

DISTILLED SPIRITS COUNCIL RECOMMENDATIONS

MAINE ABC LAW – TITLE 28a REVIEW

(All citations are to Maine liquor law, Title 28-A of Maine Revised Statutes)

1. **Combination packaging (§ 708(5))**

DISCUS recommendation:

- Add that spirits may be packaged in combination with non-alcohol items
(note: allowed under federal rule (27 CFR 6.93))

[**Current § 708(5): Combination packages.** Notwithstanding subsection 3, agency liquor store licensees may offer for sale any package or combination of packages of spirits that the commission has approved for sale in this State.]

2. **Mail-in rebates (§ 708(6))**

DISCUS recommendation:

- Clarify expressly that MIRs may be used for consumer purchases of spirits from both agency stores and on-premise retail-licensed establishments and that all terms in the rule are applicable equally to MIRs used for either type of retail purchase
(note: both off-premise consumption and retail licensees are referenced in this rule)
- Add that MIRs must include an expiration date
- Eliminate the prior approval requirement
- Add that mail-in MIRs may be offered which provide a discount or cash rebate on one or more non-alcohol items purchased simultaneously with one or more alcohol beverage products; non-alcohol items may be either generic or branded, except that they may not be an exclusive store brand or product
- Clarify expressly that MIRs may be offered via fliers and direct mail

[**Current § 708(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.]

3. **Instant marketing promotions (§ 708(7)/1st para. only)** (as recently amended by S.P. 616/L.D. 1826 (2019))

DISCUS recommendation:

- Allow only digital IRCs (eliminate IRCs via print media)

(note: reduced possibility of fraud/abuse where consumers download IRCs electronically (e.g., via smartphone) and redeem directly from manufacturers (or the bureau) upon retail purchase)

- Add that IRCs may be offered to consumers to purchase spirits from on-premise retailers (and not only to agency stores)
(note: as allowed for MIRs above and under the federal rule, 27 CFR 6.96)
- Add that a rebate may not exceed the purchase price of the spirits
(note: as provided for MIRs above)
- Add that IRCs must include an expiration date
- Eliminate the prior approval requirement
- Add that IRCs may offer an incrementally greater discount based upon increased volume of purchased product.
(note: as provided for MIRs above)
- Add that IRCs may provide consumers with a discount or cash rebate on one or more non-alcohol items purchased simultaneously with one or more alcohol beverage products; non-alcohol items may be either generic or branded, except that they may not be an exclusive store brand or product

[**Current § 708(7) (1st para.): Instant marketing promotions.** The bureau, a manufacturer or a supplier of spirits listed for sale by the commission may offer monetary rebates in the form of instant redeemable coupons as approved by the commission in accordance with conditions established by the commission or rules established by the bureau. Agency store licensees may redeem the coupons only upon proof of purchase and in accordance with the terms listed on the coupon. Instant redeemable coupons provided by the manufacturer's agent or manufacturer's sales representative must be made available to all agency store licensees electing to offer the coupon in an amount equal to the agency store's inventory of spirits products that are subject to the coupon promotion. The bureau, the manufacturer or the supplier of spirits may offer instant redeemable coupons to consumers through the bureau's, the manufacturer's or the supplier's publicly accessible website, other digital media platforms or print media. An instant redeemable coupon used in a manner provided in this subsection for a spirits product sold by an agency store licensee to a consumer is for the benefit of the consumer who purchases the spirits product.]

4. **Contests/Sweepstakes (§ 708-A)**

DISCUS recommendation:

- Add that in-state and out-of-state suppliers of spirits, and not only certificate of approval holders, wholesalers and retailers, may offer sweepstakes/contests
- Revise the requirement that the sponsor's information about participation in sweepstakes/contest must be on either a sign at the retail premise or on the packaging of the brand, by clarifying that this required information alternatively or additionally may be displayed near the product at point-of-sale (e.g., shelf taker, case card or tear sheet) or provided through print or electronic media, via flyers, and/or by direct mail
- Clarify that sweepstakes/contest offers and entries also may be provided through all the same methods/media listed above

[**Current § 708-A: In-pack sweepstakes, contests and games.** Notwithstanding any provision of law to the contrary, a certificate of approval holder, wholesale licensee or retail licensee may offer sweepstakes, games and contests inside packages of alcoholic beverages, if that offer is not contingent on the purchase of an alcoholic beverage. A certificate of approval holder, wholesale licensee or retail licensee shall provide information about access to participate in a sweepstakes, game or contest by providing either a sign in the retail outlet or a notice on the primary or secondary packaging of the brand offering the sweepstakes, game or contest.]

