APPROVED
MARCH 17, 2021
BY GOVERNOR

CHAPTER
8
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

S.P. 133 - L.D. 307

An Act To Expand the Market for Maine Liquor Manufacturers

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the spread of the novel coronavirus disease referred to as COVID-19 has created a public health emergency; and

Whereas, in response to this public health emergency, the Governor issued an executive order on March 18, 2020 requiring the closure of tasting rooms and requiring restaurants and bars, including those operated by Maine manufacturers of spirits, wine and malt liquor, to close their dine-in facilities; and

Whereas, although restaurants were permitted to reopen for dine-in service by June 17, 2020, they were required to limit indoor seating capacity and, from November 20, 2020 through January 2021, were additionally required to close their dine-in facilities by 9:00 p.m. nightly to prevent spread of the virus; and

Whereas, the reopening of bars and tasting rooms has been postponed until further notice; and

Whereas, the combined effects of the public health emergency and subsequent public health measures have significantly affected the economic health of Maine manufacturers of spirits, wine and malt liquor; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 28-A MRSA §707, sub-§7, as amended by PL 2019, c. 665, §9, is further amended to read:

7. Exceptions. This section does not prohibit:

A. A manufacturer or out-of-state wholesaler from extending the usual and customary credit to a wholesale licensee for the purchase of malt liquor or wine; ~~or~~

B. A manufacturer or out-of-state wholesaler from furnishing materials and equipment for the use of a wholesale licensee or the wholesale licensee's employees, including:

(1) Painting the wholesale licensee's vehicles;

(2) Supplying legal advertising signs used by the wholesale licensee in the course of the wholesale licensee's business; and

(3) Supplying uniforms for the employees of the wholesale licensee~~.~~; or

C. A manufacturer licensed under section 1355-A from selling and shipping its products to an individual in another state for personal use and not for resale, as long as the sale and shipment are authorized by and conducted in accordance with the requirements of the law of the state where the shipment is delivered.

Sec. 2. 28-A MRSA §1357 is enacted to read:

§1357. Sales to persons in another state

Notwithstanding any provision of this Title to the contrary, a manufacturer licensed under section 1355-A may sell and ship its products to a person located in another state, as long as the sale and shipment are authorized by and conducted in accordance with the requirements of the law of the state where the shipment is delivered.

Sec. 3. 28-A MRSA §1651, sub-§1, as amended by PL 2019, c. 404, §29, is further amended to read:

1. State spirits tax. Except as provided in section 83-C, subsection 2-A and section 606, the commission shall determine and set the retail price at which ~~to sell~~ all spirits ~~to agency liquor stores that will~~ products may be sold in the State for off-premises consumption. The retail price established by the commission must produce sufficient revenue to pay all spirits-related expenses of the bureau and to return to the Liquor Operation Revenue Fund established in Title 30-A, section 6054 and the General Fund an amount substantially equal to the amount of state spirits tax collected in the previous fiscal year.

C. The bureau shall charge agency liquor stores the refund value pursuant to Title 38, section 3103 in addition to the wholesale price for each product purchased.

Sec. 4. 28-A MRSA §1651, sub-§3, ¶C, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

C. To industrial establishments for use as an ingredient in the manufacture of food products; ~~or~~

Sec. 5. 28-A MRSA §1651, sub-§3, ¶D, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

D. For use as an ingredient in the manufacture of commodities which by reason of their nature cannot be used for beverage purposes~~.~~; or

Sec. 6. 28-A MRSA §1651, sub-§3, ¶E is enacted to read:

E. To a person located outside of the State, including but not limited to sales of spirits to an out-of-state distributor for resale in another state and sales of spirits directly to a consumer located in another state under section 1357.

Sec. 7. 28-A MRSA §1652, sub-§1, as amended by PL 2013, c. 368, Pt. XXXX, §8 and affected by §13, is further amended to read:

1. Excise tax on malt liquor. An excise tax is imposed on the privilege of manufacturing and selling malt liquor in the State. ~~The Maine~~ Except as provided in subsection 2-A, the in-state manufacturer or importing wholesale licensee shall pay an excise tax of 35¢ per gallon on all malt liquor ~~sold~~ manufactured in or imported into the State.

Sec. 8. 28-A MRSA §1652, sub-§1-A, as amended by PL 2013, c. 368, Pt. XXXX, §8 and affected by §13, is further amended to read:

1-A. Excise tax on low-alcohol spirits products and fortified wines. An excise tax is imposed on the privilege of manufacturing and selling low-alcohol spirits products and fortified wines in the State. ~~The Maine~~ Except as provided in subsection 2-A, the in-state manufacturer or importing wholesale licensee shall pay an excise tax of $1.24 per gallon on all low-alcohol spirits products and fortified wines manufactured in or imported into the State.

Sec. 9. 28-A MRSA §1652, sub-§2, as amended by PL 2013, c. 368, Pt. XXXX, §8 and affected by §13, is further amended to read:

2. Excise tax on wine; hard cider. An excise tax is imposed on the privilege of manufacturing and selling wine in the State. ~~The Maine~~ Except as provided in subsection 2-A, the in-state manufacturer or importing wholesale licensee shall pay an excise tax of 60¢ per gallon on all wine other than sparkling wine, fortified wine or hard cider manufactured in or imported into the State, $1.24 per gallon on all sparkling wine manufactured in or imported into the State and 35¢ per gallon on all hard cider manufactured in or imported into the State.

Sec. 10. 28-A MRSA §1652, sub-§2-A, as amended by PL 2011, c. 147, §3, is further amended to read:

2-A. ~~Payment~~ Excise tax due; exemption. On the 15th day of each month, every brewery and winery shall pay the excise taxes ~~and premium~~ due on malt liquor ~~and,~~ wine and low-alcohol spirits products that that brewery or winery removed from areas required to be bonded by the Federal Government. Malt liquor, wine or low-alcohol spirits products that a brewery or winery removes from areas required to be bonded by the Federal Government for sale to an out-of-state wholesaler for resale in another state or for sale under section 1357 directly to a consumer located in another state are exempt from excise tax under this section.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect April 1, 2021.