

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

H.P. 323 - L.D. 494

**An Act to Update and Clarify Certain Provisions of State Liquor and Lottery
Laws**

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

Whereas, certain provisions in this legislation relate to businesses that cater to tourists, and the Legislature recognizes that the tourism season is crucial for the State's economy and public well-being; and

Whereas, the tourism season, which brings millions of visitors and significant revenue to the State, relies on a regulated and enjoyable environment, including accessible and responsible alcohol sales; and

Whereas, for these reasons, this legislation needs to take effect before the expiration of the 90-day period; 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:

PART A

Sec. A-1. 28-A MRSA §2, sub-§15, ¶N-2 is enacted to read:

N-2. "Purveyor of spirits" means an agency liquor store licensed by the bureau under section 462 to conduct unlimited spirits taste-testing events on the agency liquor store's licensed premises.

Sec. A-2. 28-A MRSA §2, sub-§33-A, as enacted by PL 2021, c. 658, §32, is amended to read:

33-A. Vessel. "Vessel" means a ship, vessel or boat of any kind used for navigation of the coastal waters or for commercial navigation of inland waters and licensed for

carrying no fewer than ~~25~~ 12 passengers under the requirements of the Public Utilities Commission or the United States Coast Guard.

Sec. A-3. 28-A MRSA §10, sub-§1, as amended by PL 2021, c. 658, §44, is further amended to read:

1. Class A restaurant or restaurant and off-premises retail licensee on same premises not prohibited. If a portion of the premises is licensed as an off-premises retail licensee, ~~no provision within this Title may not~~ be construed to prohibit issuance of a Class III or Class IV license to the same licensee for a restaurant or Class A restaurant for the remaining portion of the premises, as long as necessary qualifications are maintained for each separately licensed area and food is available for free or purchase at all times that liquor is sold for on-premises consumption.

Sec. A-4. 28-A MRSA §10, sub-§2-B, as amended by PL 2021, c. 658, §§45 and 46, is further amended to read:

2-B. Access exception. Notwithstanding subsection 2, there may be access between the 2 licensed areas by the public as provided by this subsection.

A. There may be access between the 2 licensed areas when there is a clear delineation of space, by a wall or permanent barrier that separates the 2 licensed areas and allows only one clearly defined and controlled point of access for patrons between the licensed establishments. The controlled point of access is not required to include a door that must be physically opened and closed.

B. When access between the 2 licensed areas exists for patrons of either establishment, ~~all food must be available for free or purchase at all times that malt liquor and wine is sold for on-premises consumption must be served by an employee of the licensed on-premises establishment and:~~

~~(1) Must be accompanied by a full meal prepared in a separate and complete kitchen on the premises of the on-premises establishment if the on-premises establishment is a Class A restaurant; or~~

~~(2) Must be accompanied by a full meal or a hot or cold meal prepared in a separate and complete kitchen on the premises of the on-premises establishment if the on-premises establishment is a restaurant. For purposes of this subparagraph, a "hot or cold meal" means a meal consisting of food items that customarily appear on a restaurant menu, including, but not limited to, sandwiches, salads, hamburgers, cheeseburgers, hot dogs and pizza. A meal consisting solely of prepackaged snack foods such as popcorn, chips or pretzels is not a "hot or cold meal" within the meaning of this subparagraph.~~

C. Malt liquor or wine sold or served on the premises may not be transported by a patron ~~or employee of either establishment~~ from one licensed area to another. The licensee shall ensure that easily readable signs are conspicuously posted to inform the public that transfer of malt liquor or wine from one licensed area to another is strictly prohibited.

Sec. A-5. 28-A MRSA §13, as repealed and replaced by PL 2021, c. 658, §49, is amended to read:

§13. Low-alcohol spirits products sold by malt liquor or wine licensees

1. Retail sales. Notwithstanding any provision of this Title to the contrary, a person licensed to sell malt liquor or wine for on-premises or off-premises consumption may also sell low-alcohol spirits products. All provisions of this Title applicable to wine, except chapters 65 and 67, apply to low-alcohol spirits products when sold by persons licensed to sell wine for on-premises or off-premises consumption.

2. Wholesale sales. Notwithstanding any provision of this Title to the contrary, a person licensed under section 1401 as an in-state wholesaler of malt liquor or wine may also sell and distribute low-alcohol spirits products.

