

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

An Act To Clarify the Laws Governing Financial Relationships between Entities within the Three-tier System for Distribution of Alcohol

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

Sec. 1. 28-A MRSA §707, sub-§1, as amended by PL 1997, c. 373, §68, is further amended to read:

1. Licensee not indebted. Except as provided by ~~section 1363~~in subsection 7, the bureau may not issue any license to or renew the license of a person who is indebted in any manner, directly or indirectly:

A. To any other person for liquor;

B. To the State for any tax, other than property tax, assessed and considered final under Title 36 that the State Tax Assessor certifies, in accordance with Title 36, section 172, as remaining unpaid in an amount exceeding \$1,000 for a period greater than 60 days after the applicant or licensee has received notice of the finality of that tax; or

C. For any contributions assessed and considered final under Title 26, section 1225, when the Director of Unemployment Compensation certifies that the amount remains unpaid for a period greater than 60 days, after the applicant or licensee has received notice of the finality of that tax.

Sec. 2. 28-A MRSA §707, sub-§3, as amended by PL 2011, c. 629, §9, is repealed.

Sec. 3. 28-A MRSA §707, sub-§3-A is enacted to read:

3-A. Retailer; prohibited financial interests. Except as authorized in sections 707-A and 1355-A, a retailer may not have any financial interest, direct or indirect, in any:

A. Licensed Maine manufacturer, out-of-state manufacturer of spirits whose products are listed by the commission for sale in the State or out-of-state manufacturer of malt liquor or wine who has been issued a certificate of approval; or

B. Wholesale licensee, out-of-state spirits wholesaler or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval.

Sec. 4. 28-A MRSA §707, sub-§4, as amended by PL 2011, c. 629, §10, is repealed.

Sec. 5. 28-A MRSA §707, sub-§4-A is enacted to read:

4-A. Manufacturer; prohibited financial interests. Except as authorized in subsection 7 and sections 707-A and 1355-A, a licensed Maine manufacturer, out-of-state manufacturer of spirits whose products are listed by the commission for sale in the State or out-of-state manufacturer of malt liquor or wine who has been issued a certificate of approval may not have any financial interest, direct or indirect, in any:

A. Wholesale licensee, out-of-state spirits wholesaler or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval; or

B. Retailer.

Sec. 6. 28-A MRSA §707, sub-§5, as repealed and replaced by PL 1987, c. 342, §42, is repealed.

Sec. 7. 28-A MRSA §707, sub-§5-A is enacted to read:

5-A. Wholesaler; prohibited financial interests. Except as authorized in subsection 7, the following financial interests are prohibited.

A. A wholesale licensee, out-of-state spirits wholesaler or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval may not have any financial interest, direct or indirect, in any:

(1) Licensed Maine manufacturer, out-of-state manufacturer of spirits whose products are listed by the commission for sale in the State or out-of-state manufacturer of malt liquor or wine who has been issued a certificate of approval; or

(2) Retailer.

B. An out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval may not have any financial interest, direct or indirect, in any wholesale licensee. A wholesale licensee may not have any financial interest, direct or indirect, in any out-of-state wholesaler of malt liquor or wine.

Sec. 8. 28-A MRSA §707, sub-§6, as enacted by PL 1987, c. 342, §43, is amended to read:

6. Minor investmentDirectors, officers, members and securities. ~~Minor~~The financial interests prohibited in subsections 3-A, 4-A and 5-A include, but are not limited to, circumstances in which an officer, director, member or holder of the securities of a business entity is also a director, officer, member or holder of the securities of another business entity, except that a minor investment in less than 1% of the securities of a corporation engaged in liquor business not amounting to more than 1% shall not be held to be an interest forbiddenentity does not constitute a financial interest prohibited by this subsectionsubsections 3-A, 4-A and 5-A.

Sec. 9. 28-A MRSA §707, sub-§7, as enacted by PL 1987, c. 342, §43, is amended to read:

7. Application Exceptions. This section does not prohibit a wholesale licensee from receiving normal credits for the purchase of malt liquor or wine from the manufacturer located within or without the State.:

A. A manufacturer or out-of-state wholesaler from extending the usual and customary credit to a wholesale licensee for the purchase of malt liquor or wine; or

B. A manufacturer or out-of-state wholesaler from furnishing materials and equipment for the use of a wholesale licensee or the wholesale licensee's employees, including:

(1) Painting the wholesale licensee's vehicles;

(2) Supplying legal advertising signs used by the wholesale licensee in the course of the wholesale licensee's business; and

(3) Supplying uniforms for the employees of the wholesale licensee.

Sec. 10. 28-A MRSA §707, sub-§8 is enacted to read:

8. Definitions. For purposes of this section, the following terms have the following meanings.

A. "Business entity" means a partnership, corporation, firm, association or other legal entity.

B. "Out-of-state spirits wholesaler" means a person located outside the State who engages in the purchase of spirits in sealed bottles, containers or original packages, as prepared for the market by the manufacturer at the place of manufacture for resale to the bureau and not to retail licensees.

Sec. 11. 28-A MRSA §1355-A, sub-§2-B, ¶B, as enacted by PL 2017, c. 341, §1, is amended to read:

B. The licensee is in violation of section 707, subsection 2, 33-A or 44-A, if the violation existed in the same manner at the time the license was initially issued or at the time the license was renewed.

Sec. 12. 28-A MRSA §1363, as amended by PL 1997, c. 373, §118, is repealed.

SUMMARY

This bill is reported out by the Joint Standing Committee on Veterans and Legal Affairs pursuant to Resolve 2019, chapter 15. The committee has not taken a position on the substance of the bill and by reporting this bill out the committee is not suggesting and does not intend to suggest that it agrees or disagrees with any aspect of this bill. The committee is reporting the bill out for the sole purpose of obtaining a printed bill that can be referred to the committee for a public hearing and subsequent committee action in the normal course. The committee is taking this action to ensure clarity and transparency in the legislative review of the proposal.

SP0737, LD 2088, item 1, 129th Maine State Legislature
An Act To Clarify the Laws Governing Financial Relationships between
Entities within the Three-tier System for Distribution of Alcohol

This bill consolidates in one section the separate laws prohibiting financial relationships between entities within the 3-tier system of alcohol distribution in Maine. The bill clarifies that, with only a few minor exceptions, an entity in the manufacturer tier, wholesaler tier or retailer tier may not have a financial interest, direct or indirect, in an entity in a different tier of the 3-tier system. Unlike current law, the bill clarifies that these so-called 3-tier prohibitions apply to entities that sell spirits. The bill also preserves the prohibition in current law against an in-state wholesaler of malt liquor and wine, referred to in current law as a wholesale licensee, having any financial interest, direct or indirect, in an out-of-state wholesaler of malt liquor or wine whose products are imported into the State.