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An Act To Amend the Laws Governing Taste Testing of Alcoholic Beverages by Retail Licensees

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

Whereas, current law is prohibitive to retail establishments that wish to conduct tastings of alcoholic beverages; 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, sub-§2, ¶J, as enacted by PL 2009, c. 459, §1, is amended to read:

J. The agency liquor store may conduct up to 3 tastings per month but no more than 12 taste-testing events per year for agency liquor stores that are in operation for less than 12 months per year, and no more than 18 taste-testing events per year for agency liquor stores that are in operation year-round, including tastings conducted under sections 1205 and 1207.

Sec. 2. 28-A MRSA §460, sub-§2, ¶N, as enacted by PL 2009, c. 459, §1, is amended to read:

N. For a minimum of 7 days immediately prior to a taste-testing event, the agency liquor store shall prominently post at the entrance to the store a sign that announces the date and time of the taste-testing event. Taste-testing activities must be conducted away from the primary entrance or exit of the agency liquor store and in a manner so that precludes the possibility of observation by children a person who chooses not to take part in the taste-testing event may navigate through the agency liquor store and maintain a distance of a minimum of 15 feet from the area where the taste-testing event is taking place. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph. This paragraph applies to agency liquor stores that are full-service grocery stores that offer a wide variety of sundries and food and beverage items for sale and do not showcase alcoholic beverages as the primary product offered for sale. This paragraph does not apply to agency liquor stores that are specialty stores that showcase alcoholic beverages as the primary product offered for sale or agency liquor stores that specialize in food products and are too small in area to accommodate the 15foot distance requirement.

Sec. 3. 28-A MRSA §460, sub-§2, ¶O is enacted to read:

O. Notwithstanding paragraphs H and N, an agency liquor store, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the agency liquor store location in a private room in place of or to coincide with a taste-testing event that is open to the public.

Sec. 4. 28-A MRSA §1205, sub-§2, ¶H, as amended by PL 2009, c. 459, §2, is further amended to read:

H. The retail licensee may conduct up to 3 tastings per month but no more than 12 taste-testing events per year for retail licensees that are in operation for less than 12 months per year, and no more than 18 taste-testing events per year for retail licensees that are in operation year-round, including tastings conducted under sections 460 and 1207;

Sec. 5. 28-A MRSA §1205, sub-§2, ¶K, as amended by PL 2009, c. 459, §2, is further amended to read:

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

Sec. 6. 28-A MRSA §1205, sub-§2, ¶L, as enacted by PL 2009, c. 459, §2, is amended to read:

L. For a minimum of 7 days immediately prior to a taste-testing event, the retail licensee shall prominently post at the entrance to the store a sign that announces the date and time of the taste-testing event. Taste-testing activities must be conducted away from the primary entrance or exit of the store and in a manner so that precludes the possibility of observation by children a person who chooses not to take part in the taste-testing event may navigate through the store and maintain a distance of a minimum of 15 feet from the area where the taste-testing event is taking place. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph. This paragraph applies to retail licensees that are full-service grocery stores that offer a wide variety of sundries and food and beverage items for sale and do not showcase alcoholic beverages as the primary product offered for sale. This paragraph does not apply to retail licensees that are specialty stores that showcase alcoholic beverages as the primary product offered for sale or retail licensees that specialize in food products and are too small in area to accommodate the 15foot distance requirement; and

Sec. 7. 28-A MRSA §1205, sub-§2, ¶M is enacted to read:

M. Notwithstanding paragraphs F and L, a retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the retail licensee store location in a private room in place of or to coincide with a taste-testing event that is open to the public.

Sec. 8. 28-A MRSA §1207, as enacted by PL 2009, c. 438, §5, is reallocated to 28-A MRSA §1208.

§ 1208. Dual liquor license

Notwithstanding any other provision of law, the bureau may issue a dual liquor license to a retail establishment to serve wine to be consumed on the premises in accordance with subsection 2 if that establishment is licensed to sell wine to be consumed off the premises and meets the criteria listed in subsection 1.

[PL 2009, c. 438, § 5 (NEW).]

1. Minimum criteria. In order for the bureau to issue a dual liquor license in accordance with this section the following criteria must be met:

- A. The licensee has submitted an application as prescribed by the bureau and the fee under subsection 3 to the bureau; [PL 2009, c. 438, § 5 (NEW).]
- B. The licensee's establishment includes a full kitchen that prepares hot and cold meals to be consumed on the premises; [PL 2009, c. 438, § 5 (NEW).]
- C. The licensee's establishment includes at least 2 restrooms available for use by patrons; [PL 2009, c. 438, § 5 (NEW).]
- D. The licensee has dedicated an area of the establishment with table seating for a minimum of 16 people to sit and eat a meal prepared by the licensee; [PL 2009, c. 438, § 5 (NEW).]
- E. The licensee carries a stock of at least \$35,000 of wine; [PL 2009, c. 438, § 5 (NEW).]
- F. The licensee has not committed a violation of this chapter during the past 2 years; and [PL 2009, c. 438, § 5 (NEW).]
- G. The licensee has received approval from the appropriate municipal officers prior to submitting an application to the bureau. [PL 2009, c. 438, § 5 (NEW).]
[PL 2009, c. 438, § 5 (NEW).]

