

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in section 3 in paragraph M in the 2nd line (page 1, line 12 in L.D.) by inserting after the following: "more" the following: 'fixed'

Amend the bill by striking out all of section 9.

Amend the bill by striking out all of section 12 and inserting the following:

‘**Sec. 12. 28-A MRSA §708-B**, as enacted by PL 1997, c. 483, §1, is repealed and the following enacted in its place:

**§ 708-B. Donations to public broadcasting stations and incorporated civic organizations**

**1. Donations for auctions.** Notwithstanding any other provisions of law, a person licensed in the State as a brewery, small brewery, winery, small winery, distillery, small distillery or wholesaler may donate a gift certificate to purchase its product or donate its product to a public broadcasting station or an incorporated civic organization licensed under section 1071 for the purpose of an auction. A certificate of approval holder may donate a gift certificate to purchase its product or donate its product to a public broadcasting station or an incorporated civic organization licensed under section 1071 for the purpose of an auction as long as the product donated is provided by a wholesaler who is reimbursed for the product by the certificate of approval holder for the cost of the donated product. Spirits donated by a distiller under this subsection must have been sold to the State for listing, pricing and distribution as required by this Title. Any donation is subject to the following.

A. A brewery, winery, distillery or wholesaler shall maintain a record of each donation, including the value of each donation and the date on which each donation was made.

B. A public broadcasting station or licensed incorporated civic organization shall ensure that the recipient of the donated item is 21 years of age or older.

**2. Donations for on-premises events.** Notwithstanding any other provisions of law, a person licensed in the State as a brewery, winery, distillery or wholesaler may donate its product to an incorporated civic organization that has been issued a license for an on-premises event open to the public. A certificate of approval holder may donate its product to an incorporated civic organization that has been issued a license for an on-premises event open to the public as long as the product donated is provided by a wholesaler who is reimbursed for the product by the certificate of approval holder for the cost of the donated product. Spirits donated by a distiller under this subsection must have been sold to the State for listing, pricing and distribution as required by this Title. A brewery, winery, distillery or wholesaler shall maintain a record of each donation, including the value of each donation and the date on which each donation was made.’

Amend the bill by striking out all of sections 15 and 16 and inserting the following:

‘**Sec. 15. 28-A MRSA §709, sub-§2, ¶I**, as enacted by PL 2005, c. 319, §2, is repealed and the following enacted in its place:

I. Conducting taste testing under section 460, 1051, 1205, 1207 or 1355-A;

**Sec. 16. 28-A MRSA §709, sub-§2, ¶¶J and K** are enacted to read:

J. Providing samples authorized under section 1355-A, 1402, 1402-A or 1504; or

K. Donations authorized under section 708-B.’

Amend the bill by striking out all of section 23 and inserting the following:

‘**Sec. 23. 28-A MRSA §1355-A** is enacted to read:

### **§ 1355-A. Manufacturer licenses**

**1. Issuance of licenses.** The bureau may issue manufacturer licenses to distill, rectify, brew or bottle spirits, wine or malt liquor to distillers, rectifiers, brewers, bottlers and wineries operating under federal law and federal supervision.

**2. Manufacturers.** The following provisions apply to brewery, small brewery, winery, small winery, distillery and small distillery licensees.

A. A licensee may permit sampling of the liquor product on the premises:

(1) By employees for the purpose of quality control of the product;

(2) By wholesalers for the purpose of determining whether to carry the product as a wholesale product if the holder of the license pays the excise tax on the product sampled according to section 1652; and

(3) By the public if the holder of the license pays the excise tax on the product sampled according to section 1652.

B. A licensee under this section may serve to the public complimentary samples of liquor produced by the licensee at the licensed premises where liquor is produced by the licensee.

C. A licensee under this section may sell to nonlicensees during regular business hours from the licensed premises where liquor is produced by the licensee liquor produced by the bottle, by the case or in bulk for consumption off the licensed premises. Spirits sold by distillers and small distillers in accordance with this paragraph must be first sold to the State, subject to the listing, pricing and distribution provisions of this Title.

D. A licensee under this section may sell from the licensed premises where liquor is produced by the licensee liquor produced by the licensee for consumption off the licensed premises.

E. A licensee may serve complimentary samples of liquor on Sunday after the hour of 9 a.m. and may sell liquor on Sunday after the hour of 9 a.m. if the municipality in which the licensed premises is located has authorized the sale of liquor on Sunday for consumption off the premises under chapter 5.

