

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
S.P. 597 - L.D. 1456

**An Act to Expand the Number of On-premises Retail Liquor Licenses a
Liquor Manufacturer May Be Issued**

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

Whereas, this legislation is a way to support Maine's hospitality sector and businesses that cater to tourists, and 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, this legislation needs to take effect before the tourism season begins; 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 §1355-A, sub-§1, as amended by PL 2021, c. 658, §226, is further amended to read:

1. Issuance of licenses. The bureau may issue licenses under this section to breweries, small breweries, tenant breweries, wineries, small wineries, tenant wineries, distilleries, small distilleries, bottlers and rectifiers in the State that operate under federal law and federal supervision.

Sec. 2. 28-A MRSA §1355-A, sub-§1-A, as enacted by PL 2021, c. 658, §226, is amended to read:

1-A. Definition. For purposes of this section, "manufacturing facility" means the premises of a brewery, small brewery, tenant brewery, winery, small winery, tenant winery, distillery or small distillery licensed under this section where liquor products are produced.

Sec. 3. 28-A MRSA §1355-A, sub-§2, as amended by PL 2021, c. 658, §226, is further amended to read:

2. Manufacturers other than bottlers and rectifiers. The following provisions apply to brewery, small brewery, tenant brewery, winery, small winery, tenant winery, distillery and small distillery licensees.

A. A licensee governed by this subsection may permit sampling of a liquor product produced by that licensee on the premises where the liquor product is produced:

- (1) By employees for the purpose of quality control of the product; and
- (2) By wholesalers for the purpose of determining whether to carry the product as a wholesale product if the licensee pays the excise tax on the product sampled according to section 1652.

B. A licensee governed by this subsection may serve to the public samples of liquor produced by the licensee at the manufacturing facility where that liquor is produced by the licensee under the conditions specified in this paragraph.

- (1) The licensee may sell samples to the public or offer samples to the public at no cost.
- (2) The licensee shall pay the excise tax, if any, according to section 1652 on all samples served to the public under this paragraph. If a sample is sold by the licensee, it is also subject to the sales tax on liquor under Title 36, section 1811.
- (3) The licensee shall maintain a record of all samples the licensee sells under this paragraph and shall maintain those records for a period of 2 years.
- (4) The licensee may serve samples to the public under this paragraph only during the hours of legal sale set forth in section 4.
- (5) The area of the licensed premises where the licensee serves samples to the public under this paragraph is not required to be separate from and may be accessed by the same entrance as the area licensed for on-premises consumption of liquor under chapter 43 in accordance with paragraph I.
- (6) Spirits samples served to the public under this paragraph by a distillery must first be sold to the State, subject to the listing, pricing and distribution provisions of this Title. Spirits samples served to the public under this paragraph by a small distillery are subject to the requirements of subsection 5, paragraph H.
- (7) The licensee may not serve samples to minors or visibly intoxicated persons.

D. A licensee governed by this subsection may sell for off-premises consumption liquor produced by the licensee from the manufacturing facility where liquor is produced by the licensee under the conditions specified in this paragraph.

- (1) Sales made in accordance with this paragraph do not require the licensee to obtain an additional retail license under chapter 45.
- (2) Liquor sold in accordance with this paragraph may not be consumed anywhere on the licensed premises.
- (3) The area of the licensed premises where the licensee opts to transact sales for off-premises consumption is not required to be separate from and may be accessed

by the same entrance as the area licensed for on-premises consumption of liquor under chapter 43 in accordance with paragraph I.

(4) Sales under this paragraph may be made only during the hours of legal sale as provided in section 4.

(5) Spirits sold by a distillery must first be sold to the State, subject to the listing, pricing and distribution provisions of this Title. Spirits sold by a small distillery are subject to the requirements of subsection 5, paragraph G.

(6) Except as provided in subsection 3, paragraphs C and C-1, sales may be made only by the bottle, by the case or in bulk.

I. A licensee governed by this subsection may be issued one or more on-premises retail ~~license~~ licenses under chapter 43 per licensed manufacturing facility under the conditions specified in this paragraph. An on-premises retail license issued under chapter 43 may be for retail activities located at the manufacturing facility or for retail activities at another location if the same person or persons hold a majority ownership interest in both the manufacturing licensee and the on-premises retail licensee licensed under chapter 43.

