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Date:

(Filing No. H-)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 323, L.D. 494, “An Act to Update and Clarify Certain Provisions of State Liquor and Lottery Laws”

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain provisions in this legislation relate to businesses that cater to tourists, and the Legislature recognizes that the tourism season is crucial for the State's economy and public well-being; and

Whereas, the tourism season, which brings millions of visitors and significant revenue to the State, relies on a regulated and enjoyable environment, including accessible and responsible alcohol sales; and

Whereas, for these reasons, this legislation needs to take effect before the expiration of the 90-day period; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill in Part A by inserting after section 7 the following:

'Sec. A-8. 28-A MRSA §708, sub-§6, as amended by PL 2017, c. 153, §1, is further amended to read:

6. Marketing and mail-in promotions. Upon approval by the commission, promotional materials designed to encourage a consumer to purchase a spirits product to be attached to or displayed near the spirits product where it is offered for sale for off-premises consumption may be offered by those whose spirits products are listed by the commission. Upon approval by the commission, a mail-in rebate may be provided to consumers through print or electronic media, attached to the spirits product or displayed

1 near the spirits product where the spirits product is offered for sale for off-premises
2 consumption. Mail-in rebates approved by the commission must be redeemed by the
3 manufacturer and not by the retail licensee and may not exceed the purchase price of the
4 spirits product. Mail-in rebates authorized by this subsection must require the inclusion of
5 the original dated sales receipt for the spirits product to which the rebate is applied. The
6 commission may approve mail-in rebates that offer an incrementally greater discount based
7 upon increased volume of purchased product. Mail-in rebates, certificates or merchandise
8 included with a spirits product must be inserted in the package or attached to the package
9 by the manufacturer or manufacturer's designated broker.'

10 Amend the bill in Part A by striking out all of section 19.

11 Amend the bill in Part C by striking out all of section 1 and inserting the following:

12 'Sec. C-1. 28-A MRSA §707, sub-§2, as amended by PL 1993, c. 730, §30, is
13 further amended to read:

14 **2. Licensee ~~must~~ may not receive anything of value or give things of value.** ~~No A~~
15 licensee or applicant for a license may not receive, directly or indirectly, ~~any money, credit,~~
16 ~~thing of value~~ from any person within or without the State, cash or gift cards, indorsement
17 of commercial paper, guarantee of credit or financial assistance of any sort from any person
18 within or without the State or things of value aggregating in an amount that exceeds \$750
19 annually, if the person is:

20 A. Engaged, directly or indirectly, in the manufacture, distribution, wholesale sale,
21 storage or transportation of liquor; or

22 B. Engaged in the manufacture, distribution, sale or transportation of any commodity,
23 equipment, material or advertisement used in connection with the manufacture,
24 distribution, wholesale sale, storage or transportation of liquor.

25 The bureau may not impose a limit on the amount of things of value that are in use by or
26 in the possession of a licensee at any one time, as long as the things of value were given to
27 a licensee within the annual limits established by this subsection.

28 A licensee may not give things of value with the intent to induce a retailer to purchase
29 liquor from the licensee to the exclusion, in whole or in part, of liquor offered for sale by
30 other persons.

31 ~~Nothing in this~~ This subsection prevents ~~does not prevent~~ an affiliate of a licensee from
32 receiving money for sponsorship of a transportation system for transporting the public or
33 for sponsorship of specific sporting events and cultural events as long as the licensee does
34 not receive any payment or thing of value from the public transportation system or the
35 sporting and cultural events and as long as such an affiliate does not derive any portions of
36 its revenues from the licensee. All sponsorships must have prior written approval of the
37 bureau. ~~The bureau shall adopt rules implementing this paragraph.'~~

38 Amend the bill in Part C in section 2 in subsection 7 in paragraph C in the last line
39 (page 7, line 31 in L.D.) by striking out the following: "or"

40 Amend the bill in Part C in section 2 in subsection 7 in paragraph D in the last line
41 (page 7, line 34 in L.D.) by striking out the following: " ; " and inserting the following: "; or"

42 Amend the bill in Part C in section 2 in subsection 7 by inserting after paragraph D the
43 following:

1 'E. A wholesale licensee or certificate of approval holder, including on behalf of a
2 brand the wholesale licensee or certificate of approval holder supplies or manufactures,
3 from entering into a written agreement under section 707-B with an eligible licensee
4 for:

5 (1) The purchase of advertising space or time on or within the licensed premises,
6 including, but not limited to, physical signage, digital media and naming rights to
7 portions of the venue;

8 (2) The sponsorship of events, event series or designated areas within the venue,
9 including lounges, beverage stations and hospitality zones; and

10 (3) The co-branding or cross-promotion of events in conjunction with the licensee,
11 as long as co-branding or cross-promotion does not result in direct or indirect
12 control over the operations of the licensee.'

13 Amend the bill by inserting after section 3 the following:

14 'Sec. C-4. 28-A MRSA §707-B is enacted to read:

15 **§707-B. Advertising and sponsorship agreements at licensed venues**

16 **1. Definitions.** For the purposes of this section, unless the context otherwise indicates,
17 the following terms have the following meanings.

