

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 Certificate of Approval Requirements under the State's Liquor Laws

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

**Sec. 1. 28-A MRSA §2, sub-§8**, as amended by PL 1997, c. 373, §11, is repealed and the following enacted in its place:

**8. Certificate of approval holder.** "Certificate of approval holder" means:

A. An in-state manufacturer of malt liquor, wine or spirits licensed under section 1355-A;

B. An out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval under section 1361; or

C. An out-of-state spirits supplier who has been issued a certificate of approval by the bureau under section 1381.

**Sec. 2. 28-A MRSA §2, sub-§31-C** is enacted to read:

**31-C. Spirits supplier.** "Spirits supplier" means a person who provides spirits for sale by the bureau in the State, including:

A. An in-state or out-of-state spirits manufacturer;

B. A person who engages in the out-of-state purchase of spirits for resale to the bureau; and

C. An agent or representative of a person described in paragraph A or B.

**Sec. 3. 28-A MRSA §1351**, as amended by PL 1997, c. 373, §112, is further amended to read:

### § 1351. Certificate of approval

**1. Certificate of approval required.** ~~All in-state manufacturers, out-of-state manufacturers and of malt liquor or wine, out-of-state wholesalers of malt liquor or wine and out-of-state spirits suppliers~~ must obtain a certificate of approval from the bureau.

**2. Definition.** For purposes of this section, "out-of-state spirits supplier" means a person described in section 2, subsection 31-C, paragraphs A and B.

**Sec. 4. 28-A MRSA §1364, sub-§5** is enacted to read:

**5. Limitation on definition of "certificate of approval holder."** Notwithstanding section 2, subsection 8, as used in this section, "certificate of approval holder" means an in-state manufacturer of malt liquor or wine licensed under section 1355-A or an out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval under section 1361.

**Sec. 5. 28-A MRSA c. 51, sub-c. 5** is enacted to read:

## **SUBCHAPTER 5**

### **SPIRITS**

#### **§ 1381. Certificate of approval; spirits**

**1. Definition.** For purposes of this section, "out-of-state spirits supplier" means a person described in section 2, subsection 31-C, paragraphs A and B.

**2. Certificate of approval required.** An out-of-state spirits supplier may not transport spirits into the State or cause spirits to be transported into the State unless the out-of-state spirits supplier has obtained a certificate of approval from the bureau in accordance with this section.

**3. Fee for certificate of approval.** The fee for a certificate of approval under this section is \$1,000 per year, except that the fee for an out-of-state spirits supplier who transports or causes to be transported 120 gallons of spirits or less per year is \$100. Payment of the fee must accompany the application for the certificate of approval.

**4. Conditions on certificate of approval.** A certificate of approval under this section is subject to the laws of the State and the rules of the bureau.

**5. Shipment restrictions.** Except as provided in sections 2073 and 2075, a person who has been issued a certificate of approval under this section may only transport spirits into the State or cause spirits to be transported into the State if the spirits are delivered to a wholesale liquor provider.

**Sec. 6. 28-A MRSA §1401-A** is enacted to read:

#### **§ 1401-A. Limitation on definition of "certificate of approval holder"**

Notwithstanding section 2, subsection 8, as used in this chapter, unless the context otherwise indicates, "certificate of approval holder" means an in-state manufacturer of malt liquor or wine licensed under section 1355-A or an out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval under section 1361.

**Sec. 7. 28-A MRSA §1451, sub-§1-A** is enacted to read:

**1-A. Certificate of approval holder.** Notwithstanding section 2, subsection 8, "certificate of approval holder" means an in-state manufacturer of malt liquor or wine licensed under section 1355-A or an out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval under section 1361.

## 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.

This bill resolves an inconsistency in the State's liquor laws by clarifying that an out-of-state spirits supplier must obtain a certificate of approval from the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations before it may transport spirits into the State for sale to the bureau or cause spirits to be transported into the State for sale to the bureau. The out-of-state spirits suppliers who must obtain a certificate of approval under the bill include both out-of-state spirits manufacturers and persons who engage in the out-of-state purchase of spirits for resale to the bureau.

The bill also clarifies which of the existing laws applicable to certificate of approval holders apply to out-of-state spirits suppliers, who are included in the definition of "certificate of approval holder" under the bill. For example, the bill exempts out-of-state spirits suppliers from the statutory requirement that certificate of approval holders enter into a distribution contract with a wholesaler who is licensed to sell malt liquor or wine within the State. These contracts are unnecessary because, under existing law, all spirits products must be sold to the bureau, which contracts with the entity that provides warehousing and distribution services for spirits products within the State.