F. A licensee may charge for samples or shall otherwise comply with the conditions in paragraph E. Each sample poured is subject to a charge in an amount determined by the licensee and is subject to the sales tax on liquor under Title 36, section 1811. A licensee shall maintain a record of liquor samples subject to a charge and maintain those records for a period of 2 years.

G. A licensee that is a brewery or small brewery may sell on the premises during regular business hours and within the hours of legal sale to nonlicensees liquor produced at the licensed premises. The volume of the package may not exceed 15.5 gallons and must be consumed off the premises. The sale of packages described in this paragraph must comply with keg tagging requirements provided in section 714. Each licensee shall submit a monthly report to its wholesaler detailing sales made directly from the premises. The wholesaler shall calculate the fees for any bottle deposit and submit an invoice to the licensee for expenses associated with the requirements prescribed in Title 32, chapter 28 including the retailer handling fee, state container deposit and a mutually agreed-upon pick-up fee.

H. A small winery or small brewery licensee shall keep and maintain complete records on all sales to a retail licensee.

I. A licensee may be issued one retail license under chapter 43 per licensed location for the sale of liquor to be consumed on the premises at the retail premises.

(1) The retail license must be held exclusively by the holder of the brewery, small brewery, winery, small winery, distillery or small distillery license.

(2) The retail license authorizes the sale of products of the brewery, small brewery, winery, small winery, distillery or small distillery, in addition to other liquor permitted to be sold under the retail license, to be consumed on the premises.

(3) All records related to activities under a manufacturer license issued under this section must be kept separate from records related to the retail license.

(4) A distillery or small distillery must meet the requirements of subsection 5, paragraph E.

J. A licensee may display up to 25 bottles of liquor produced by the licensee in a window of the location under paragraph D where liquor is sold for consumption off the licensed premises. Locations licensed under subsection 4, paragraph B, subparagraph (2) or subsection 5, paragraph B, subparagraph (3) may also display up to 25 bottles of liquor produced by the licensee.

**3. Breweries; small breweries.** Except as otherwise provided in this section, the following provisions apply to breweries and small breweries.

- A. A holder of a brewery license may produce more than 50,000 gallons of malt liquor per year.
- B. A holder of a small brewery license may produce not more than 50,000 gallons of malt liquor per year.

(1) Upon application by a holder of a small brewery license whose brewery has produced malt liquor in an amount that exceeds 50,000 gallons in one year, the bureau may renew that holder's small brewery license for only one additional year.

(2) A holder of a small brewery license may sell or deliver its products to licensed retailers or wholesalers. The licensee may sell, on the premises for consumption off the premises, malt liquor produced at the licensed premises by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding section 1361, the holder of a small brewery license may sell its products directly to a retail licensee under this paragraph without selling to a wholesale licensee.

C. Notwithstanding any other provision of this Title, a brewery or small brewery licensed in accordance with this section may sell from the establishment at the site of the brewery licensed for the sale of alcoholic beverages to be consumed on the premises malt liquor to be consumed off the premises under the conditions specified in this paragraph.

(1) Only malt liquor brewed at the brewery where the on-premises establishment is licensed may be sold at the on-premises establishment.

(2) Malt liquor must be dispensed in bottles provided by and with labels unique to the brewery of 32 to 64 ounces in volume.

(3) No more than 6 bottles may be prefilled at any one time.

(4) A deposit may be charged per bottle. Bottles sold under this paragraph are not subject to Title 32, chapter 28.

(5) The bottle in which the malt liquor is dispensed must be sealed by the licensee with a seal that is tamper-evident.

(6) Malt liquor dispensed in accordance with this paragraph must be consumed off the premises.

(7) All sales of malt liquor from the on-premises establishment for off-premises consumption must be accompanied by a sales receipt with a time stamp that indicates time of purchase.

(8) Sale of malt liquor from the on-premises establishment for off-premises consumption may not be made after 10:00 p.m.

The bureau may adopt rules to enforce this paragraph. Rules adopted in accordance with this paragraph are routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A.

**4. Wineries; small wineries.** Except as otherwise provided in this section, the following provisions apply to wineries and small wineries.

A. A holder of a winery license may produce more than 50,000 gallons per year of wines, sparkling wines and fortified wines.

B. A holder of a small winery license may produce not more than 50,000 gallons per year of wines, sparkling wines and fortified wines.

(1) A holder of a small winery license may sell or deliver its products to licensed retailers or wholesalers. The licensee may sell, on the premises for consumption off the premises, wine produced at the licensed premises by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding section 1361, the licensee may sell its products directly to a retail licensee under this paragraph without selling to a wholesale licensee.

