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Date: (Filing No. H-)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1420, L.D. 1914, “An Act To Allow Wine Retailers with 2 or More Licensed Facilities To Freely Transfer Wine between Approved Facilities”

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

Sec. 1. 28-A MRSA §1201, sub-§3-A, as amended by PL 2013, c. 476, Pt. A, §26, is further amended to read:

3-A. Sale or transfer of malt liquor or wine for off-premises consumption to retailer prohibited. A person licensed under this section, or an agent or employee of the person, may not knowingly sell or transfer malt liquor or wine to another retailer licensed under this section for resale except as provided in section 606 or 1201-B.

Sec. 2. 28-A MRSA §1201-B is enacted to read:

§1201-B. Transfer of wine between retail locations

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

A. "Approved retailer" means a retailer licensed to sell wine for off-premises consumption that has received approval to sell or transfer wine to a commonly owned retail licensee under subsection 3.

B. "Commonly owned retail licensee" means, with respect to a retailer licensed to sell wine for off-premises consumption, another retailer licensed to sell wine for off-premises consumption if the same person or persons hold a majority ownership interest in both retailers.

2. Authority to transfer wine between retail locations. Notwithstanding section 1201, subsection 3-A and any other provision of this Title to the contrary, an approved retailer may sell or transfer wine by the case or by the bottle to a commonly owned retail licensee under the following conditions:

COMMITTEE AMENDMENT

1 A. The approved retailer licensed and any commonly owned retail licensee to which
2 wine is transferred or sold must be located within the territory that has been allocated
3 under section 1401, subsection 8 to a single wholesale licensee for the purposes of
4 making wholesale sales of the specific wine product being sold or transferred;

5 B. The approved retailer and any commonly owned retail licensee to which wine is
6 transferred or sold must share an electronic inventory tracking system capable of
7 identifying which retailer has possession of the case or bottle of wine at all times; and

8 C. The approved retailer shall if necessary designate an area of the licensed premises
9 to which customers do not have access of no more than 750 square feet for the storage
10 of wine and may not store wine in any other area or facility.

11 **3. Application; approval.** A retailer licensed to sell wine for off-premises
12 consumption shall seek approval from the bureau, on a form designated by the bureau, in
13 advance of making an initial sale or transfer of wine to a commonly owned retail licensee
14 under subsection 2. The bureau may not approve an application under this subsection unless
15 the retailer provides sufficient information for the bureau to determine:

16 A. That each sale or transfer of wine from the retailer to a commonly owned licensee
17 will satisfy the requirements of subsection 2, paragraph A;

18 B. That the retailer's electronic inventory tracking system satisfies the requirements of
19 subsection 2, paragraph B;

20 C. That the retailer's storage of wine satisfies the requirements of subsection 2,
21 paragraph C; and

22 D. That the retailer has a safe and secure method for transferring wine to a commonly
23 owned retail licensee.

24 The bureau may not approve an application under this subsection from a retailer licensed
25 to sell wine for off-premises consumption if the bureau has already approved an application
26 under this subsection from one of the retailer's commonly owned retail licensees.

27 **4. Modification.** An approved retailer shall submit a modified application, on a form
28 designated by the bureau, and must receive approval from the bureau prior to:

29 A. Making an initial sale or transfer of wine products not included in the initial
30 application submitted under subsection 3 or a previously approved modified
31 application under this subsection; or

32 B. Making an initial sale or transfer of wine to a commonly owned licensee not
33 identified in the initial application submitted under subsection 3 or a previously
34 approved modified application under this subsection.

35 The bureau may not approve an application under this subsection unless the bureau
36 determines that the approved retailer will continue to meet the requirements of subsection
37 3 if the modification is approved.

38 **5. Penalty.** In addition to any penalty that may be imposed under chapter 33, the
39 bureau may prohibit a retailer licensed to sell wine for off-premises consumption that
40 violates any provision of this section or of any rule adopted by the bureau to implement
41 this section from engaging in the activities authorized by subsection 2.'

1 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
2 number to read consecutively.

3 **SUMMARY**

4 This amendment, which is the majority report of the committee, provides that only one
5 retailer within a group of commonly owned retailers that are licensed to sell wine for off-
6 premises consumption may obtain authority from the Department of Administrative and
7 Financial Services, Bureau of Alcoholic Beverages and Lottery Operations to sell or
8 transfer wine to other retailers within the group. This retailer may designate an area within
9 its licensed premises to which customers do not have access of no more than 750 square
10 feet for the storage of wine and may not store wine in any other area or facility. Before
11 making its first transfer or sale of wine, the retailer must demonstrate that the group of
12 commonly owned retailers shares an inventory tracking system capable of identifying
13 which retailer within the group has possession of each container of wine at all times; that
14 it has a safe and secure method for transferring wine; and that it will not transfer wine to a
15 commonly owned retailer unless that retailer is located within the same wholesaler's
16 territory for the specific wine product being sold or transferred.

17 The amendment also makes technical changes to add clarity to the provision of law
18 that, as a general rule, prohibits an off-premises retailer from selling or transferring malt
19 liquor or wine to another retailer.

20 **FISCAL NOTE REQUIRED**

21 **(See attached)**