

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

S.P. 668 - L.D. 1906

An Act To Streamline and Modernize the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations

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

Sec. 1. 28-A MRSA §81, sub-§5 is enacted to read:

5. Retail price; reconsideration. The commission shall, in accordance with section 1651 and after considering any recommendation submitted by the bureau, establish the retail price of spirits sold in the State. The director of the bureau shall notify the affected spirits supplier of the commission's decision establishing the retail price and of the affected spirits supplier's opportunity to request reconsideration of the retail price determination at an adjudicatory hearing conducted by the commission in accordance with Title 5, chapter 375, subchapter 4. The decision of the commission issued after an adjudicatory hearing requested under this subsection is final agency action for the purposes of judicial review under Title 5, chapter 375, subchapter 7. The commission shall adopt rules establishing the procedures for the conduct of adjudicatory hearings under this subsection, including but not limited to the deadline for an affected spirits supplier to request a hearing. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. For purposes of this subsection, "affected spirits supplier" means a spirits supplier that supplies a spirits product that is the subject of a retail price determination of the State.

Sec. 2. 28-A MRSA §84, sub-§6, as amended by PL 2019, c. 13, §8, is further amended to read:

6. Implement a spirits sales data reporting system. Collect from reselling agents data on spirits sales made by each reselling agent to establishments licensed to sell spirits for on-premises consumption. The data must include, but is not limited to, the amount and date of sale of each product code sold to on-premises licensees by the reselling agent. For the purposes of this subsection, "product code" has the same meaning as in section 461. For the purposes of collecting on-premises spirits sales data from reselling agents, the director shall enter into a contract with a trade association representing states that control and manage the sale of spirits. The contract must require the trade association to compile aggregate data for each product code on the monthly sales made by reselling agents to

establishments licensed to sell spirits for on-premises consumption and to make that data and the data provided in subsection 6-A available to spirits suppliers. The contract must also require that neither the bureau nor the trade association may make publicly available any information that would specifically identify the reselling agent, including, but not limited to, the reseller's name, the name of the reseller's agency liquor store, the reseller's agency liquor store's address or the address of any associated storage facility of the reselling agent; and

Sec. 3. 28-A MRSA §84, sub-§6-A is enacted to read:

6-A. Wholesale spirits sales data. Provide to the trade association awarded the contract under subsection 6 data on spirits sales made each month by the State to agency liquor stores. The data must include, but is not limited to, aggregate sales of each product code sold to agency liquor stores by the State. For the purposes of this subsection, "product code" has the same meaning as in section 461; and

Sec. 4. 28-A MRSA §1404, as amended by PL 1997, c. 373, §128, is further amended to read:

§1404. Unbonded wholesale licensees

1. Procedure for unbonded wholesale licensees. Unbonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The bureau shall furnish all purchase order forms.

~~B. The unbonded wholesale licensee shall complete the forms in quintuplicate.~~

C. The unbonded wholesale licensee ordering malt liquor or wine shall mail 3 copies submit to the bureau, in a manner specified by the bureau, a copy of the completed purchase order form to the bureau with a check payment for the amount of excise taxes required to cover the amount of the order.

~~D. The unbonded wholesale licensee may mail the original copy of the order to the brewery or winery or wholesaler with whom the licensee wishes to place the order.~~

E. On receipt of the 3 copies copy of the completed purchase order form and a check payment for excise taxes submitted under paragraph C, the bureau shall promptly process the payment and submit copies and return one copy of the completed purchase order form indicating that excise taxes have been paid to the unbonded wholesale licensee and send one to the brewery, winery or foreign wholesaler designated to receive certificate of approval holder with which the unbonded wholesale licensee wishes to place the order. The bureau shall keep the 3rd copy on file.

F. ~~No brewery, winery or foreign wholesaler~~ A certificate of approval holder may not ship or release malt liquor or wine for delivery in Maine the State until notified by the bureau that the excise tax has been paid in accordance with this section.

Sec. 5. 28-A MRSA §1405, sub-§1, as amended by PL 1997, c. 373, §129, is further amended to read:

1. Procedures for bonded wholesale licensees. Bonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The bureau shall furnish all purchase order forms.

~~B. The bonded wholesale licensee shall complete the forms in triplicate.~~

C. The bonded wholesale licensee shall submit ~~the original~~ a copy of the completed purchase order form to the ~~brewery, winery or foreign wholesaler certificate of approval holder~~ with whom he ~~which~~ the bonded wholesale licensee wishes to place the order.

D. The bonded wholesale licensee shall ~~then mail~~ submit to the bureau ~~one~~, in a manner specified by the bureau, a copy of the completed purchase order form and retain ~~one~~ a copy for the licensee's files.

Sec. 6. Report. Not later than January 15, 2023, the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations shall submit a report to the joint standing committee of the Legislature having jurisdiction over alcoholic beverages matters that describes the process by which the State Liquor and Lottery Commission established in the Maine Revised Statutes, Title 5, section 12004-G, subsection 14 establishes the retail price of spirits sold in the State; describes the process by which the bureau develops recommended retail prices for the commission's consideration; explains how any pricing formula or calculator employed by the bureau to establish such recommended retail prices operates, the factors that affect a retail price calculated using such a formula or calculator and the reasons that the bureau chose to incorporate those factors in the formula or calculator; and informs the committee of the status of the commission's adoption of rules pursuant to the Maine Revised Statutes, Title 28-A, section 81, subsection 5. The committee may submit legislation related to the report to the 131st Legislature in 2023.