

**“An Act to Clarify Certificate of Approval Requirements under the State’s Liquor Laws”**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 28-A MRSA §2, sub-§8 is repealed and the following enacted in its place:

**8. Certificate of approval holder.** "Certificate of approval holder" means:

A. An in-state manufacturer of malt liquor, wine or spirits licensed under section 1355-A; and

B. An out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine who has been issued a certificate of approval under section 1361;

C. An out-of-state manufacturer of spirits who has been issued a certificate of approval by the bureau under section 1381.

Sec. 2. 28-A MRSA §1364, sub-§5 is enacted to read:

**5. Limitation on definition of certificate of approval holder.** As used in this section, “certificate of approval holder” has the same meaning as in section 2, subsection 8, except that it does not include an in-state spirits manufacturer licensed under section 1355-A or an out-of-state spirits manufacturer who has been issued a certificate of approval under section 1381.

Sec. 3. 28-A MRSA §1401-A is enacted to read:

**§1401-A. Limitation on definition of certificate of approval holder**

As used in this chapter, unless the context otherwise indicates, “certificate of approval holder” has the same meaning as in section 2, subsection 8, except that it does not include an in-state spirits manufacturer licensed under section 1355-A, or an out-of-state spirits manufacturer who has been issued a certificate of approval under section 1381.

Sec. 4. 28-A MRSA §1451, sub-§1-A is enacted to read:

**1-A. Certificate of approval holder.** “Certificate of approval holder” has the same meaning as in section 2, subsection 8, except that it does not include an in-state spirits manufacturer licensed under section 1355-A or an out-of-state spirits manufacturer who has been issued a certificate of approval under section 1381.

Sec. 5. 28-A MRSA §1371 is amended to read:

**§1371. Special warehouse storage facilities controlled by certificate of approval holder**

**1. Certificate of approval for Licensing of special warehouse storage facilities.**

Notwithstanding the importation restrictions of sections ~~2073 and 2077~~ 1361, subsection 4, 2073-A and 2073-C, the bureau may issue ~~certificates of approval~~ licenses authorizing the direct importation of malt liquor, wine or spirits ~~from suppliers by manufacturers, wholesalers and spirits suppliers~~ located in foreign countries or other states into special warehouse storage facilities located within the State that are under the direct supervision and control of the ~~certificate of approval holder~~ licensee under this section or into a public warehouse with the approval of the bureau.

VLA Title 28-A Subcommittee  
Certificate of Approval Bill Draft

**2. Fee.** The fee for a ~~certificate of approval license~~ under this ~~subsection~~ section is \$600 a year for malt liquor only, \$600 a year for wine only and \$600 a year for spirits only.

**3. Stored liquor not subject to state liquor tax until withdrawn.** Liquor stored in special warehouse storage facilities licensed under this section is not subject to ~~the state liquor taxes~~ spirits tax under section 1651 or to the excise tax under section 1652 until it is withdrawn from the special warehouse storage facilities.

A. Malt liquor and wine withdrawn from the special warehouse storage facilities by ~~Maine~~ wholesale licensees immediately become subject to the same tax as malt liquor and wine imported into the State from out-of-state certificate of approval holders. The wholesale licensee shall withdraw the malt liquor and wine to be distributed in the State by the procedure established in sections 1404 and 1405.

B. The bureau may withdraw spirits from special warehouse storage facilities.

C. Out-of-state purchasers authorized by the bureau may withdraw spirits, wine and malt liquor from special warehouse storage facilities. The authorization allows the out-of-state purchasers to directly transport the spirits, wine and malt liquor to the state border for delivery out-of-state. Products withdrawn by authorized out-of-state purchasers for delivery outside of the State are not subject to the state spirits tax under section 1651 or the state excise tax or premium under section 1652.

**Sec. 6. Title 28-A, chapter 51, subchapter 5** is enacted to read:

**SUBCHAPTER 5**

**SPIRITS**

**§1381. Certificate of approval; spirits**

**1. Certificate of approval required.** An out-of-state manufacturer of spirits may not engage in the following activities unless the out-of-state manufacturer has obtained a certificate of approval from the bureau in accordance with this section:

A. Offer spirits for sale in the State or sell spirits in the State; or

B. Transport into the State or cause to be transported into the State spirits for sale in the State.

**2. Fee for certificate of approval.** The fee for a certificate of approval under this section is \$1,000 per year, except that the fee for an out-of-state manufacturer or out-of-state wholesaler of spirits who ships 120 gallons of spirits or less per year is \$100. Payment of the fee must accompany the application for the certificate.

**3. Conditions on certificate of approval.** A certificate of approval under this section is subject to the laws of the State and the rules of the bureau.

**4. Shipment restrictions.** Except as provided in sections 2073 and 2075, a person who has been issued a certificate of approval under this section may only transport spirits into the State or cause spirits to be transported into the State if the spirits are delivered to a wholesale spirits provider.

**§1382. Disposal of fees**

The bureau shall deposit the fees collected under section 1381 to the credit of the General Fund.

**SUMMARY**

This bill resolves an inconsistency in the State's liquor laws by clarifying that an out-of-state spirits manufacturer must obtain a certificate of approval from the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations before it may sell spirits in the State or transport spirits into the State for sale.

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Consistency with “Errors” bill:

- **§2:** definition of “certificate of approval holder”
  - Two options: (1) if the Errors bill is enacted and chaptered before this bill is voted, should change the section in this bill to amend the new definition of “certificate of approval” holder merely by adding paragraph C to the definition; but (2) if this bill is enacted and chaptered before the Errors bill is voted, should strike §2(8) from the Errors bill.
- **§1364(5); §1401-A and §1451(1-A):** statutes referencing “certificate of approval holders” that do not include entities that produce or distribute spirits and thus need a definition excluding in-state spirits manufacturers and any certificate of approval given to a spirits supplier.
  - These are all also part of the Errors bill. Two options: (1) if the Errors bill is enacted and chaptered before this bill is voted, change the sections in this COA bill to amendments to the versions enacted in the Errors bill; but (2) if this COA bill is enacted and chaptered before this bill is voted, then should remove these sections from the Errors bill entirely (because the language in this COA bill accomplishes the goals of both bills).
  - If §1371 special warehouse facility authority is changed from a “certificate of approval” to a “license”, then can omit references to §1371 in these three sections of both the Errors bill and this COA bill.
- **§1371: changing special warehouse facilities from COAs to a licenses**
  - Both the Errors bill and this COA bill make the same changes to §1371
  - If either bill is enacted, then the amendments to §1371 should be removed from the second bill (because they will already have been made). Note that if we forget to make that change, there should not be a conflict because identical changes are being made to §1371.
- **§1381(4):** limitations on where an out-of-state spirits manufacturer may transport its spirits products.
  - Two options: (1) the cross references in the “except as provided in” phrase must be changed from “sections 2073 and 2075” to “section 2073-B(2)(C)” if the Errors bill is enacted and chaptered before this bill is voted; but (2) if this COA bill is enacted and chaptered before the Errors bill is voted, then should amend the cross-references through the Errors bill.