Sec. A-6. 28-A MRSA §453-C, sub-§1, as amended by PL 2021, c. 658, §70, is further amended to read:

1. License to resell spirits purchased from the bureau; fortified wine sale permitted. An agency liquor store may not resell spirits purchased from the bureau to a retail licensee licensed for on-premises consumption unless the agency liquor store is licensed as a reselling agent under this section. A reselling agent is prohibited from reselling spirits to a retail licensee licensed for on-premises consumption unless the spirits are purchased from the bureau. A reselling agent may sell fortified wine to a retail licensee for on-premises consumption.

Sec. A-7. 28-A MRSA §462 is enacted to read:

§462. Purveyor of spirits

1. License. An agency liquor store may obtain a purveyor of spirits license to conduct unlimited taste-testing events as provided in this section.

2. License fee. The fee for a purveyor of spirits license is \$500.

3. Eligibility. An agency liquor store is eligible for a purveyor of spirits license if it meets the following criteria:

A. The agency liquor store has in stock a minimum of 1,500 different product codes. For the purposes of this paragraph, "product code" has the same meaning as in section 461; and

B. At least 50% of the agency liquor store sales are from the sale of liquor.

4. Conditions for conducting taste-testing events. The conditions under this subsection apply to taste-testing events under this section.

A. Spirits may not be served to a person who has not yet attained 21 years of age.

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

C. Spirits served at a taste-testing event under a purveyor of spirits license must be:

(1) Provided by the agency liquor store;

(2) Purchased at the retail price by a licensed sales representative participating in the taste-testing event from existing stock available for purchase at the agency liquor store; or

(3) Provided by a licensed sales representative participating in the taste-testing event or a spirits supplier, including those licensed under section 1355-A, participating in the taste-testing event and purchased in the State at the retail price.

The purveyor of spirits shall maintain and make available to the bureau a record of transactions under this subparagraph.

D. Spirits may be poured for the taste-testing event only by the owner or an employee of the agency liquor store, by a sales representative licensed under section 1502 or by the spirits supplier.

5. **Mixed drinks.** The purveyor of spirits licensee may provide mixed drinks containing spirits for a taste-testing event.

6. **Spirits containers used for taste-tasting events.** Spirits containers that have been opened for a taste-testing event must be resealed and stored in an area not accessible by the public after the taste-testing event.

7. **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. A-8. 28-A MRSA §708, sub-§6, as amended by PL 2017, c. 153, §1, is further amended to read:

6. **Marketing and mail-in promotions.** Upon approval by the commission, promotional materials designed to encourage a consumer to purchase a spirits product to be attached to or displayed near the spirits product where it is offered for sale for off-premises consumption may be offered by those whose spirits products are listed by the commission. Upon approval by the commission, a mail-in rebate may be provided to consumers through print or electronic media, attached to the spirits product or displayed near the spirits product where the spirits product is offered for sale for off-premises consumption. Mail-in rebates approved by the commission must be redeemed by the manufacturer and not by the retail licensee and may not exceed the purchase price of the spirits product. Mail-in rebates authorized by this subsection must require the inclusion of the original dated sales receipt for the spirits product to which the rebate is applied. The commission may approve mail-in rebates that offer an incrementally greater discount based upon increased volume of purchased product. Mail-in rebates, certificates or merchandise included with a spirits product must be inserted in the package or attached to the package by the manufacturer or manufacturer's designated broker.

Sec. A-9. 28-A MRSA §709, sub-§2, ¶I, as amended by PL 2021, c. 658, §104, is further amended to read:

I. Conducting taste testing under section 460, 462, 1051, 1205, 1207, 1368 or 1402;

Sec. A-10. 28-A MRSA §1012, sub-§3, as amended by PL 2023, c. 285, §1, is further amended to read:

3. **Off-premises catering license.** A club licensed to sell spirits, wine and malt liquor or a licensed Class A restaurant, licensed Class A restaurant/lounge, licensed restaurant, licensed Class A lounge, licensed hotel, licensed bed and breakfast, licensed golf course, licensed auditorium, licensed civic auditorium or licensed performing arts center may obtain a license to conduct off-premises catering of the same type or types of liquor that the establishment may sell pursuant to the establishment's underlying club, Class A restaurant, Class A restaurant/lounge, restaurant, Class A lounge, hotel, bed and breakfast, golf course, auditorium, civic auditorium or performing arts center license as provided in

section 1052. The fee for an off-premises catering license is \$10 per calendar day of the event or gathering.