18 A. "Brand" means a product name of malt liquor, wine or spirit authorized for sale in
19 the State by a certificate of approval holder or wholesaler.

20 B. "Venue" means the licensed premises of an auditorium, civic auditorium, outdoor
21 stadium or performing arts center.

22 **2. Advertising permitted.** Notwithstanding any provision of this Title to the contrary,
23 a wholesale licensee or certificate of approval holder, including on behalf of a brand the
24 wholesale licensee or certificate of approval holder supplies or manufactures, may engage
25 in advertising or sponsorship activities with a licensee described in subsection 3, subject to
26 the conditions and limitations set forth in this section.

27 **3. Eligible licensees.** This section applies only to a venue licensee under section 1070.

28 **4. Permitted activities.** A wholesale licensee or certificate of approval holder,
29 including on behalf of a brand the wholesale licensee or certificate of approval holder
30 supplies or manufactures, may enter into a written agreement with an eligible licensee in
31 accordance with subsection 5 for:

32 A. The purchase of advertising space or time on or within the licensed premises,
33 including, but not limited to, physical signage, digital media and naming rights to
34 portions of the venue;

35 B. The sponsorship of events, event series or designated areas within the venue,
36 including lounges, beverage stations and hospitality zones; and

37 C. The co-branding or cross-promotion of events in conjunction with the licensee, as
38 long as the co-branding or cross-promotion does not result in direct or indirect control
39 over the operations of the licensee.

40 **5. Conditions of authorization.** A written agreement under subsection 4 is permitted
41 only if:

1 A. The agreement is in writing and retained by the licensee and made available to the
2 bureau upon request;

3 B. The written agreement is not conditioned upon the purchase, placement, promotion
4 or exclusion of a particular brand or product by the licensee;

5 C. The wholesale licensee or certificate of approval holder, including on behalf of a
6 brand the wholesale licensee or certificate of approval holder supplies or manufactures,
7 does not exert, or attempt to exert, control over the retail operations, purchasing
8 decisions or beverage menu of the licensee;

9 D. The written agreement complies with federal law; and

10 E. The written agreement does not result in the exclusion, in whole or in part, of
11 another person's product.

12 **6. Reporting.** A licensee that enters into an agreement authorized by this section shall:

13 A. Submit to the bureau, upon request, a list of all agreements entered into pursuant to
14 this section;

15 B. Retain a copy of the written agreement for a period of not less than 3 years and
16 make the agreement available to the bureau;

17 C. Annually post a notice indicating that advertising and sponsorship opportunities are
18 generally available to a wholesale licensee or certificate of approval holder and the
19 brands the wholesale licensee or certificate of approval holder supplies or
20 manufactures; and

21 D. Provide to the bureau, upon license renewal, a list of the licensee's sponsors.

22 **Sec. C-5. 28-A MRSA §709, sub-§1, ¶A,** as amended by PL 2019, c. 404, §14, is
23 further amended by amending subparagraph (2) to read:

24 (2) Deliver more than 4 1/2 ounces of spirits over 15% alcohol by volume, a carafe
25 containing more than one liter or 33.8 ounces of wine or any serving or pitcher
26 containing more than one liter or 33.8 ounces of malt liquor to one person at one
27 time;

28 **Sec. C-6. Effective date.** That section of this Part that amends the Maine Revised
29 Statutes, Title 28-A, section 707, subsection 2 takes effect January 1, 2026.'

30 Amend the bill in Part D by striking out all of section 1 and inserting the following:

31 **'Sec. D-1. 28-A MRSA §710, sub-§1,** as amended by PL 2019, c. 404, §15, is
32 further amended by repealing the first blocked paragraph.

33 **Sec. D-2. 28-A MRSA §710, sub-§2,** as amended by PL 1987, c. 342, §46, is
34 repealed.'

35 Amend the bill by adding before the summary the following:

36 **'Emergency clause.** In view of the emergency cited in the preamble, this legislation
37 takes effect when approved.'

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

SUMMARY

This amendment adds an emergency preamble and emergency clause to the bill. The amendment allows a manufacturer's designated broker to place mail-in rebates on spirits products.

The amendment clarifies that, beginning January 1, 2026, a licensee or an applicant for a license may not receive, directly or indirectly, cash or gift cards in any amount. The amendment also prohibits the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations from imposing a limit on the amount of things of value that are in use by a licensee at any one time, as long as the thing of value was given to a licensee in accordance with the law.

The amendment allows a wholesale licensee or certificate of approval holder, including on behalf of a brand the wholesale licensee or certificate of approval holder supplies or manufactures, to enter into advertising and sponsorship agreements with licensed venues. The amendment defines "brand" as a product name of malt liquor, wine or spirit authorized for sale in the State by a wholesale licensee or certificate of approval holder. The amendment authorizes naming rights, event sponsorships and co-branded promotions under specified conditions, including reporting requirements, written agreements and safeguards to ensure availability of competing products.

The amendment amends, rather than repeals as proposed in the bill, the section of law governing signage restrictions for liquor licensees.

The amendment clarifies the ability for restaurants to serve canned cocktails.

FISCAL NOTE REQUIRED

(See attached)