~~(1-A) The on-premises retail license issued under chapter 43 may be for retail activities located at the manufacturing facility or for retail activities at another location if the same person or persons hold a majority ownership interest in both the manufacturing facility and the premises. If a person or persons hold a majority ownership interest in one manufacturing licensee, the person or persons may hold no less than a majority ownership interest in up to 3 retail licensees licensed under chapter 43. If a person or persons hold a majority ownership interest in at least 2 manufacturing licensees that, collectively, manufacture at least 1,000 barrels of liquor per year, the person or persons may hold no less than a majority ownership interest in up to 6 on-premises retail licensees licensed under chapter 43. A person or persons with a majority ownership interest in one or more manufacturing licensees may not hold an ownership interest in more than 6 on-premises retail licensees licensed under chapter 43.~~

(2) ~~The~~ A retail license issued under chapter 43 authorizes the sale for on-premises consumption of products produced at the manufacturing facility as well as other liquor permitted to be sold under the applicable class of the retail license.

(2-A) Liquor sold under a retail license issued under chapter 43 on the premises of the manufacturing facility may not be consumed on any part of the premises where patrons are not generally permitted.

(3) All records related to activities under the authority of the manufacturing facility's license issued under this section must be kept separate from records related to activities under the authority of ~~the~~ a retail license issued under chapter 43. Income from the sale of liquor under subparagraph (4-A) or under paragraph B or D by a manufacturing facility that is located on the same premises as ~~the~~ a retail license issued under chapter 43 is not included in calculating whether that retail licensee satisfies any applicable income from the sale of food requirement set forth in chapter 43.

(4) Spirits sold under the authority of ~~the~~ a retail license issued under chapter 43 to the holder of a distillery license must first be sold to the State, subject to the listing, pricing and distribution provisions of this Title. Spirits sold under the authority of ~~the~~ a retail license issued under chapter 43 to the holder of a small distillery license are subject to the requirements of subsection 5, paragraph H.

(4-A) A person issued a retail license under chapter 43 for premises other than the licensed manufacturing facility may sell liquor for off-premises consumption under the conditions stated in paragraph D.

(5) The licensee shall ensure that products purchased for off-premises consumption under paragraph D are not consumed on the premises of the manufacturing facility or ~~the~~ a retail license issued under chapter 43, if that retail license authorizes retail activities at another location.

J. A licensee governed by this subsection may display up to 25 bottles of liquor produced by the licensee in a window of a location where the licensee is authorized by this section to sell its products for on-premises consumption or for off-premises consumption.

K. A licensee governed by this subsection may transport liquor produced at the licensed manufacturing facility in bulk or packaged in kegs, bottles or cans, including by the case, to:

(1) Another manufacturing facility licensed under this section if the same person or persons hold a majority ownership interest in both of the licensed manufacturing facilities; and

(2) An establishment licensed for retail sales operated by the licensee under paragraph I; subsection 4, paragraph B, subparagraph (2); or subsection 5, paragraph B, subparagraph (3) as long as the same person or persons hold a majority ownership interest in both the licensed manufacturing facility and the licensed retail establishment.

Sec. 4. 28-A MRSA §1355-A, sub-§6, ¶C, as amended by PL 2021, c. 658, §226, is repealed.

Sec. 5. 28-A MRSA §1355-A, sub-§6, ¶D, as amended by PL 2021, c. 658, §226, is further amended to read:

D. A tenant brewery is governed by the provisions of subsection 3 ~~except for the privileges granted under paragraph C~~.

Sec. 6. 28-A MRSA §1355-A, sub-§7, ¶C, as enacted by PL 2015, c. 185, §3, is repealed.

Sec. 7. 36 MRSA §1811, sub-§1, ¶D, as amended by PL 2023, c. 643, Pt. H, §23 and affected by §29 and amended by c. 673, §22 and affected by §28, is further amended by amending subparagraph (2) to read:

(2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43 and liquor sold for on-premises consumption by a licensed brewery, small brewery,

tenant brewery, winery, small winery, tenant winery, distillery or small distillery pursuant to Title 28-A, section 1355-A, subsection 2, paragraph B;

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