Sec. A-11. 28-A MRSA §1052, sub-§1, as amended by PL 2023, c. 285, §2, is further amended to read:

1. Off-premises catering license for sale of liquor. A club licensed to sell spirits, wine and malt liquor or a licensed Class A restaurant, licensed Class A restaurant/lounge, licensed restaurant, licensed Class A lounge, licensed hotel, licensed bed and breakfast, licensed golf course, licensed auditorium, licensed civic auditorium or licensed performing arts center may apply for an additional license to conduct off-premises catering at planned events or gatherings to be held at locations other than the licensee's premises under this section.

Sec. A-12. 28-A MRSA §1052, sub-§3-A, as amended by PL 2023, c. 285, §3, is further amended to read:

3-A. Type of liquor. An off-premises catering licensee may sell at an event described in subsection 3 only the type or types of liquor that the licensee is authorized to sell pursuant to the licensee's underlying club, Class A restaurant, Class A restaurant/lounge, restaurant, Class A lounge, hotel, bed and breakfast, golf course, auditorium, civic auditorium or performing arts center license.

Sec. A-13. 28-A MRSA §1061, sub-§1, as amended by PL 1995, c. 270, §1, is further amended to read:

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to hotels, ~~as defined in section 2, subsection 15, paragraph H~~ as long as the hotel has a minimum of 4 guest rooms and is licensed by the Department of Health and Human Services, as required by rule.

Sec. A-14. 28-A MRSA §1061, sub-§4, as amended by PL 1995, c. 270, §1, is repealed.

Sec. A-15. 28-A MRSA §1061, sub-§5 is enacted to read:

5. Consumer transport of liquor within hotel. A licensed hotel may permit consumers to transport spirits, wine or malt liquor purchased in areas designated for the consumption of spirits, wine or malt liquor to individual guest rooms.

Sec. A-16. 28-A MRSA §1068, as amended by PL 1997, c. 373, §92, is repealed.

Sec. A-17. 28-A MRSA §1069-A, as amended by PL 1997, c. 373, §93, is repealed.

Sec. A-18. 28-A MRSA §1070, as amended by PL 2021, c. 658, §§185 and 186, is further amended to read:

§1070. Civic Auditoriums; civic auditoriums; outdoor stadiums; and performing arts centers

1. Issuance of licenses. The bureau may issue licenses to auditoriums, civic auditoriums ~~as defined in section 2, subsection 15, paragraph C~~, outdoor stadiums and performing arts centers under this section for the sale of spirits, wine and malt liquor. The license may be issued to the owner ~~of the civic auditorium~~, or the operator of the auditorium, civic auditorium, outdoor stadium or performing arts center or to the entity

providing spirits, wine and malt liquor to the public in the auditorium, civic auditorium, outdoor stadium or performing arts center.

~~2. Events on licensed premises only.~~ Licenses issued to ~~civic auditoriums~~ may be used only in conjunction with a function or event held on the licensed premises.

3. No sales during events for minors. Licensees may not sell spirits, wine or malt liquor during any school activities or events primarily attended by minors in the rooms where these activities are taking place.

5. Bottle service of spirits; designated areas. A ~~civic auditorium~~ licensee under this section may sell spirits in original containers for service in a ~~civic auditorium~~ club suite under the following conditions:

A. Spirits to be consumed in the club suite must be provided exclusively by the ~~civic auditorium~~ licensee;

B. Spirits containers provided for consumption in the club suite must remain in the club suite for the duration of the event for which they were provided; and

~~C. The number of spirits containers provided for consumption in the club suite may not exceed 6; and~~

D. The registered tenant of the club suite or individual specifically granted access to the club suite by the ~~civic auditorium~~ licensee must sign a contract with the auditorium, civic auditorium, outdoor stadium or performing arts center agreeing that ~~no~~ any person under who has not attained 21 years of age will not be provided or served liquor in the club suite.

For the purposes of this subsection, "venue" means the licensed premises of an auditorium, civic auditorium, outdoor stadium or performing arts center. For purposes of this subsection, "club suite" means a designated area within a ~~civic auditorium~~ designated venue to provide premium viewing of an event in the ~~auditorium~~ venue and to which access is limited to registered tenants, invited guests and those who have been specifically granted access by the operator of the ~~civic auditorium~~ venue and is not accessible to the public or ~~civic auditorium~~ venue patrons with tickets that provide for general admission to that event at the ~~auditorium~~ venue. A club suite must have a clearly designated point of access for the registered tenant or person specifically granted access by the operator of the ~~civic auditorium~~ venue to ensure that persons present in the suite are limited to invited guests and employees providing services to the club suite.