(2) A holder of a small winery license, upon application to and approval of the bureau and payment of the license fees, may obtain licenses for off-premises consumption for up to 2 additional locations other than the location of the in-state manufacturer licensed under this section. The holder of the licenses is not required to conduct any bottling or production at the additional licensed locations but may conduct all activities permitted by this section at the additional licensed locations.

C. A holder of a winery or small winery license may fortify wine produced by the winery license holder and import spirits solely for this purpose.

(1) If a small winery license holder produces fortified wine pursuant to this paragraph, the combined total of wine, sparkling wine and fortified wine produced at the small winery may not exceed 50,000 gallons per year.

For purposes of this subsection, "fortified wine" means wine to which spirits have been added as long as the resulting liquor does not exceed 24% alcohol by volume.

**5. Distilleries; small distilleries.** Except as otherwise provided in this section, the following provisions apply to distilleries and small distilleries.

A. A holder of a distillery license may distill, rectify, blend and bottle more than 50,000 gallons of spirits per year.

B. A holder of a small distillery license may distill, rectify, blend and bottle not more than 50,000 gallons of spirits per year.

(1) The small distillery off-premises license fee is \$100.

(2) Upon application by a holder of a small distillery license whose distillery has produced spirits in an amount that exceeds 50,000 gallons in one year, the bureau may renew that holder's small distillery license for only one additional year.

(3) A holder of a small distillery license, upon application to and approval of the bureau and payment of the license fees, may obtain licenses for off-premises consumption for up to 2 additional locations other than the location of the in-state manufacturer licensed under this section. The holder of the licenses is not required to conduct any bottling or production at the additional licensed locations but may conduct all activities permitted by this section at the additional licensed locations.

C. To be eligible for a distillery or small distillery license, a person must hold a basic permit for distilling, rectifying, blending and bottling spirits from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau.

D. Spirits produced by a holder of a distillery or small distillery license must be sold to the State and are subject to the listing, pricing and distribution provisions of this Title.

E. A holder of a distillery or small distillery license may be issued one license under chapter 43 per distillery location for a connected establishment for the sale of liquor to be consumed on the premises at the distillery.

(1) For the purposes of this paragraph, "connected establishment" means a Class A restaurant or a Class A restaurant/lounge that is owned exclusively by the holder of the in-state manufacturer license.

(2) All records of the manufacturer license must be kept separate from the records of the retail licensee.

F. A distillery or small distillery may provide samples to the public of liquors produced by the distillery that have been sold to the State in accordance with paragraph D and repurchased by the distillery or small distillery.'

Amend the bill in section 28 by striking out all of subsection 4 (page 9, lines 33 to 35 in L.D.) and inserting the following:

**'4. Full-bottle samples.** The maximum amount of unopened full-bottle samples given to a retail licensee may not exceed 9 gallons of malt beverage and 9 liters of wine annually. A full-bottle sample is an unopened bottle of wine or malt beverage given to a retail licensee, which may be consumed by a retail licensee on or off the premises; and'

Amend the bill by striking out all of section 29 (page 9, lines 36 and 37 and page 10, lines 1 and 2 in L.D.) and inserting the following:

**'Sec. 29. 28-A MRSA §1402-A, sub-§5,** as enacted by PL 1997, c. 228, §1, is repealed.

Amend the bill in section 32 by striking out all of subsection 5 (page 10, lines 19 to 21 in L.D.) and inserting the following:

**'5. Full-bottle samples.** The maximum amount of unopened full-bottle samples of distilled spirits given to a retail licensee by a sales representative may not exceed 3 liters per year per distiller represented by that sales representative,~~and~~. 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.'

Amend the bill by striking out all of section 33 (page 10, lines 22 to 26 in L.D.) and inserting the following:

**'Sec. 33. 28-A MRSA §1504, sub-§6,** as enacted by PL 2007, c. 113, §1, is repealed and the following enacted in its place:

**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.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## SUMMARY

This amendment amends the definition of "outdoor stadium" in the liquor laws to clarify that the number of seats in the stadium are fixed seats. It strikes the section of the bill that requires that master files be established for all applicants. It clarifies that donations of liquor to public broadcasting stations or

incorporated civic organizations with liquor licenses are permitted by small manufacturers of wine, beer and spirits. The amendment strikes the increases proposed in the bill of the amount of wine and spirits samples that may be given to a retail licensee by a small manufacturer, wholesaler or sales representative. The amendment also makes several nonsubstantive changes to language in the bill to correct errors in the bill and for the purpose of clarity.

**FISCAL NOTE REQUIRED**  
**(See attached)**