5. **Advertising signs (§ 710) (as recently amended by S.P. 616/L.D. 1826 (2019))**

DISCUS recommendation:

- Add that in-state and out-of-state suppliers of spirits, and not only wholesale licensees and certificate of approval holders, are exempt from the 5-sign outside advertising sign limit set forth in § 710(1)

- Eliminate § 710(2), which substantially and unjustifiably restricts inside signs, in its entirety

(note: no basis to restrict the legitimate promotional and informational purposes of branded signage, to deprive licensees of an important means of drawing consumer attention to a particular brand, and to deprive consumers of information regarding the brand; the 1-sign 'that may be seen outside standard' limit is inconsistent with the 5-outside sign limit and exception for certain industry members in section (1); prohibiting any inside sign that "may" be "seen" from the outside is vague, unclear and overly broad; and a 750-square inch limit prohibits many types of inside signage allowed and commonly utilized in other states)

[Current § 710: Advertising outside of licensed premises. A person, except wholesale licensees and certificate of approval holders, may not advertise or permit to be advertised, by more than 5 signs, on the outside of any licensed premises, or on any building, ground or premises under that person's control and contiguous or adjacent to the licensed premises:

A. The fact that the licensee has liquor or any brand of liquor for sale;

B. The price at which liquor is sold by the licensee; or

C. Any other advertisement that indicates any reference to liquor other than the name of the licensed premises, an image accompanying the name of the licensed premises or a brand name or image appearing on a patio umbrella in an outside seating area of the licensed premises.

For agency liquor stores, one of the 5 signs permitted by this subsection are agency liquor store signs as described by rule.

2. Advertising inside the licensed premises. A licensee may display no more than one sign inside the licensed premises, where it may be seen from the outside, advertising the fact that the licensee has liquor for sale. The sign may not be more than 750 square inches in total area.]

6. **Consumer tastings at agency liquor stores (§ 460)** (as recently amended by H.P. 542/L.D. 737 & S.P. 616/L.D. 1826 (2019))

DISCUS recommendation:

- Increase the 3 samples/.25 oz. spirits each/per person limit for spirits exceeding 80 proof to 3 samples/.5 oz. for spirits (currently, a .5 oz. single sample size applies only to spirits not exceeding 80 proof) (§ 460(2)(B))

(note: under § 1055, Class A restaurant or Class A restaurant/lounge licensees may furnish free samples of spirits 3 samples/.5 oz. spirits each per person, regardless of proof)

- Allow supplier advertising of the event on and off the premise via otherwise permitted signage as well as by print and electronic media

- Eliminate the prior approval and notification requirements (§ 460(1) & (2-A))

- Allow a supplier to furnish its own product (currently the product must be provided by an agency liquor store or a sales representative must purchase the product at retail price from existing inventory available for purchase at the store) (§ 460(2)(M-1))

- Allow the supplier to distribute novelties to consumers at the event

- Allow mixed drinks to be offered as samples

[Current § 460: Agency liquor store taste-testing of distilled spirits.

1. **Taste testing on agency liquor store premises.** Subject to the conditions in subsections 2 and 2-A, the bureau may authorize an agency liquor store stocking at least 100 different codes of spirits products to conduct taste testing of spirits on that licensee's premises. Any other consumption of 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. 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 spirits having an alcohol content of 80 proof or less; and, for 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. Spirits must be dispensed using a standard measuring device.

D. [Repealed]

E. A person may not be charged a fee for any spirits served as part of a taste-testing event.

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

G. A taste-testing event must be limited to a designated area.

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

I. [Repealed.]

J. The agency liquor store may conduct up to 15 taste-testing events per month, including 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. 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. [Repealed]

M-1. Spirits served at a taste testing taste-testing event must be provided by the agency liquor store or 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.

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.]

