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Testimony

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Before the Joint Standing Committee on Veterans and Legal Affairs

LD 1093 – An Act To Expand the Options for Shipping Wine Directly to Customers  
LD 1358 – An Act To Provide for the Direct Shipment of Spirits to Consumers

April 16, 2021

Senator Luchini, Representative Caiazzo and members of the Joint Standing Committee on Veterans and Legal Affairs, my name is Gregg Mineo and I am the Director of the Bureau of Alcoholic Beverages and Lottery Operations. I am providing the following written testimony in opposition to LDs 1093 and 1358.

**LD 1093**

This bill provides for the licensing of off-premise retailers and wholesalers licensed in and outside of Maine as direct shippers of wine to Maine consumers. Under current law, only wine manufacturers in and outside of Maine who are licensed as a direct shipper of wine by the Bureau can direct ship wine to Maine consumers. The Bureau has 600 manufacturers of wine licensed to direct ship up to 144 - 750 milliliters bottles of wine to legal drinking age consumers per address in Maine annually. Current law provides almost unlimited access to Maine consumers for wine sourced directly from in and out of state suppliers. The Maine wine-buying consumer is well served.

The direct shipment of wine by in and out of state wholesalers to consumers upends the three-tier system and presents many regulatory and logistical issues. And the direct shipment of wine from out of state retailers to Maine consumers presents new competition to Maine retailers that they would not have contemplated when they applied for their licenses. While the pretense of this bill is to offer greater selection to Maine consumers from previously unattainable sources, the result will be confusing to the wine buying consumer and disadvantageous to the Maine retailer and wholesaler.

In addition to the impact on the value chain in Maine, the bill does not contemplate nor present several needed components:

- Traceability and validation of excise tax remittance:
  - The bill does not update existing law under 1403-A, to require the common carrier to provide any reporting on the delivery of wine into the state, and despite the direct shipper having to report sales into Maine, there is no mechanism for the Bureau to ensure that they are registered and filed. Currently everything has to go through the in state wholesalers and that would not be the case if this becomes law. The State is certainly losing a fair amount of excise tax due to this lack of reporting. And this will increase many times over with the provision to allow out of state wholesalers and retailers to ship to Maine consumers.
- Traceability of a common carrier used by a direct shipper:
  - The bill does not require a direct shipper to identify the common carrier used as part of its annual reporting of sales to Maine consumers.
- Mitigation of oversight over product distribution in and around the state:
  - This may create a “free for all” in the wine market as pricing models would vary greatly and create an opportunity for lower than expected prices to entice consumers to purchase more. It is likely that Maine retailers will get undercut on price by out of state retailers and wholesalers.
- More points of access for legal age consumers and minors:
  - Are there public health concerns that need to be considered as access increases?
- Expansion of direct shipment provided by this bill would result in a critical staffing need for the Bureau:
  - Expansion of an already opaque program would add significant compliance and enforcement rigor and staffing demands due to the lack of traceability of product shipped into and in Maine.
  - Lack of staffing to research complaints from the industry on violations of existing direct to consumer shipment of wine and authority to get compliance.
  - In order to adequately manage an expansion of this magnitude in addition to existing requirements, the Bureau would need to create a new unit within the Bureau. To that end, we would need:
    - 2 – Liquor Tax Auditors positions
    - 2 – Office Associate II positions
    - 2 – Liquor Licensing Inspector positions
    - Funding to create a web-based licensing and reporting system

## **LD 1358**

This bill proposes to open-up the sale and shipment of spirits products from licensed in and out of state suppliers directly to Maine consumers. The bill acknowledges the

requirement for shippers to use a common carrier and to register for and pay sales tax. Out of state shippers must also pay an excise tax on each shipment to a Maine consumer. The premise of this bill is to offer a wider selection of spirits products from national and local suppliers.

This July will mark seven years since the start of the new spirits business model in Maine that was the result of forward-thinking legislation that was voted out of this Committee and ratified by the full Legislature. The State transitioned from a lease arrangement to a fee for services one that has proven to be highly successful with appreciable profits derived from it for the State, our Agency Liquor Store licensees and Pine State Spirits. We have a vibrant and well-informed retailer community, a strong relationship with in and out of state suppliers and their brokers and are proud of having achieved a responsible and orderly path to market. In addition, we have made significant strides in modernizing our consumer communication platform by building and refining a relevant mobile app, advancing our consumer messaging to include product knowledge and responsible usage.

But most importantly, we have given our consumers a better deal by working closely with our supplier and broker partners to deliver more competitive prices consistently across categories. We are proud to say that we offer through our Agency Liquor Stores a wide assortment of national and local spirits products, with the availability having doubled since the beginning of this new model to over 4000 SKU's. Just this week the State Liquor and Lottery Commission approved 114 new codes, nationally, regionally and locally sourced. The listing process is accessible and easy to add a product in Maine. Consumer choice at a fair price is paramount to our go to market plank.

LD 1358 has the makings of a significant paradigm shift that may unwind what we have accomplished during these successful years under the new business model.

This bill will create access to national spirits products that would not be listed by the State Liquor and Lottery Commission and may impede the selling opportunity of similar products already available in our agency liquor stores. Currently, the State sets and controls the pricing of all spirits products and this bill will potentially create a pricing inequity.

The Bureau sees several concerns with this proposed legislation:

- Impact on the introduction of new policy and regulations that may encroach on this proven business model. This includes our commitment to the Maine Municipal Bond Bank agreement and the profits to the State.
- Degradation of the potential spirits business of agency liquor stores and our partnership with them.
- Impact on tax collection since the state spirits tax (state's mark-up) and premium tax is part of the retail price of products listed by the Commission

- Impact on allowing non-standard bottle formats possibly causing confusion with the retailer and consumer.
- Impact on the future contract(s) of the spirit business after July 1, 2024

If this Committee is interested in direct to consumer shipping of spirits, the Bureau recommends the bill be amended to only allow a small distillery, with clear thresholds on production for suppliers in and out of Maine. This would have limited impact on the State's business model and to agency liquor stores since suppliers of these products would not attempt seek a listing in Maine. This would address the opportunity to enhance consumer choice while offering a reciprocal arrangement with those states that allow Maine manufacturers to ship to other states.

In conclusion, because of the significant shift that LD 1358 presents, we strongly suggest convening a stake holder group to discuss an amended version of the bill potentially carrying it over to allow time for this. The Department has the distinct and at times unenviable responsibility to balance responsible access of alcohol products and building the business to forward significant profits to the State. This goes to the heart of the discussion.

Thank you for allowing me to testify before the Committee today. I am happy to respond to any questions, and of course will be available for the work session.