

Senator Hickman's Revised Proposed Amendment to LD 1906
(for work session 2/9/22)

Committee: VLA

LA: JS

File Name: G:\COMMITTEES\VLA\Bill amendments\130th 2nd\LD 1906 Revised Hickman Amend for 2.9.22 Work Session (final).docx

LR (item)#: 2511 (0X)

New Title? Yes

Add Emergency? No

Date: 2/9/22

Amend the bill by striking out the title and substituting the following:

‘An Act To Streamline and Modernize the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations’

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 28-A MRSA §6-A, sub-§4, as enacted by PL 2019, c. 46, §2, is amended to read:

Identical to section 1 of the proposed amendment from the public hearing

4. Rulemaking. The bureau shall adopt rules, consistent with the regulations promulgated by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau pursuant to the Federal Alcohol Administration Act, 27 United States Code, Section 205(e), establishing the requirements for registration of a malt liquor, wine, hard cider or low-alcohol spirits product label and for changing a label registration. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 28-A MRSA §81, sub-§5 is enacted to read:

This provision for appeals from a retail price decision replaces section 2 of the earlier proposed amendment.

5. Retail price; appeal. The commission shall, in accordance with section 1651 and after considering any recommendation submitted by the bureau, establish the retail price of spirits sold in the State. The director shall notify the affected spirits supplier of the commission's decision establishing the retail price and of the affected spirits supplier's opportunity to request reconsideration of the retail price determination at an adjudicatory hearing conducted by the commission in accordance with Title 5, chapter 375, subchapter 4. The decision of the commission issued after an adjudicatory hearing requested under this subsection is final agency action for the purposes of judicial review under Chapter 375, subchapter 7. The commission shall adopt rules establishing the procedures for the conduct of adjudicatory hearings under this subsection, including but not limited to the deadline for an affected spirits supplier to request a hearing. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. For purposes of this subsection "affected spirits supplier" means the spirits supplier who supplies the spirits product that is the subject of the retail price determination to the State.

Sec. 3. 28-A MRSA §84, sub-§7 is amended to read:

This provision is substantively identical to (but slightly rewords and changes the location of) section 5 of the earlier proposed amendment.

7. Annual report. Beginning February 15, 2020, submit a report annually, subject to the approval of the commission, to the Governor and the joint standing committees of the Legislature having jurisdiction over alcoholic beverage matters and appropriations and financial affairs. The joint standing committee of the

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Legislature having jurisdiction over alcoholic beverage matters may submit to the Legislature legislation based on the report. The report must include:

- A. A complete statement of the revenues and expenses for the bureau for the preceding calendar year;
- B. A complete statement of the information required by section 83-B, subsection 11 for the preceding calendar year;
- C. A complete statement of the information required by section 83-C, subsection 7 for the preceding calendar year;
- D. The information required by section 83-C, subsection 9; ~~and~~

D-1. Unless the data required by this paragraph is included in a publicly accessible report sent to the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, data specifying:

- (1) Aggregate retail sales of liquor for on-premises and off-premises consumption in the State during the previous calendar year;
- (2) Aggregate retail sales of liquor for on-premises consumption in the State during the previous calendar year; and
- (3) Aggregate retail sales of liquor for off-premises consumption in the State during the previous calendar year; and

- E. Any recommendations for changes to this Title.

Sec. 4. 28-A MRSA §1404 is amended to read:

§1404. Unbonded wholesale licensees

Sections 4 and 5 below are designed, like section 6 of the earlier proposed amendment, to reduce wholesale licensee paperwork requirements and incorporate the relevant technical changes proposed in LD 1643

1. Procedure for unbonded wholesale licensees. Unbonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The bureau shall furnish all purchase order forms.

~~B. The unbonded wholesale licensee shall complete the forms in quintuplicate.~~

C. The unbonded wholesale licensee ordering malt liquor or wine shall ~~mail 3 copies~~ submit a copy of the purchase order form to the bureau with a check for the amount of excise taxes required to cover the amount of the order.