Sec. A-19. 28-A MRSA §1074, as repealed and replaced by PL 2023, c. 405, Pt. A, §103, is repealed.

PART B

Sec. B-1. 8 MRSA §372, sub-§2, ¶K, as enacted by PL 2019, c. 13, §4, is amended to read:

K. Beginning February 15, 2020, submit a report annually, subject to the approval of the commission, to the Governor and the joint standing committees of the Legislature having jurisdiction over lottery matters and appropriations and financial affairs. The joint standing committee of the Legislature having jurisdiction over lottery matters may submit to the Legislature legislation based on the report. The report must include:

- (1) A list of the decisions made by the commission and resulting actions for the preceding ~~calendar~~ fiscal year relevant to lottery operations;
- (2) A complete statement of lottery revenues, prize disbursements and expenses and appropriations from the General Fund, if any, for the preceding ~~calendar~~ fiscal year;
- (3) A 5-year history of the account used to manage lottery operations, which must include the amount of revenues deposited into the State Lottery Fund and the amounts transferred to the General Fund;
- (4) A detailed statement of the expenditures made to promote lottery sales through marketing, advertising and recruitment of agents for the preceding ~~calendar~~ fiscal year;
- (5) A description of the lottery marketing and advertising activities for the preceding ~~calendar~~ fiscal year. The description must identify each radio station and television station, if any, that broadcast or distributed the advertising;
- (6) For each radio station and television station identified pursuant to subparagraph (5), the format of advertising activity and amount of the expenditures for the preceding ~~calendar~~ fiscal year associated with each station; and
- (7) Any recommendations for changes to this chapter.

Sec. B-2. 28-A MRSA §84, sub-§7, as enacted by PL 2019, c. 13, §9, is amended to read:

7. Annual report. Beginning February 15, 2020, submit a report annually, subject to the approval of the commission, to the Governor and the joint standing committees of the Legislature having jurisdiction over alcoholic beverage matters and appropriations and financial affairs. The joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters may submit to the Legislature legislation based on the report. The report must include:

- A. A complete statement of the revenues and expenses for the bureau for the preceding ~~calendar~~ fiscal year;
- B. A complete statement of the information required by section 83-B, subsection 11 for the preceding ~~calendar~~ fiscal year;
- C. A complete statement of the information required by section 83-C, subsection 7 for the preceding ~~calendar~~ fiscal year;
- D. The information required by section 83-C, subsection 9; and
- E. Any recommendations for changes to this Title.

PART C

Sec. C-1. 28-A MRSA §707, sub-§2, as amended by PL 1993, c. 730, §30, is further amended to read:

2. Licensee ~~must~~ may not receive anything of value or give things of value. ~~No A~~ licensee or applicant for a license may not receive, directly or indirectly, ~~any money, credit, thing of value~~ from any person within or without the State, cash or gift cards, indorsement of commercial paper, guarantee of credit or financial assistance of any sort ~~from any person~~

within or without the State or things of value aggregating in an amount that exceeds \$750 annually, if the person is:

- A. Engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor; or
- B. Engaged in the manufacture, distribution, sale or transportation of any commodity, equipment, material or advertisement used in connection with the manufacture, distribution, wholesale sale, storage or transportation of liquor.

The bureau may not impose a limit on the amount of things of value that are in use by or in the possession of a licensee at any one time, as long as the things of value were given to a licensee within the annual limits established by this subsection.

A licensee may not give things of value with the intent to induce a retailer to purchase liquor from the licensee to the exclusion, in whole or in part, of liquor offered for sale by other persons.

