

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

Sec. 1. 28-A MRSA §2, sub-§14, as amended by PL 2013, c. 368, Pt. V, §9, is further amended to read:

14. Licensee. "Licensee" means a person licensed by the bureau. "Licensee" includes, but is not limited to, agency liquor stores, auction licensees and certificate of approval holders.

Sec. 2. 28-A MRSA §751, sub-§4 is enacted to read:

4. Wine purchased from auction licensee. A retail licensee shall keep a separate record of wine purchased from an auction licensee, as defined by section 1209, subsection 1, paragraph A.

Sec. 3. 28-A MRSA §1201, sub-§2, as amended by PL 1997, c. 373, §105, is further amended to read:

2. Ineligible as licensee. The~~Except as provided in section 1209,~~ the bureau may not issue a license for the sale of malt liquor or wine to any person who is not engaged in a bona fide retail business other than the sale of malt liquor or wine at retail.

Sec. 4. 28-A MRSA §1209 is enacted to read:

§ 1209. Sale of wine by auction

Notwithstanding any provision of section 1201, chapter 55 or chapter 57 to the contrary, this section governs wine auctions.

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

A. "Auction licensee" means a wine auction house issued a license pursuant to this section. An auction licensee is not an auctioneer as defined in Title 32, section 284.

B. "Private collection" means wine owned for consumption or investment purposes by a person that is not licensed as a manufacturer, retailer, distributor or wholesaler in any state or by the Federal Government.

C. "Wine auction" means an event at which a wine auction house sells by auction wines from a private collection to private collectors who are nonlicensees, as defined in section 2503, and to retailers licensed to sell wine for on-premises or off-premises consumption.

D. "Wine auction house" means a person that is not a manufacturer, retailer, distributor or wholesaler and that conducts a wine auction of wine owned by or consigned to the wine auction house.

2. Prohibition. A wine auction house may not conduct a wine auction without a license pursuant to this section.

3. License; fee; affidavit. Subject to this section, the bureau may issue a license to conduct a wine auction to a wine auction house. A license issued pursuant to this subsection is valid for one calendar year. The license fee per calendar year is \$500. The bureau shall require an applicant for a wine auction license to provide a signed affidavit attesting that the applicant has not been found in violation of a rule or a law in this State or another state or of the Federal Government regarding the manufacture, sale or distribution of alcoholic beverages. The bureau may not issue a wine auction license to a person who has been found in violation of a regulation, rule or law in this State or another state or of the Federal Government regarding the manufacture, sale or distribution of alcoholic beverages.

4. Conditions. The following conditions apply to a wine auction licensed under this section.

A. Fifteen calendar days prior to the wine auction, the auction licensee shall notify the bureau of the physical address of and the date and time scheduled for the wine auction and shall submit a list of the wines to be auctioned.

B. The auction licensee shall collect registration information as determined by the bureau by rule from each person who is registered as a bidder for the wine auction, which must include, at a minimum, the name and address of the person, and shall submit the registration information to the bureau. Nothing in this paragraph prevents an auction licensee from allowing a person to register as a bidder at the time of the event as long as the registration information is collected and made available to the bureau.

C. The auction licensee shall notify the bureau of each sale of wine at the wine auction.

D. Wine sold at the wine auction may not be opened or consumed at the wine auction.

E. The auction licensee shall ensure that the recipient of wine sold at the wine auction is 21 years of age or older.

F. Each container of wine auctioned must have a permanently affixed label indicating that the wine was acquired from a private collection. The label must include the name of the wine auction house and the wine auction license number issued by the bureau in accordance with this section.

G. A wine auction house may not conduct more than 12 wine auctions per year.

H. Wine to be sold at auction may not be stored on the premises where the wine auction is conducted.

I. The auction licensee may not sell wine that the auction licensee purchased or received from a person who holds a license issued by any state or the Federal Government to manufacture, bottle, distribute or otherwise sell wine at wholesale or retail.

J. The auction licensee shall maintain a record of each container of wine, listed by name and the number of containers available and including the origin of each container of wine, that will be for sale at a wine auction with an affidavit attesting that the wine was acquired from a private collection. The auction licensee shall provide, upon request from the bureau, the record under this paragraph.

5. Sales and use tax; excise tax. An auction licensee shall comply with the provisions of Title 36, Part 3 including all requirements relating to the collection, reporting and remittance of the sales and use taxes of the State on sales of wine at a wine auction to nonlicensees intended for private consumption. An auction licensee shall comply with the provisions of chapter 65 relating to the collection, reporting and remittance of excise taxes of the State on sales of wine at auction. Excise taxes must be paid within 60 days of the wine auction. If an auction licensee fails to remit the excise taxes within 60 days, the bureau may prohibit the auction licensee from holding subsequent wine auctions until the excise taxes are paid in full. Failure to pay sales and excise taxes required by this subsection may result in revocation or suspension of a wine auction license.

6. Beverage container deposit. Containers of wine that are not labeled in accordance with Title 32, section 1865 and are sold at a wine auction pursuant to this section are not subject to Title 32, chapter 28.

7. Purchase and resale by retailers. A retailer licensed under this Title for consumption of wine on the premises or off the premises may purchase wine offered at a wine auction conducted pursuant to this section and may resell that wine in accordance with the retailer's license issued under this Title.

8. Storage and transportation. An auction licensee shall notify the bureau of the physical address in the State where wine that is to be sold at auction is stored and the method by which wine purchased at auction will be transported.

9. Rules. The bureau shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Alcoholic Beverages - General Operation 0015

Initiative: Provides funding for one Office Associate II position and related costs to conduct licensing activities.

GENERAL FUND	2013-14	2014-15
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$72,763
All Other	\$0	\$4,024
GENERAL FUND TOTAL	\$0	\$76,787

SUMMARY

This amendment replaces the bill. The amendment establishes a license for a person to conduct wine auctions. Wine sold at auction by a wine auction licensee must be wine that was acquired from a private collection and not from anyone licensed to produce or to sell or distribute wine at retail or wholesale. A wine auction license allows for up to 12 auctions per year. Wines sold at auction may be purchased by registered bidders, including persons licensed to sell wine for off-premises or on-premises consumption. An auction licensee must pay all required sales and excise taxes. If a licensee fails to pay taxes within a prescribed period of time, the license may be suspended or revoked.

FISCAL NOTE REQUIRED

(See attached)