~~D. The unbonded wholesale licensee may mail the original copy of the order to the brewery or winery or wholesaler with whom the licensee wishes to place the order.~~

E. On receipt of the ~~3 copies~~ copy of the purchase order form and a check for excise taxes submitted under paragraph C, the bureau shall promptly process the payment and ~~process the copies and return one copy~~ submit copies of the purchase order form indicating that excise taxes have been paid to the wholesale licensee and ~~send one to the brewery, winery or foreign wholesaler designated to receive~~ certificate of approval holder with which the licensee wishes to place the order. ~~The bureau shall keep the 3rd copy on file.~~

~~F. No brewery, winery or foreign wholesaler~~ A certificate of approval holder may not ship or release malt liquor or wine for delivery in ~~Maine~~ the State until notified by the bureau that the excise tax has been paid in accordance with this section.

Sec. 5. 28-A MRSA §1045, sub-§1 is amended to read:

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1. Procedures for bonded wholesale licensees. Bonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The bureau shall furnish all purchase order forms.

~~B. The bonded wholesale licensee shall complete the forms in triplicate.~~

C. The bonded wholesale licensee shall submit ~~the original~~ a copy of the purchase order form to the ~~brewery, winery or foreign wholesaler~~ certificate of approval holder with ~~whom he~~ which the bonded wholesale licensee wishes to place the order.

D. The bonded wholesale licensee shall ~~then mail to the bureau one~~ submit a copy of the purchase order form to the bureau and retain ~~one~~ a copy for the licensee's files.

Section 6. below, replaces section 7 of the earlier proposed amendment.

Sec. 6. Report. Not later than January 15, 2023, the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations shall submit a report to the joint standing committee of the legislature having jurisdiction over alcoholic beverages matters that describes the process by which the State Liquor and Lottery Commission establishes the retail price of spirits sold in the State; describes the process by which the bureau develops recommended retail prices for the commission's consideration; explains how any pricing formula or calculator employed by the bureau to establish such recommended retail prices operates, the factors that affect a retail price calculated using such a formula or calculator, and the reasons that the bureau chose to incorporate those factors in the formula or calculator; and informs the committee of the status of the commission's adoption of rules pursuant to the Maine Revised Statutes, Title 28-A, section 81, subsection 5. The committee is authorized to submit legislation related to the report to any session of the 131st Legislature.

SUMMARY

This amendment, which is the _____ report of the committee, strikes and replaces the bill and makes the following changes to the State's liquor laws.

1. It makes the rules adopted by the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations regarding the registration of malt liquor, wine and low-alcoholic spirits products labels major substantive rules.

2. It requires the State Liquor and Lottery Commission to adopt routine technical rules establishing a process by which a spirits supplier may, after the commission establishes the retail price of that spirits supplier's own spirits product, request a reconsideration of that retail price determination at an adjudicatory hearing.

3. It streamlines the paperwork requirements attendant to purchase order forms that a wholesale licensee must fill out when ordering malt liquor or wine.

4. It requires the bureau to include, either in its annual report to the Governor and the Legislature or in a report submitted to the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, data regarding the aggregate retail sales of liquor for on-premises and off-premises consumption during the previous calendar year as well as separate figures for the aggregate retail sales of liquor for on-premises consumption and the aggregate retail sales of liquor for off-premises consumption during the same time period.

5. It requires the bureau to submit a report to the joint standing committee of the legislature having jurisdiction over alcoholic beverages matters by January 15, 2023 that describes the processes by which the commission establishes the retail price of spirits sold in the State, describes the process by which the bureau

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develops recommended retail prices for the commission's consideration, explains how any pricing formula or calculator employed by the bureau to establish such recommended retail prices operates, and informs the committee of the status of the commission's establishment of a process for a spirits supplier to seek a reconsideration of a commission retail price determination. The committee is authorized to submit legislation related to the report to any session of the 131st Legislature.