7. **Spirits tasting-events at on-premise licensed retail establishments (§ 1051(6)) (as recently amended by S.P. 616/L.D. 1826 (2019))**

DISCUS recommendation:

- Eliminate the prior approval requirement
- Allow a distiller or its sales representative to furnish its own product (currently the product must be purchased from the store at retail price)
- Allow mixed drinks to be offered as samples

[Current § 1051(8): Spirits taste-testing events on retail licensee's premises. 6. Spirits taste-testing events on retail licensee's premises. A distiller, licensed spirits sales representative and the State's wholesale liquor provider, with the written permission of the bureau, may rent or lease an area or room from an on-premises retail licensee for the purpose of inviting retail licensees to taste test spirits. Spirits taste-testing events must be conducted during hours that are authorized by the bureau for the sale of the product on the premises. The following conditions apply to all taste testing conducted under this subsection.]

A. The distiller, licensed spirits sales representative or the State's wholesale liquor provider may provide the products for taste testing only if the retail price has been paid and a record of the transaction is maintained and made available to the bureau.

B. The taste-testing activity may be conducted only within a special designated area or room.

C. The taste-testing activity may be open only to invited retail licensees or their authorized agents and not to family members, guests or the general public.

D. After the taste-testing activity is concluded, the distiller, licensed distilled spirits sales representative or wholesale liquor provider, as applicable, shall remove all products supplied for the taste-testing activity from the retail licensee's premises.]

8. **Liquor tasting-events for the general public at on-premise licensed retail establishments (§ 1051(8))** (as recently amended by S.P. 616/L.D. 1826 (2019))

DISCUS recommendation:

- Increase the 3 samples/.25 oz. each per person limit for spirits exceeding 80 proof to 3 samples/.5 oz. for spirits (currently, the .5 oz. single sample size applies only to spirits not exceeding 80 proof) (§ 1051(8)(D))
(note: § 1055 allows Class A restaurant or Class A restaurant/lounge licensees to furnish 3 spirits samples/.5 oz. each per person, regardless of proof);
- Allow a supplier to advertise the event both on and off the premise, on otherwise permitted signage, and via print and electronic media
- Eliminate the prior approval and notification requirements (§ 1051(8)^{1st} para. & 1051(8)(H), (K) & (N))
- Allow a supplier to furnish its own product (currently the retailer may purchase spirits from an agency liquor store) (§ 1051(8)(L))
- Eliminate the \$3 limit on novelties that a supplier may distribute to consumers (§ 1051(8)(R))
- Allow mixed drinks to be offered as samples

[Current § 1051(8): Liquor taste-testing events for general public on retail licensee's premises. The bureau may authorize an on-premise retail licensee to conduct taste testings of liquor open to the public on the licensed premises. Taste-testing events under this subsection must be conducted during hours that are authorized by the bureau for the sale of liquor on the licensed premises and may be held in collaboration with a certificate of approval holder, sales representative licensed under section 1502 or wholesale licensee. An on-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 of liquor for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner. The following conditions apply to all taste-testing events conducted under this subsection.

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

D. A person may not be served more than a total of 1 1/2 ounces, in 1/2 ounce servings, of spirits having an alcohol content of 80 proof or less; or, for 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.

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

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

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

H. The retail licensee must obtain the written permission of the bureau before conducting a taste-testing event.

I. The retail licensee may conduct no more than one taste-testing event per month.

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

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

L. Liquor served at a taste-testing event may be provided by the retail licensee purchasing the liquor from a wholesale licensee or agency liquor store. A record of a transaction under this paragraph must be maintained and made available to the bureau.

M. The retail licensee shall establish a designated area in which to conduct a taste-testing event in accordance with this section and shall make reasonable attempts to ensure that tastings are confined to the designated area.

N. The retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the licensed premises in place of or to coincide with a taste-testing event that is open to the public.

O. After a taste-testing event is concluded, the retail licensee may return any unused portion of liquor used to conduct the taste-testing event to the licensee's existing stock.

P. A certificate of approval holder, licensed sales representative or wholesale licensee who participates in a taste-testing event may provide and distribute food or snacks to be consumed in conjunction with the liquor to be tasted at no cost to the public or the retail licensee if the total cost for the food or snacks does not exceed \$200 per event. Any remaining food

or snacks provided in conjunction with a taste-testing event must be removed by the certificate of approval holder, licensed sales representative or wholesale licensee from the licensed premises at the conclusion of the event.