2. License requirements. The holder of a dual liquor license is governed by the following when serving wine to be consumed on the premises:

- A. Each serving of wine must be dispensed by the licensee or an employee of the licensee who is at least 21 years of age from a stock of wine that is separated from the wine that is for sale for consumption off the premises; [PL 2009, c. 438, § 5 (NEW).]
- B. The licensee shall ensure that at least 2 employees at least 21 years of age are present at all times when wine is being consumed on the premises with at least one whose primary responsibility is sales of wine and other items sold to be consumed off the premises; [PL 2009, c. 438, § 5 (NEW).]
- C. Wine may be served only to be consumed on the premises when accompanied by a full meal. For the purposes of this paragraph, "full meal" means a diversified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking; [PL 2009, c. 438, § 5 (NEW).]
- D. Patrons of the establishment may not consume any alcoholic beverage on the premises unless it is served in accordance with this section by the licensee or an employee of the licensee; and [PL 2009, c. 438, § 5 (NEW).]
- E. A licensee may not serve wine to be consumed on the premises after 8:00 p.m. [PL 2009, c. 438, § 5 (NEW).]
[PL 2009, c. 438, § 5 (NEW).]

3. License fee. The license fee for a dual liquor license is \$600 annually in addition to the license to sell malt liquor or wine for consumption off the premises.[PL 2009, c. 438, § 5 (NEW).]

4. Rules. The bureau shall adopt rules to implement this section. Rules adopted in accordance with this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.[PL 2009, c. 438, § 5 (NEW).]
[PL 2009, c. 438, § 5 (NEW).][PL 2009, c. 459, § 4 (NEW).]

Sec. 9. 28-A MRSA §1207, sub-§1, as enacted by PL 2009, c. 459, §4, is amended to read:

1. Taste testing on off-premise retail licensee's premises. Subject to the conditions in subsection 2, the bureau may authorize an off-premise retail licensee stocking at least 100 different ~~brands~~labels of malt liquor to conduct taste testing of malt liquor on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited, except as permitted under section 460 or 1205.

Sec. 10. 28-A MRSA §1207, sub-§2, ¶H, as enacted by PL 2009, c. 459, §4, is amended to read:

H. The retail licensee may conduct up to 3 tastings per month but no more than 12 taste-testing events per year for retail licensees that are in operation for less than 12 months per year, and no more than 18 taste-testing events per year for retail licensees that are in operation year-round, including tastings under section 460 or 1205.

Sec. 11. 28-A MRSA §1207, sub-§2, ¶L, as enacted by PL 2009, c. 459, §4, is amended to read:

L. For a minimum of 7 days immediately prior to a taste-testing event, the retail licensee shall prominently post at the entrance to the store a sign that announces the date and time of the taste-testing event. Taste-testing activities must be conducted away from the primary entrance or exit of the store and in a manner so that precludes the possibility of observation by children a person who chooses not to take part in the taste-testing event may navigate through the store and maintain a distance of a minimum of 15 feet from the area where the taste-testing event is taking place. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph. This paragraph applies to retail licensees that are full-service grocery stores that offer a wide variety of sundries and food and beverage items for sale and do not showcase alcoholic beverages as the primary product offered for sale. This paragraph does not apply to retail licensees that are specialty stores that showcase alcoholic beverages as the primary product offered for sale or retail licensees that specialize in food products and are too small in area to accommodate the 15foot distance requirement.

Sec. 12. 28-A MRSA §1207, sub-§2, ¶M is enacted to read:

M. Notwithstanding paragraphs F and L, a retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the retail licensee store location in a private room in place of or to coincide with a taste-testing event that is open to the public.

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

SUMMARY

This bill strikes a provision that requires taste testing of alcoholic beverages by retail establishments to be conducted in a manner that precludes the possibility of observation by children. It replaces that provision with a requirement that signs announcing the time and date of a taste-testing event be posted for at least 7 days immediately prior to the event. The bill also increases from 12 to 18 the maximum annual number of taste-testing events that may be conducted by stores or licensees that are open year-round. The bill also requires that taste-testing events that take place at full-service grocery stores be set up in a way that a person who chooses not to take part in the taste-testing event may navigate through the store and maintain a distance of a minimum of 15 feet from the taste-testing event unless the store is a specialty store that showcases alcoholic beverages or is too small to meet the 15foot distance requirement for taste-testing events. The bill also provides for invitation-only taste-testing events.