

## STATE OF MAINE

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 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

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 H.P. 542 - L.D. 737
**An Act To Update Alcohol Taste-testing Requirements**

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

**Whereas,** this Act grants agency liquor stores and other off-premises retail licensees more flexibility to conduct taste-testing events for spirits, wine and malt liquor on their premises; and

**Whereas,** it is necessary that this Act take effect before the expiration of the 90-day period in order to permit off-premises retail licensees to conduct taste-testing events under the flexible provisions of the Act during the summer tourist season; 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 §460,** as amended by PL 2015, c. 129, §§1 and 2, c. 184, §§1 to 3 and c. 329, Pt. D, §1 and affected by §4, is further amended to read:

**§460. Agency liquor store taste testing of spirits**

**1. Taste testing on agency liquor store premises.** Subject to the conditions in ~~subsection~~ subsections 2 and 2-A, the bureau may authorize an agency liquor store stocking at least ~~200~~ 100 different codes of distilled spirits products to conduct taste testing of distilled spirits on that licensee's premises. ~~An agency liquor store may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring or providing samples, or both, for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner.~~ Any other consumption of alcoholic beverages liquor on an agency liquor

store's premises is prohibited, except as permitted under section 1205 ~~or~~, 1207, 1208, 1402-A or 1504.

**2. Conditions for conducting taste-testing events.** The conditions under this subsection apply to taste-testing ~~activities~~ events under this section.

- A. ~~Distilled spirits~~ Spirits may not be served to persons who have not yet attained 21 years of age.
- B. A person may not be served more than a total of 1 1/2 ounces, in 1/2 ounce servings, of ~~distilled spirits~~ having an alcohol content of 80 proof or less; ~~or and~~, for ~~distilled spirits~~ containing an alcohol content of greater than 80 proof, a person may not be served more than a total of 3/4 of an ounce in 1/4 ounce servings.
- C. ~~Distilled spirits~~ Spirits must be dispensed using a standard measuring device.
- D. ~~Distilled spirits having an alcohol content of greater than 80 proof may not be offered for tasting at the same time as distilled spirits having an alcohol content of 80 proof or less.~~
- E. A person may not be charged a fee for any ~~distilled spirits~~ served as part of a taste-testing activity event.
- F. A person may not be served who is visibly intoxicated.
- G. ~~Taste testing~~ A taste-testing event must be limited to a designated area.
- H. ~~Taste testing~~ A taste-testing event must be conducted within the hours of retail sale established in this Title.
- I. ~~The agency liquor store must obtain the written permission of the bureau before conducting any taste-testing activity.~~
- J. The agency liquor store may conduct up to 3 ~~tastings~~ 15 taste-testing events per month, including ~~tastings~~ taste-testing events conducted under sections 1205 and 1207. If the agency liquor store complies with the applicable requirements of sections 1205 and 1207, the agency liquor store may offer wine and malt liquor for tasting at the same time as spirits.
- K. ~~Taste testing~~ A taste-testing event is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.
- L. ~~The agency liquor store must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing.~~
- M-1. ~~Distilled spirits~~ Spirits served at a ~~taste testing~~ taste-testing event must be provided by the agency liquor store or purchased, at the retail list price, by a licensed sales representative participating in the ~~taste testing~~ taste-testing event from existing stock available for purchase at the agency liquor store.
- N. Prior to a taste-testing event, the agency liquor store shall post prominently at the entrance to the store a sign that announces the date and time of the event.

O. An agency liquor store, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the agency liquor store's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph N.

**2-A. Written permission from the bureau.** An agency liquor store must obtain the written permission of the bureau before conducting a taste-testing event using the following procedure.

A. The agency liquor store shall request authority to conduct a taste-testing event using forms prescribed by the bureau.

B. The agency liquor store may submit a separate form for each taste-testing event or a single form listing some or all of the taste-testing events the agency liquor store requests authority to conduct in a calendar month under this section, section 1205 and section 1207.

C. The request must indicate the date and time for each taste-testing event and the liquor product or products that will be offered at each event.

D. The request must indicate whether a sales representative licensed under section 1502 will be pouring or providing samples, or both, for each taste-testing event and include verification that the sales representative has successfully completed an alcohol server education course approved by the bureau.

**3. Rules.** The bureau may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 28-A MRSA §1205**, as amended by PL 2015, c. 129, §§4 and 5, is further amended to read:

**§1205. Taste testing of wine**

**1. Taste testing on off-premises retail licensee's premises.** Subject to the conditions in ~~subsection~~ subsections 2 and 2-A, the bureau may authorize an ~~off-premise~~ off-premises retail licensee stocking at least ~~425~~ 100 different wine labels to conduct taste ~~testings~~ testing of wine on that licensee's premises. ~~An off-premise retail licensee may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner.~~ Any other consumption of alcoholic beverages liquor on an ~~off-premise~~ off-premises retail licensee's premises is prohibited, except as permitted under section 460, 1207, 1208, 1402-A or 1504.

