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VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 240, L.D. 805, Bill, “An Act To Clarify the Laws Governing Taste Testing and Retail Sales of Liquor at Farmers' Markets”

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

'An Act To Clarify the Laws Governing Taste Testing and Retail Sales of Liquor at Farmers' Markets and To Allow Retail Sales at Other Taste-testing Events'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 28-A MRSA §1355-A, sub-§3, ¶D is enacted to read:

D. Notwithstanding any provision of this Title to the contrary, a brewery or small brewery licensed in accordance with this section may sell malt liquor to be consumed off the premises under the conditions specified in this paragraph if the brewery or small brewery is participating in a taste-testing event under section 1052-D.

(1) The brewery or small brewery may sell only malt liquor produced in the State by that brewery or small brewery.

(2) A sale of malt liquor in accordance with this paragraph must be accompanied by a sales receipt.

Sec. 2. 28-A MRSA §1355-A, sub-§4, ¶D is enacted to read:

D. Notwithstanding any provision of this Title to the contrary, a winery or small winery licensed in accordance with this section may sell wine to be consumed off the premises under the conditions specified in this paragraph if the winery or small winery is participating in a taste-testing event under section 1052-D.

(1) The winery or small winery may sell only wine produced in the State by that winery or small winery.

(2) A sale of wine in accordance with this paragraph must be accompanied by a sales receipt.

COMMITTEE AMENDMENT

1 **Sec. 3. 28-A MRSA §1355-A, sub-§5, ¶I** is enacted to read:

2 I. Notwithstanding any provision of this Title to the contrary, a distillery or small
3 distillery licensed in accordance with this section may sell spirits to be consumed off
4 the premises under the conditions specified in this paragraph if the distillery or small
5 distillery is participating in a taste-testing event under section 1052-D.

6 (1) The distillery or small distillery may sell only spirits produced in the State by
7 that distillery or small distillery.

8 (2) Spirits sold in accordance with this paragraph are subject to the listing,
9 pricing and distribution provisions of this Title.

10 (3) A sale of spirits in accordance with this paragraph must be accompanied by a
11 sales receipt.

12 **Sec. 4. 28-A MRSA §1366**, as amended by PL 2017, c. 168, §§1 to 3 and
13 corrected by RR 2017, c. 1, §19, is repealed.

14 **Sec. 5. 28-A MRSA §1367**, as corrected by RR 2017, c. 1, §20, is repealed.

15 **Sec. 6. 28-A MRSA §1368** is enacted to read:

16 **§1368. Retail sales and taste testing at farmers' markets**

17 **1. Farmers' market defined.** For purposes of this section, "farmers' market" has the
18 same meaning as in Title 7, section 415, subsection 1, paragraph A.

19 **2. Retail sales and taste-testing events at farmers' markets.** Subject to the
20 conditions set forth in this section and the applicable bylaws of the farmers' market, a
21 small brewery, small winery or small distillery licensed under section 1355-A or an
22 employee of the licensee who is at least 21 years of age may sell or offer for taste testing
23 at a farmers' market any wine, spirits or malt liquor manufactured in the State by the
24 licensee.

25 **3. Conditions.** The following conditions apply to retail sales and taste-testing events
26 permitted under this section:

27 A. The licensee shall apply for authorization to conduct retail sales or taste-testing
28 events at farmers' markets using a form prescribed by the bureau and by paying an
29 annual fee of \$75. The licensee shall submit the application at least 30 days prior to
30 the first date when the licensee will conduct retail sales or conduct a taste-testing
31 event at a farmers' market;

32 B. Prior to each month during which the licensee wishes to conduct retail sales or
33 taste-testing events at farmers' markets, the licensee shall provide to the bureau a list
34 of the date, time and location of each farmers' market at which the licensee intends to
35 conduct retail sales or taste-testing events and must receive approval from the bureau
36 for that month. The bureau may request a diagram of the layout of each farmers'
37 market at which the licensee intends to conduct retail sales or taste-testing events;

38 C. The licensee shall keep and maintain a record of the dates, times and locations of
39 the licensee's conduct of retail sales or taste-testing events at farmers' markets under
40 this section;

1 D. The farmers' market must consist of at least 6 separate stalls or booths that sell
2 farm or food products, not including liquor, and must be authorized by the bureau
3 under subsection 4;

4 E. The stall or booth operated by the licensee at the farmers' market is considered
5 part of the licensed premises of the licensee for purposes of this chapter;

6 F. All wine, spirits and malt liquor for retail sale must be prepackaged and sold by
7 the bottle or case. The holder of a small distillery license may provide spirits for sale
8 at a farmers' market in the same manner as permitted under section 1355-A,
9 subsection 5, paragraph G;

10 G. The licensee may not charge a fee for samples at a taste-testing event under this
11 section and may not serve spirits, wine or malt liquor to a minor or an individual who
12 is visibly intoxicated. The licensee may not serve a taste-testing sample of more than
13 4 ounces of malt liquor, 1 1/2 ounces of wine or 1/2 ounce of spirits and may not
14 serve an individual more than 6 samples per day; and

15 H. All activities authorized under this section must be conducted within the hours of
16 retail sales established in this Title and may not be conducted in any municipality
17 where on-premises and off-premises sales are not allowed pursuant to chapter 5.

18 **4. Farmers' market authorization.** At least 30 days prior to the sale or taste testing
19 of wine, spirits or malt liquor, a farmers' market must obtain municipal approval to sell or
20 conduct taste testing of wine, spirits and malt liquor under this section. If the farmers'
21 market is held on private property, the application must include a written statement
22 signed by the owner of the property permitting the sale or taste testing of wine, spirits or
23 malt liquor in accordance with this section.

24 **5. Rules.** The bureau may adopt rules to carry out the purposes of this section.
25 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
26 chapter 375, subchapter 2-A.'

27 **SUMMARY**

28 This amendment strikes and replaces the bill, which is a concept draft. This
29 amendment combines, clarifies and removes several inconsistencies in the laws
30 governing the retail sale and taste testing of Maine-manufactured liquor at farmers'
31 markets.

32 As in current law, under the amendment a licensed Maine small brewery, small
33 winery or small distillery may conduct retail sales or taste-testing events at a farmers'
34 market subject to the applicable bylaws of the farmers' market. The amendment clarifies
35 that approval from the Department of Administrative and Financial Services, Bureau of
36 Alcoholic Beverages and Lottery Operations and the municipality where the farmers'
37 market will be held is required for both retail sales and taste-testing events. The
38 amendment removes the provision of current law that limits to 2 the number of taste-
39 testing events that may be held by a licensee at a farmers' market each month.

40 The amendment eliminates the provisions of current law that allow a Maine brewery,
41 winery or distillery that produces more than 50,000 gallons per year, which is not

1 authorized under current law to sell its products at a farmers' market, to conduct taste-
2 testing events at a farmers' market.

3 The amendment also allows a licensed Maine brewery, small brewery, winery, small
4 winery, distillery or small distillery that participates in a taste-testing event under the
5 Maine Revised Statutes, Title 28-A, section 1052-D to conduct retail sales of malt liquor,
6 wine or spirits produced by that manufacturer during the taste-testing event.

7 **FISCAL NOTE REQUIRED**

8 **(See attached)**