

# MAINE STATE LEGISLATURE

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Date: 3/29/24

L.D. 2148

(Filing No. H-884)

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**VETERANS AND LEGAL AFFAIRS**

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**STATE OF MAINE**

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**HOUSE OF REPRESENTATIVES**

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**131ST LEGISLATURE**

8

**SECOND REGULAR SESSION**

9

COMMITTEE AMENDMENT "A" to H.P. 1372, L.D. 2148, "An Act to Establish  
10 Common Carrier Reporting for the Direct Shipment of Wine"

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

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**'An Act to Expand Direct Shipment Reporting and to Allow for the Use of Fulfillment  
13 Providers for the Direct Shipment of Wine'**

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Amend the bill by inserting after section 1 the following:

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**'Sec. 2. 28-A MRSA §1403-A, sub-§1, ¶D** is enacted to read:

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D. "Fulfillment provider" means a bonded logistics agent of a direct shipper that  
17 provides fulfillment services, including warehousing, packaging, distributing and order  
18 processing for the shipment of wine to a consumer and arranges for transport of wine  
19 to a consumer by a common carrier and that has obtained a fulfillment provider  
20 registration under subsection 5-A.

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**Sec. 3. 28-A MRSA §1403-A, sub-§4,** as enacted by PL 2009, c. 373, §1, is  
22 amended to read:

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**4. Direct shipment requirements.** A direct shipper or a direct shipper's fulfillment  
24 provider may only ship wine that was produced by or for the direct shipper, owned by the  
25 direct shipper or sold under the winery name of the direct shipper in accordance with the  
26 direct shipper's federal basic wine manufacturing permit to a recipient who is at least 21  
27 years of age and that is intended for personal use and not for resale. A direct shipper or a  
28 direct shipper's fulfillment provider may not ship wine products commonly known as "wine  
29 coolers." A direct shipper or a direct shipper's fulfillment provider shall label each package  
30 to be shipped in accordance with this section so that it conspicuously reads "CONTAINS  
31 ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS  
32 REQUIRED FOR DELIVERY." '

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Amend the bill by inserting after section 2 the following:

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**'Sec. 3. 28-A MRSA §1403-A, sub-§5-A** is enacted to read:

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5-A. Fulfillment provider registration. A direct shipper may use a fulfillment provider that is registered under this section.

A. A fulfillment provider that is not a common carrier, does not hold a direct shipper, manufacturer, wholesale or retail license issued by the bureau and is not a certificate of approval holder and that is not owned or controlled by a common carrier, direct shipper, manufacturer, wholesale or retail licensee or certificate of approval holder 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 wine under this section. A fulfillment provider may only ship wine to a recipient in the State if the fulfillment provider maintains a current registration, as applicable, under this subsection and only if the wine shipped is provided by a direct shipper licensed under this section.

B. A fulfillment provider registration must include the following:

- (1) The address of each physical premises from which the fulfillment provider will ship wine to recipients in the State;
- (2) The name, address and license number of each direct shipper on whose behalf the fulfillment provider will ship wine 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.'

Amend the bill by striking out all of sections 3 and 4 and inserting the following:

**'Sec. 3. 28-A MRSA §1403-A, sub-§11, as amended by PL 2013, c. 476, Pt. A, §31, is repealed and the following enacted in its place:**

**11. Reporting.** Reports to the bureau regarding direct shipments of wine 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 cases of wine shipped to recipients in the State and, for a direct shipper located in the State, shipments made outside the State;
- (2) The name and residence address of shipment recipients in the State;
- (3) The name and registration of the designated fulfillment providers, if applicable;
- (4) The common carrier used to deliver each shipment; and
- (5) The date, quantity and purchase price of each shipment.

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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:

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(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 wine under this section;

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(2) The date of each shipment;

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(3) The name and business address of the common carrier that transported the shipment and the unique tracking number for each shipment;

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(4) The weight of each package shipped; and

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(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:

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(1) The name of the common carrier;

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(2) The name and address of the direct shipper and, if applicable, the fulfillment provider that used the common carrier for a shipment of wine;

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(3) The name and address of each recipient;

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(4) The weight of each package delivered to each recipient;

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(5) The unique tracking number for each shipment; and

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(6) The date of each delivery.

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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.

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D. If no wine was shipped to a recipient in this State and, for a direct shipper located in the State, no wine was shipped to a recipient outside the State during the reporting period, a report containing that information must be submitted to the bureau.

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**Sec. 4. 28-A MRSA §1403-A, sub-§12, as enacted by PL 2009, c. 373, §1, is amended to read:**

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**12. 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 ~~10~~ 20 business days of that request.

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A. A direct shipper shall maintain the books, records and documents supporting a report submitted under subsection 11, paragraph A or D for 2 years after the reporting date, unless otherwise directed by the bureau.

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B. A fulfillment provider shall maintain the books, records and documents supporting a report submitted under subsection 11, paragraph B or D for 2 years after the reporting date, unless otherwise directed by the bureau.

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C. A common carrier shall maintain the books, records and documents supporting a report submitted under subsection 11, 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.

**Sec. 5. 28-A MRSA §1403-A, sub-§13**, as enacted by PL 2009, c. 373, §1, is amended to read:

**13. Violation.** A person, including a common carrier or fulfillment provider, who knowingly causes a direct shipment in violation of this section is subject to a fine 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 wine to a person under 21 years of age is subject to a fine up to \$5,000. The bureau may suspend or revoke a wine direct shipper license 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.

**Sec. 6. Direct shipment of wine report.** The Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations shall examine the direct shipment of wine under the Maine Revised Statutes, Title 28-A, section 1403-A in order to evaluate the effectiveness of the regulations related to compliance and enforcement. The bureau shall submit a report no later than February 1, 2026 to the joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters summarizing their findings, which must include information regarding the total volume and sales figures of wine shipped to recipients in the State and outside the State, the entities and locations from which wine shipments are made, where wine shipments are being delivered in the State, broken down at a minimum by county, auditing procedures and compliance and enforcement data. The report may include suggested legislation necessary to support conclusions reached in the report. The committee may submit legislation related to the report to the Second Regular Session of the 132nd Legislature.'

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

**SUMMARY**

This amendment adds a definition of "fulfillment provider" to the laws governing the direct shipment of wine and authorizes a direct shipper of wine to use a fulfillment provider for the direct shipment of wine. The amendment provides that fulfillment providers must be registered with the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations in order to ship wine on behalf of a direct shipper to recipients in this State. The amendment provides that fulfillment providers must also report quarterly in a similar manner as direct shippers and common carriers and includes fulfillment providers under the record retention requirements provided in the bill.

The amendment clarifies that wine shipped under the laws governing the direct shipment of wine must have been produced by or for the direct shipper, owned by the direct shipper or sold under the winery name of the direct shipper in accordance with the direct shipper's federal basic wine manufacturing permit.

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It also directs the bureau to examine data related to the direct shipment of wine in order to evaluate the effectiveness of the regulations related to compliance and enforcement and to submit a report no later than February 1, 2026 to the joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters, which may report out legislation related to the report to the Second Regular Session of the 132nd Legislature.

**FISCAL NOTE REQUIRED**

(See attached)



# 131st MAINE LEGISLATURE

LD 2148

LR 2705(02)

An Act to Establish Common Carrier Reporting for the Direct Shipment of Wine

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-884)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

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