

**TESTIMONY OF
MICHAEL J. ALLEN, ASSOCIATE COMMISSIONER FOR TAX POLICY
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Veterans and Legal Affairs
Hearing Date: *April 23, 2025, at 1:00 P.M.*

L.D. 1754 – “*An Act to Provide for the Direct Shipment of Spirits to Consumers*”

Senator Hickman, Representative Supica, and members of the Committee on Veterans and Legal Affairs – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am here today at the request of the Administration to testify Neither For Nor Against L.D. 1754, “*An Act to Provide for the Direct Shipment of Spirits to Consumers.*”

My testimony today is limited to the proposed subsection 11 of Title 28-A, section 1358, which appears on page 3 of the printed LD, and is titled “Sales tax registration and payment required.” That provision would require a licensed direct shipper of spirits to comply with the provisions of Title 36, Part 3, including all requirements relating to the sales tax registration and payment requirement of the direct shipper of spirits. Proposed subsection 11 has similar language to that enacted by P.L. 2009, c. 373, which established a license to allow for the direct shipment of wine, conditioned on various requirements, including sales tax registration and payment.

Enacted within that 2009 Public Law was a separate paragraph under the sales tax law’s registration requirements, specifying that “every person that holds a wine direct shipper license” be required to also register for a sales tax account.

Doing so required that every wine direct shipper, regardless of sales volume, collect and report the sales tax on sales of wine made into the state of Maine.

Technical changes to LD 1754 are needed to effectuate the requirements set forth in subsection 11 of the bill in order to properly link with the sales tax provisions in Title 36, Part 3. In 2018, the U.S. Supreme Court issued its decision in *South Dakota v. Wayfair*, which overturned precedent regarding state sales tax registration and collection obligations and allowed states to extend those sales tax obligations based on “economic nexus” -- i.e., to retailers located outside of the state but made sales into the state exceeding certain thresholds. Nearly all states with sales taxes enacted legislation following the *Wayfair* decision establishing economic thresholds an out-of-state retailer would have to meet before being required to register for collection of that state’s sales taxes; in Maine, that threshold is over \$100,000 in gross sales of tangible personal property or taxable services delivered into Maine in the prior calendar year or the current calendar year.

If the intent of this bill is to require all direct shippers of spirits to register with Maine Revenue Services and collect and remit the sales tax on sales delivered into Maine, *regardless of sales volume*, the bill should be amended to include a specific registration requirement under Title 36, section 1754-B. Otherwise, a direct shipper of spirits who makes less than \$100,000 in gross sales of spirits delivered into the state of Maine would not be required to register for sales tax collection, yet still be in compliance with the provisions of Title 36, Part 3.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee’s questions.