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An Act To Create Jobs and Increase Consumer Wine Choice

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

Sec. 1. 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. 2. 28-A MRSA §1209 is enacted to read:

§ 1209. Sale of wine by auction

Notwithstanding any provision to the contrary in section 1201, chapter 55 or chapter 57, 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.

B. "Fine and rare wine" means fine and rare wine that is not available for purchase in this State through a retailer or wholesaler.

C. "Private collection" means fine and rare wine owned for consumption or investment purposes by a person that is not a retailer or wholesaler.

D. "Wine auction" means an event at which a wine auction house sells by auction fine and rare wine from a private collection to private collectors, retailers and wholesalers.

E. "Wine auction house" means a person that is not a retailer or wholesaler and that conducts a wine auction of fine and rare 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. Subject to the conditions in 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 \$50.

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

A. The auction licensee shall notify the bureau of the date and time scheduled for the wine auction and shall submit a list of fine and rare wines to be auctioned. The list of wines to be auctioned must identify the country of origin of each fine and rare wine.

B. The auction licensee shall collect registration information as determined by the bureau by rule from each person attending the wine auction. The registration information must include, at a minimum, the name and address of the person, and the auction licensee shall submit the registration information to the bureau.

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

D. Fine and rare 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 fine and rare wine sold at the wine auction is 21 years of age or older.

F. The wine auction must be held on the premises of an off-premises retail licensee or on-premises retail licensee.

G. Each container of fine and rare wine auctioned must have a permanently affixed label indicating that the fine and rare wine was acquired from a private collection.

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

I. Fine and rare wine to be sold at auction may not be stored on the premises where the wine auction is conducted.

5. Sales and use 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 state sales and use taxes on sales of fine and rare wine at a wine auction.

6. Beverage container deposit. Containers of fine and rare 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 wholesalers and retailers. A licensed wholesaler under chapter 55 or retailer licensed under this section or chapter 43 may purchase fine and rare wine offered at a wine auction conducted pursuant to this section and may resell that fine and rare wine.

8. 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.

SUMMARY

This bill allows a person who is not a retailer or wholesaler licensed to sell wine or malt liquor in the State to auction fine and rare wines from a private collection to private collectors, retailers and wholesalers under certain conditions.