~~Nothing in this~~ This subsection prevents does not prevent an affiliate of a licensee from receiving money for sponsorship of a transportation system for transporting the public or for sponsorship of specific sporting events and cultural events as long as the licensee does not receive any payment or thing of value from the public transportation system or the sporting and cultural events and as long as such an affiliate does not derive any portions of its revenues from the licensee. All sponsorships must have prior written approval of the bureau. ~~The bureau shall adopt rules implementing this paragraph.~~

Sec. C-2. 28-A MRSA §707, sub-§7, as amended by PL 2021, c. 8, §1, 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;
- 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;

D. A manufacturer, distributor or out-of-state wholesaler from engaging in the bona fide sale of goods to a licensee or applicant for a license, if the amount paid for those goods by the licensee or applicant for a license is of fair market value; or

E. A wholesale licensee or certificate of approval holder, including on behalf of a brand the wholesale licensee or certificate of approval holder supplies or manufactures, from entering into a written agreement under section 707-B with an eligible licensee for:

(1) The purchase of advertising space or time on or within the licensed premises, including, but not limited to, physical signage, digital media and naming rights to portions of the venue;

(2) The sponsorship of events, event series or designated areas within the venue, including lounges, beverage stations and hospitality zones; and

(3) The co-branding or cross-promotion of events in conjunction with the licensee, as long as co-branding or cross-promotion does not result in direct or indirect control over the operations of the licensee.

Sec. C-3. 28-A MRSA §707, sub-§9 is enacted to read:

9. Rules. The bureau shall adopt rules implementing this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. C-4. 28-A MRSA §707-B is enacted to read:

§707-B. Advertising and sponsorship agreements at licensed venues

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Brand" means a product name of malt liquor, wine or spirit authorized for sale in the State by a certificate of approval holder or wholesaler.

B. "Venue" means the licensed premises of an auditorium, civic auditorium, outdoor stadium or performing arts center.

2. Advertising permitted. Notwithstanding any provision of this Title to the contrary, a wholesale licensee or certificate of approval holder, including on behalf of a brand the wholesale licensee or certificate of approval holder supplies or manufactures, may engage in advertising or sponsorship activities with a licensee described in subsection 3, subject to the conditions and limitations set forth in this section.

3. Eligible licensees. This section applies only to a venue licensee under section 1070.

4. Permitted activities. A wholesale licensee or certificate of approval holder, including on behalf of a brand the wholesale licensee or certificate of approval holder supplies or manufactures, may enter into a written agreement with an eligible licensee in accordance with subsection 5 for:

A. The purchase of advertising space or time on or within the licensed premises, including, but not limited to, physical signage, digital media and naming rights to portions of the venue;

B. The sponsorship of events, event series or designated areas within the venue, including lounges, beverage stations and hospitality zones; and

C. The co-branding or cross-promotion of events in conjunction with the licensee, as long as the co-branding or cross-promotion does not result in direct or indirect control over the operations of the licensee.

5. Conditions of authorization. A written agreement under subsection 4 is permitted only if:

A. The agreement is in writing and retained by the licensee and made available to the bureau upon request;

B. The written agreement is not conditioned upon the purchase, placement, promotion or exclusion of a particular brand or product by the licensee;

C. The wholesale licensee or certificate of approval holder, including on behalf of a brand the wholesale licensee or certificate of approval holder supplies or manufactures, does not exert, or attempt to exert, control over the retail operations, purchasing decisions or beverage menu of the licensee;

D. The written agreement complies with federal law; and

E. The written agreement does not result in the exclusion, in whole or in part, of another person's product.

6. Reporting. A licensee that enters into an agreement authorized by this section shall:

A. Submit to the bureau, upon request, a list of all agreements entered into pursuant to this section;

B. Retain a copy of the written agreement for a period of not less than 3 years and make the agreement available to the bureau;

C. Annually post a notice indicating that advertising and sponsorship opportunities are generally available to a wholesale licensee or certificate of approval holder and the brands the wholesale licensee or certificate of approval holder supplies or manufactures; and

D. Provide to the bureau, upon license renewal, a list of the licensee's sponsors.

Sec. C-5. 28-A MRSA §709, sub-§1, ¶A, as amended by PL 2019, c. 404, §14, is further amended by amending subparagraph (2) to read:

(2) Deliver more than 4 1/2 ounces of spirits over 15% alcohol by volume, a carafe containing more than one liter or 33.8 ounces of wine or any serving or pitcher containing more than one liter or 33.8 ounces of malt liquor to one person at one time;

Sec. C-6. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 28-A, section 707, subsection 2 takes effect January 1, 2026.

PART D

Sec. D-1. 28-A MRSA §710, sub-§1, as amended by PL 2019, c. 404, §15, is further amended by repealing the first blocked paragraph.

Sec. D-2. 28-A MRSA §710, sub-§2, as amended by PL 1987, c. 342, §46, is repealed.

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