Q. A certificate of approval holder, licensed sales representative or wholesale licensee who participates in a taste-testing event may provide material to advertise the liquor being offered at the taste-testing event or for the promotion of responsible use of alcohol. A certificate of approval holder, licensed sales representative or wholesale licensee may use the advertising material only for promotional display on the licensed premises. Advertising material related to the taste-testing event may include signs, coasters, napkins, table tents and items of like value and must be removed by the certificate of approval holder, licensed sales representative or wholesale licensee from the licensed premises at the conclusion of the event.

R. A certificate of approval holder, licensed sales representative or wholesale licensee who participates in a taste-testing event may distribute novelties to the public during the event at a cost not to exceed \$3 per novelty. All remaining novelties under this paragraph must be removed by the certificate of approval holder, licensed sales representative or wholesale licensee from the licensed premises at the conclusion of the taste-testing event.

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

9. **Taste-testing event license (§ 1052-D)** (as recently amended by S.P. 616/L.D. 1826 (2019))

DISCUS recommendation:

- Eliminate any requirement that manufacturers in another state must be sponsored by an in-state manufacturer or certificate of approval holder to obtain a license and/or participate in tasting events under this statute (§ 1052-D(1) & (2))
- Allow manufacturers to advertise these events on and off the premise, on otherwise permitted signage, and via print and electronic media
- Allow out-of-state manufacturers to provide, in addition to spirits listed with the State, spirits manufactured out of state that that are “registered” with TTB (§ 1052-D(7)(J))
(note: this same section allows out-of-state manufacturers to provide malt liquor and wine products if registered and authorized under State ABC law or if “registered” with TTB)
- Allow manufacturers to distribute novelties to consumers at these events
- Allow mixed drinks to be offered as samples

[Current § 1052-D: Taste-Testing Event License.

1. Taste testing on agency liquor store premises. Subject 1. Taste-testing event license. A person who has been issued a license under section 1355-A, a wholesaler licensed under section 1401, a person who has been granted a certificate of approval from the bureau, a supplier or foreign manufacturer of spirits or a broker may apply jointly in any combination for a license to participate in a taste-testing event subject to the conditions prescribed by this section. For the purposes of this section, “broker” means a person who represents suppliers or manufacturers of spirits and “foreign manufacturer of spirits” means a person who produces spirits outside of the State.

2. Sponsored manufacturers. For the purposes of this section, “sponsored manufacturer” means a manufacturer without a certificate of approval who is sponsored by a certificate of approval holder or a manufacturer licensed under section 1355-A or a manufacturer who may participate in a taste-testing event. A sponsored manufacturer licensed in another state may participate in the taste-testing event in the same manner and subject to the same conditions as a manufacturer licensed under section 1355-A or a person who has been granted a certificate of approval if:

A. The sponsored manufacturer provides a copy of state and federal licenses or permits authorizing the manufacture of alcoholic beverages; and

B. The sponsored manufacturer is included on the application for the taste-testing event license. Nothing in this section prohibits a manufacturer licensed under section 1355-A or a manufacturer who has received a certificate of approval from sponsoring more than one sponsored manufacturer.

3. Application. An applicant for a taste-testing event license shall submit a written application to the bureau no later than 15 calendar days prior to the first day of the taste-testing event. The application must include the following:

A. The name and address of each applicant;

B. The title and purpose of the taste-testing event;

C. The date, time and duration of the taste-testing event;

D. The address and location of the taste-testing event including a description of the area designated for the taste-testing event;

E. The names of each sponsored manufacturer who intends to take part in the taste-testing event and the name of the certificate of approval holder or manufacturer who has agreed to be the manufacturer's sponsor;

F. The sample size and overall sample limit that will be imposed for each day of the taste-testing event consistent with the requirements in subsection 7, paragraph C; and

G. Approval by the municipal officer or a municipal official designated by the municipal officers of the municipality where the taste-testing event will be located. Notwithstanding section 653, the approval may be granted without public notice.

4. Fee. The license fee for a taste-testing event license is \$20 for each manufacturer licensed under section 1355-A, sponsored manufacturer, wholesaler licensed under section 1401 certificate of approval holder or broker.

5. Ruling on application. Upon receipt of an application under subsection 3, the bureau shall immediately approve or deny the application. The bureau shall advise applicants that the license may be suspended or revoked under chapter 33.

