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January 22, 2024

Sen. Hickman, Rep. Supica and members of the Veterans and Legal Affairs Committee, I am Cheryl Timberlake, a resident of Mt. Vernon, here today on behalf of the Maine Beer Wine Distributors (MBWD).

MBWD are the family owned and operated distributors that deliver beer, wine and non-alcoholic beverages to the more than 4400 retail licenses, both on and off premises locations throughout the state. Our members directly employ more than 1250 hard working employees in Maine. We appreciate the opportunity to provide comments in support of LD 2148.

Maine's wine direct to consumer (DTC) shipping law was approved in 2008. It provides an exception to the three-tier system for wine manufacturers to ship direct to consumers with some safeguards and compliance provisions. There are, however, some unintended consequences.

LD 1358 Resolve requiring BABLO to consult with stakeholders, review and evaluate the wine DTC law. [Resolves 2021, ch. 175 \(LD 1358\)](#) requires the Bureau to "...review and evaluate the direct shipment of wine to consumers in the State under current law, identifying potential areas of concern ..." The DTC Shipping Stakeholders report was just released on April 1, 2023.

Page 4 of the report- DTC of Wine:

"Maine stakeholders are largely supportive of DTC shipping of wine but see areas where the current law could be strengthened to provide for stronger oversight, including clarifying the definitions of entities that can obtain a DTC license, ensuring all shippers are properly licensed and pay appropriate taxes and that current wine shippers continue to have the ability to DTC ship. Stakeholders also support reporting requirements for shippers and licensing and reporting for common carriers."

The common carrier reporting in LD 2148 is one of the findings of DTC stakeholders report which MBWD supports. To ensure accountability, audit reconciliation and enforcement capacity, we would ask the committee to consider three additional elements of concern that are reflected in the report include:

1. **Winery producer:** Of-own Production language restricts out-of-state retailers from masquerading as a Producer and helps ensure the applicant is actively producing their own product in the U.S., holds appropriate state and federal licenses, and are selling

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only this product. Further, an importer should not qualify for what is described as a “Producer” DTC license by virtue of being a brand owner. The definition of “produced” varies from state to state, but at a minimum should ensure that the license applicant hold a federal basic permit, the appropriate state winery license, have an active role in bottling (for instance via an alternating proprietorship) and ideally also the fermentation, aging and blending of the product.

Alabama, Ohio, Kansas, and Hawaii all passed reporting legislation and stricter enforcement measures due to the increase illegal activity found in the existing DTC marketplace. The Alabama wine DTC bill that passed in 2021, is one of the most comprehensive in terms of closing loopholes and enforcement mechanisms.

2. **Fulfillment centers** licensing and reporting and **common carrier** reporting and violations: Fulfillment centers that box and ship an order on behalf of a licensed alcohol shipper should be licensed and subject to the same reporting requirements as shippers and common carriers so that enforcement agents can identify if the alcohol shipper was properly licensed and remitted taxes.

Wineries commonly use fulfillment centers to warehouse, pack and ship online, direct to consumer orders on behalf of the winery. However, **Maine does not allow DTC shippers to use fulfillment centers.** This came to light during the stakeholders review and is highlighted on the final DTC report on page 3 and 15. MBDA would request the committee review examples from other states with fulfillment center provisions.

Fulfillment center licensure and reporting requirements provide regulators with the tools to uncover and take enforcement against illegal DTC shipping. Several states have enacted fulfillment center licensing and/or reporting statutes which increase transparency to the DTC shipping marketplace.

The Alabama wine DTC bill is also very comprehensive in terms of language for carrier reporting and fulfillment centers.

3. **Enforcement capacity** information is also referenced in the Alabama law.

States across the country that allow wine DTC shipping have established important regulatory measures that keep products out of the hands of teens, ensure taxes are remitted and distinguish between legal and illegal shipments. To ensure transparency in the DTC marketplace, adoption of-own production requirements, common carrier reporting and fulfillment center licensing must be included in our Maine DTC law.

Appreciate your consideration of our comments. I would be happy to answer any questions.