside the State may
12 obtain a spirits direct shipper license by filing with the bureau an application in a form
13 determined by the bureau accompanied by an application fee of not more than \$200, a copy
14 of the applicant's current federal basic distilled spirits plant permit and a list of spirits
15 product labels to be shipped in accordance with this section.

16 A. An in-state direct shipper may ship directly to a consumer in the State a spirits
17 product produced by the direct shipper that is currently listed for sale in the State. Each
18 spirits product must be sold at the retail price established by the commission.

19 B. A direct shipper located outside the State may ship directly to a consumer in the
20 State up to 200 case equivalents per calendar year of spirits products produced by the
21 direct shipper and are not currently listed for sale in the State. Each spirits product must
22 be sold at a price that is the equivalent of the prevailing retail price of the spirits product
23 in the state where the direct shipper produces the spirits product. For the purposes of
24 this paragraph, "case equivalent" has the same meaning as in section 1457, subsection
25 1-A, paragraph B.

26 **3. Direct shipper application.** Before sending a shipment to a resident of this State,
27 a direct shipper shall file an application for a spirits direct shipper license under subsection
28 2 with the bureau on a form issued by the bureau along with a true copy of its current
29 distillery, small distillery or rectifier license issued in this State or another state and a \$100
30 registration fee.

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

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

1 shipment made under this subsection for 2 years after the shipment and provide copies of
2 the records to the bureau upon request.

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

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

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

15 **9. Payment of excise taxes.** A direct shipper located outside the State shall annually
16 pay to the bureau all excise taxes due on sales to residents of the State in the preceding
17 year, the amount of such taxes to be calculated as if the sales were in the State.

18 **10. Payment to the bureau.** A direct shipper shall pay to the bureau an amount equal
19 to the fee under section 1355-A, subsection 5, paragraph B, subparagraph (3) that the direct
20 shipper would be required to pay for sales of spirits products for off-premises or on-
21 premises consumption.

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

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

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

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

42 **15. Beverage container law.** Spirit products shipped pursuant to this section are
43 subject to the provisions of Title 38, chapter 33.