6. Up to 10 licensed events per year; one event per license. A certificate of approval holder, a manufacturer licensed under section 1355-A, a supplier or foreign manufacturer of spirits, a broker or a wholesaler licensed under section 1401 may obtain up to 10 licenses under this section per calendar year. Each license permits a taste-testing event lasting up to 4 consecutive days.

7. Conditions. The following conditions apply to taste-testing events licensed under this section.

A. A person may not be charged a fee, except the fee for admission, for any malt liquor, wine or spirits that are offered for taste testing at the event. This paragraph does not apply to malt liquor, wine or spirits that are sold for on-premises consumption under a license duly issued by the bureau separate from a taste-testing event license.

B. The venue for the taste-testing event may not be currently licensed to serve alcoholic beverages for on-premises consumption. If the venue is currently licensed, the bureau shall permit the temporary surrender of the venue's license for the duration of the taste-testing event.

C. A licensee under this section shall limit the size of samples provided for tasting to 4 ounces of malt liquor, 1 1/2 ounces of wine and 1/2 ounce of spirits. A licensee shall limit the total number of samples to 12 per day, per person, except that:

(1) The 12-sample limit does not apply when the licensee provides a variety of substantial food offerings to patrons of the taste-testing event. For the purposes of this subparagraph, "substantial food" does not include offerings such as prepackaged snacks, pretzels, peanuts, popcorn or chips; and

(2) The sample-size and 12-sample limit do not apply when a licensee includes, as part of a taste testing event, a multicourse sit-down meal designed to pair food with complementing alcoholic beverages. This exception applies only at a taste-testing event that is designed to promote the food and beverage or hospitality industry at which at least 50% of the vendors represent and promote a business other than the manufacture or distribution of liquor.

D. A licensee under this section shall record of the number of patrons admitted to the taste-testing event by requiring patrons to submit a ticket or sign a register or by employing some similar method of tracking attendance.

E. Points of entry to the taste-testing venue must be clearly defined and monitored to ensure consumption takes place only within the designated area of the taste-testing event.

F. A minor is prohibited from attending the taste-testing event unless accompanied by a parent or guardian or unless the alcohol served at the taste-testing event is confined to a segregated area from which minors are prohibited.

G. Malt liquor, wine or spirits for taste testing may not be poured in advance and made available for patrons of the taste-testing event to serve themselves.

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

I. A licensee under this section who is a manufacturer licensed under section 1355-A, is a wholesaler licensed under section 1401 or is a certificate of approval holder may provide for taste testing any malt liquor or wine that the licensee, wholesaler or manufacturer manufactures or distributes that is registered and authorized for distribution and sale under this Title. A licensee under this section who is a manufacturer of spirits licensed under section 1355-A, a supplier or foreign manufacturer of spirits or a broker may provide for taste testing any spirits listed for sale by the commission. Excise taxes for malt liquor and wine under section 1652 must be paid before the scheduled date of the taste-testing event.

J. A sponsored manufacturer may, for the purpose of promoting malt liquor or wine for distribution and sale in the State, provide for taste testing any malt liquor or wine that the sponsored manufacturer manufactures outside the State that has been registered with the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau. All containers of malt liquor or wine served in accordance with this paragraph, including empty containers, must be removed from the State following the taste-testing event. All malt liquor and wine provided for the taste-testing event under this paragraph is subject to excise taxes under section 1652 and premiums, when applicable, under section 1703.

K. Each manufacturer, sponsored manufacturer, wholesaler, certificate of approval holder or broker licensed to take part in the taste-testing event shall make available to the bureau or local law enforcement agency upon request a list of the persons designated by the respective licensee to serve malt liquor, wine or spirits for taste testing at the event. The list must be accompanied by an affidavit attesting that no person designated to serve alcohol for taste testing has been found to have violated any state or federal law prohibiting the sale or furnishing of alcohol to a minor.

L. Each manufacturer, sponsored manufacturer, wholesaler, certificate of approval holder or broker shall provide to any person designated to serve malt liquor, wine or spirits for taste testing a badge or similar means of identification that clearly identifies the name of the manufacturer, sponsored manufacturer, supplier, wholesaler or certificate of approval holder. The badge or similar means of identification must be worn in a manner so that it is conspicuous and clearly visible to a person being served.

8. Information to be provided by the bureau. The bureau shall develop an informational pamphlet or similar document that is posted on the bureau's publicly accessible website describing the conditions that apply to the conduct of a taste-testing event, including generally applicable laws and rules that are not described in this section. The bureau shall consider commonly cited violations from similar events that have been conducted in the State when developing the informational pamphlet or similar document.]

