

**MAINE LIQUOR AND LOTTERY COMMISSION  
DECISION ON PROPOSED DE-LISTING OF 50 ML SPIRITS**

At its July 11, 2017 meeting the Commission considered the recommendation of the Bureau of Alcoholic Beverages and Lottery Operations (the “Bureau”) that all 50 milliliter spirit products currently listed for sale in the State of Maine be de-listed, effective January 12, 2018.

Under Title 28-A, section 81 of the Maine Revised Statutes, it is the Commission’s responsibility to determine which items may be listed for sale in this state and whether any items should be discontinued or de-listed. In making such determinations, the Commission takes into consideration the Legislature’s intent that growth in revenue from the sale of spirits be achieved in a socially responsible manner.

In accordance with the Public Meeting Notice dated June 13, 2017, the Bureau filed its written recommendation for de-listing 50 ml products, explaining its rationale. Members of the public also filed written comments pursuant to the terms of the Notice, both for and against the proposed de-listing. These materials were received and reviewed by Commission members in advance of the meeting. The Bureau gave an oral presentation at the meeting, during which it reiterated the reasons for its recommendation. Members of the public also provided oral comment.

To summarize the Bureau’s position, there has been a recent and significant increase in the sale of 50 ml spirits in Maine. The sale and consumption of these products is having a negative impact on the environment, as substantial numbers of discarded 50 ml spirit bottles are ending up along roadsides.<sup>1</sup> More significantly, however, the Bureau reasoned, is that the recent increase in 50 ml sales corresponds to a recent increase in OUI convictions. The Bureau pointed out that 50 ml spirits facilitate drinking and driving because they can be quickly consumed and the containers easily concealed or discarded. The Bureau indicated a belief that de-listing 50 ml spirits would not have a substantial negative impact on sales revenues, because consumers will likely transition to larger container sizes.

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<sup>1</sup> The Maine Legislature recently enacted LD 56, which requires a 5 cent refundable deposit on 50 ml bottles effective January 1, 2019.

Members of the public who opposed the de-listing argued that there is no proof of a direct correlation between the increase in the sale of 50 ml spirits and the increase in OUI convictions. There were concerns about significant negative financial impacts of de-listing on the businesses that sell these products and their employees, including the potential for the loss of jobs. Opponents pointed out that de-listing 50 ml products would, most likely, encourage Maine residents who wish to consume these products to purchase them in New Hampshire. They argued that education and law enforcement are more effective ways to deal with the OUI problem.

At the close of the public meeting the Commission deliberated on the proposed de-listing, taking into careful consideration the Bureau's recommendation and all comments, both written and oral. The Commission's deliberations were held in public; although no further public comment was accepted at that time. Each member of the Commission expressed his or her views on the issues. A motion was made to approve the Bureau's recommendation to de-list 50 ml spirits, which failed because it was not seconded. Thereafter, a motion was made to reject the Bureau's recommendation, which was seconded and which prevailed in a 4 to 1 vote.

The majority of the Commission members, who voted to reject the de-listing recommendation, were not persuaded that the recent uptick in OUI convictions is attributable to the increase in the sale of 50 ml spirits. Conversely, the potential negative economic impacts of de-listing, such as the loss of jobs, were a significant concern. The majority further pointed out that education and law enforcement is a more effective approach to dealing with the OUI problem. They expressed the opinion that LD 56 should be given a chance to address the litter problem. In light of these considerations, the majority was satisfied that rejecting the de-listing recommendation was in keeping with social responsibility.

ACCORDINGLY, the Bureau's recommendation that all 50 milliliter spirit products currently listed for sale in the State of Maine be de-listed was rejected by a majority (4 to 1) vote of the Commission.

Maine Liquor and Lottery Commission  
July 11, 2017