PROPOSED AMENDMENT TO LD 1358 TO INCLUDE MALT LIQUOR IN BILL TO ALLOW DIRECT SHIPMENT TO CONSUMERS

§ 1403-B. Direct Shipment of Malt Liquor to Consumers.

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

A. "Case equivalent" means a volume equivalent to 24 12-ounce units.

B. "Direct shipper" means an in-state manufacturer of malt liquor licensed under section 1355-A, or an out-of-state manufacturer of malt liquor licensed under section 1361, that has obtained a malt liquor direct shipper license under subsection 3.

C. "Outside the State" means any state other than the State and any territory or possession of the United States, but such term does not include a foreign country.

2. Direct shipment of malt liquor. An in-state manufacturer of malt liquor licensed under section 1355-A or an out-of-state manufacturer of malt liquor licensed under section 1361 may obtain a malt liquor direct shipper license under subsection 3.

3. Direct shipper application. An in-state manufacturer of malt liquor licensed under section 1355-A or an out-of-state manufacturer of malt liquor licensed under section 1361 may apply for a malt liquor direct shipper license by filing with the bureau an application for a malt liquor direct shipper license in a form determined by the bureau accompanied by a true copy of the applicant's federal brewer's notice, a true copy of the applicant's current alcoholic beverage license issued in the State or Outside the State, a list of malt liquor labels to be shipped in accordance with this section, an application fee of not more than $200, and a registration fee of not more than $100.

4. Direct shipment requirements. A direct shipper may sell and ship malt liquor that was produced by or on behalf of the direct shipper in accordance with applicable law to a person in the State for personal use and not for resale. A direct shipper shall label each package of malt liquor to be shipped in accordance with this section so that it conspicuously reads "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

5. Common carrier. All shipments of malt liquor made in accordance with this section must be made by a common carrier and must be accompanied by a shipping label that clearly indicates the name and address of the direct shipper and the name and address of the person in the State to whom the malt liquor will be sold and shipped. The common carrier shall obtain the signature of a person 21 years of age or older at the address listed on the shipping label prior to delivery of the shipment. The common carrier shall request photographic identification from the person signing for the shipment and verify that the person is 21 years of age or older.

6. No bottle size limit; case limit. There shall be no limit on the size of a container of malt liquor that a direct shipper may sell and ship in accordance with this section. A direct shipper may sell and ship no more than 12 case equivalents of malt liquor to any one person in the State in a calendar year in accordance with this section.

7. Prohibited shipping areas. A direct shipper may not ship malt liquor to any address in an area identified by the bureau as a prohibited shipping area or a local option area.

8. License renewal. A direct shipper may annually renew its malt liquor direct shipper license with the bureau by paying a renewal fee of not more than $50 and providing the bureau with a true copy of its current alcoholic beverage license issued in the State or Outside the State.

9. Sales tax registration and payment required. As a condition of receiving a certificate of approval under section 1361, a direct shipper located Outside the State shall comply with the provisions of Title 36, Part 3, including all requirements relating to registration as a seller and the collection, reporting, and remittance of the sales and use taxes of the State, and shall agree to be subject to the jurisdiction of the State for purposes of the enforcement of those obligations. The requirements of this subsection apply notwithstanding any other provision of law of the State.

10. Payment of excise taxes. A direct shipper located Outside the State shall annually pay to the bureau all excise tax due on all sales of malt liquor made in accordance with this section in the preceding year, the amount of such taxes to be calculated as if the sales were made in the State.

11. Audit. The bureau may perform an audit of a direct shipper's records relevant to compliance with this section. A direct shipper shall provide copies of any records requested by the bureau within 10 business days after the date of that request.

12. Violation. A person, including a common carrier, who knowingly causes a direct shipment in violation of this section is subject to a fine up to $500 for the first violation of this section and up to $1,000 for any subsequent violation of this section. A direct shipper or common carrier who knowingly delivers malt liquor to a person under 21 years of age is subject to a fine up to $5,000. The bureau may suspend or revoke a malt liquor direct shipper license for failure to comply with the shipping limits and reporting requirements required by this section. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rules adopted by the bureau.

13. Jurisdiction. A direct shipper, as a condition of licensure, is subject to the jurisdiction and enforcement authority of the State for the purposes of enforcement of this section.

14. Not subject to beverage container law. Notwithstanding Title 38, chapter 33, malt liquor shipped pursuant to this section does not require a refund value for beverage container control purposes.

15. **Rules.** The bureau shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.