10. **Furnishing samples to retail licensees (§ 1504) (as recently amended by S.P. 616/L.D. 1826 (2019))**

DISCUS recommendation:

- Clarify expressly in the introductory sentence that suppliers may furnish samples to agency liquor stores (and not only to retail licensees)
(note: as currently allowed under § 1504(5) and (6))
- Replace the 6-liter per distiller annual limit with a 3-liter per brand annual limit and eliminate the 1-liter single bottle limit; and if either or both of these quantity limits are retained, allow the next available larger size if a particular product is not available within the quantity limit(s) (§ 1504(5))
- Eliminate the log requirements (§ 1504(3-A), (4) & (7))
(note: no log is required under the analogous malt liquor and wine sample statute, § 1402-A)
- Allow sales representatives to furnish their suppliers' own product (and not require it to be requested from bailment inventory of its product at the State's wholesale liquor provider's warehouse) (§ 1504(8))

[Current § 1504. Samples of products.

A person licensed under section 1502 as a sales representative for a spirits manufacturer or supplier may give a retail licensee samples of spirits under the following conditions.

- 1. Invoice required.** The spirits must be accompanied by an invoice.
- 2. Product registered.** The spirits must be listed by the commission for sale in this State and clearly labeled as a sample.
- 3. [Repealed]**
- 3-A. Partial-bottle spirits samples.** Samples must be decanted from the spirits product bottle and provided to licensees licensed for on-premises consumption. The sales representative providing the sample shall maintain a log stating the names of the licensees who sampled the product and the amount sampled. Partial-bottle samples must be properly sealed between tastings.
- 4. Sampling record.** The sales representative who provides the sample shall maintain a log stating the names of the retail licensees who sampled the spirits and the amount sampled.
- 5. Full-bottle samples.** The maximum amount of unopened full-bottle samples of spirits given to a retail licensee by a sales representative may not exceed 6 liters per year per distiller represented by that sales representative. Individual samples may not exceed one liter. A full-bottle sample is an unopened bottle of spirits provided to an agency liquor store or an on-premises retail licensee licensed to sell spirits.
- 6. Retail sampling.** Samples poured from a bottle of spirits designated for retail sampling may be provided to an on-premises licensee licensed to serve spirits and to an agency liquor store on the premises of the agency liquor store if the person receiving the sample is 21 years of age or older and is in a supervisory or managerial position with the agency liquor store. Bottles of spirits designated for retail sampling must be properly sealed between samplings.
- 7. Records maintained.** Records of samples given or received under this section must be maintained for a 2-year period by the retail licensee giving or receiving samples.
- 8. Access to samples.** A sales representative shall request samples from bailment inventory of a supplier housed at the State's wholesale liquor provider's warehouse for the purposes described under this section.]

11. TTB Subpart D Exceptions

DISCUS recommendation:

- Add a new provision allowing all trade practices permitted under the federal rules (in Subpart D of 27 CFR Part 6)

12. Outdoor stadiums (§ 1074)

DISCUS recommendation:

- Revise § 1074(1) to allow spirits, and not only wine and malt liquor, to be sold by holders of outdoor stadium licenses.

[Current § 1074: Outdoor Stadiums.

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of wine and malt liquor to be consumed on the premises to outdoor stadiums, as defined in section 2, subsection 15, paragraph M. A concessionaire or lessee may be issued a license under this section, regardless of whether it controls the premises, as long as that concessionaire or lessee complies with the notice provisions applicable to qualified catering services in section 1076, subsection 7 prior to exercising the license.

2. **No sales at events for children.** The licensee may not sell any liquor at an outdoor stadium at any event primarily involving primary or secondary school children.
3. **Conditions on sales.** The licensee may not sell liquor in the spectator stands at an outdoor stadium. Liquor may be sold only by the glass in plastic or paper cups.]

Other Suggested Changes – Non-statutory

1. Closeout sales

DISCUS request:

- Develop and implement procedures to delist and sell at reduced prices brands that are not selling (or not selling at more than de minimis levels) at regular price and that the supplier does not intend to continue to sell in the state when the current inventory runs out.

2. Agent bonuses

DISCUS request:

- Provide bonuses to agents on the basis of dollar sales and not case sales