**2. Conditions for conducting taste-testing events.** The following conditions apply to taste-testing ~~activities~~ events under this section:

A. Wine may not be served to persons who have not yet attained the age of 21 years;

B. A person may not be served more than a total of 5 ounces of wine having an alcohol content of 14% or less; ~~or and~~, for wine having an alcohol content greater than 14%, a person may not be served more than a total of 3 ounces of wine;

C. A person may not be charged a fee for any wine served as part of a taste-testing activity event;

D. A person may not be served who is visibly intoxicated;

E. ~~Taste testing~~ A taste-testing event must be limited to a designated area;

F. ~~Taste testing~~ A taste-testing event must be conducted within the hours of retail sale established in this Title;

~~G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity;~~

H. The retail licensee may conduct up to ~~3 tastings~~ 15 taste-testing events per month, including ~~tastings~~ taste-testing events conducted under sections 460 and 1207. If the retail licensee complies with the applicable requirements of sections 460 and 1207, the retail licensee may offer spirits and malt liquor for tasting at the same time as wine;

I. ~~Taste testing~~ A taste-testing event is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5;

~~J. The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing;~~

K. The retail licensee must purchase all wine served at a ~~taste testing~~ taste-testing event from a wholesale licensee;

L. Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event; and

M. An ~~off-premise~~ off-premises retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the ~~off-premise~~ off-premises retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L.

**2-A. Written permission from the bureau.** An off-premises retail licensee must obtain the written permission of the bureau before conducting a taste-testing event using the following procedure.

A. The retail licensee shall request authority to conduct a taste-testing event using forms prescribed by the bureau.

B. The retail licensee may submit a separate form for each taste-testing event or a single form listing some or all of the taste-testing events the retail licensee requests authority to conduct in a calendar month under this section, section 460 and section 1207.

C. The request must indicate the date and time for each taste-testing event and the liquor product or products that will be offered at each event.

D. The request must indicate whether a sales representative licensed under section 1502 will be pouring or providing samples, or both, for each taste-testing event and include verification that the sales representative has successfully completed an alcohol server education course approved by the bureau.

**3. Rules.** The bureau may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 28-A MRSA §1207**, as amended by PL 2015, c. 129, §§6 and 7, is further amended to read:

**§1207. Taste testing of malt liquor**

**1. Taste testing on off-premises retail licensee's premises.** Subject to the conditions in ~~subsection~~ subsections 2 and 2-A, the bureau may authorize an ~~off-premise~~ off-premises retail licensee stocking at least 100 different labels of malt liquor to conduct taste testing of malt liquor on that licensee's premises. ~~An off-premise retail licensee may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner.~~ Any other consumption of alcoholic beverages liquor on an ~~off-premise~~ off-premises retail licensee's premises is prohibited, except as permitted under section 460 ~~or~~, 1205, 1208, 1402-A or 1504.

**2. Conditions for conducting taste-testing events.** The conditions under this subsection apply to taste-testing ~~activities~~ events under this section.

A. Malt liquor may not be served to persons who have not yet attained 21 years of age.

B. A person may not be served more than a total of 12 ounces of malt liquor having an alcohol content of 6% or less; for malt liquor having an alcohol content greater than 6% but less than 12%, a person may not be served more than a total of 6 ounces; ~~or and~~, for malt liquor having an alcohol content of 12% or greater, a person may not be served more than a total of 3 ounces.

C. A person may not be charged a fee for any malt liquor served as part of a taste-testing ~~activity~~ event.

D. A person may not be served who is visibly intoxicated.

E. ~~Taste testing~~ A taste-testing event must be limited to a designated area.

F. ~~Taste testing~~ A taste-testing event must be conducted within the hours of retail sale established in this Title.

~~G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity.~~

H. ~~The retail licensee may conduct up to 3 tastings~~ 15 taste-testing events per month, including tastings taste-testing events conducted under section 460 or 1205. If the retail licensee complies with the applicable requirements of sections 460 and 1205, the retail licensee may offer spirits and wine for tasting at the same time as malt liquor.

I. ~~Taste testing~~ A taste-testing event is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.

J. ~~The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing.~~

K. The retail licensee must purchase all malt liquor served at a ~~taste testing~~ taste-testing event from a wholesale licensee.

L. Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event.

M. An ~~off-premise~~ off-premises retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the ~~off-premise~~ off-premises retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L.

**2-A. Written permission from the bureau.** An off-premises retail licensee must obtain the written permission of the bureau before conducting a taste-testing event using the following procedure.

A. The retail licensee shall request authority to conduct a taste-testing event using forms prescribed by the bureau.

B. The retail licensee may submit a separate form for each taste-testing event or a single form listing some or all of the taste-testing events the retail licensee requests authority to conduct in a calendar month under this section, section 460 and section 1205.

C. The request must indicate the date and time for each taste-testing event and the liquor product or products that will be offered at each event.

D. The request must indicate whether a sales representative licensed under section 1502 will be pouring or providing samples, or both, for each taste-testing event and include verification that the sales representative has successfully completed an alcohol server education course approved by the bureau.

**3. Rules.** The bureau may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.