

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

—
S.P. 628 - L.D. 1637

An Act Regarding Taste-testing Event Licenses

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 ambiguity in the law regarding the conduct of special licensed events for the taste testing of alcoholic beverages is having a negative impact on the promotion of craft breweries and wineries in the State; and

Whereas, it is important to resolve this ambiguity as soon as possible; 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 §709, sub-§2, ¶E, as amended by PL 2011, c. 629, §12, is further amended to read:

E. Those licensed under ~~sections 1052-B or 1052-C~~ section 1052-D offering free samples or tastings;

Sec. 2. 28-A MRSA §1052-B, as amended by PL 2013, c. 345, §3; c. 351, §§1 and 2; and c. 368, Pt. XXXX, §1 and affected by §13, is repealed.

Sec. 3. 28-A MRSA §1052-C, as amended by PL 2011, c. 629, §18, is repealed.

Sec. 4. 28-A MRSA §1052-D is enacted to read:

§1052-D. Taste-testing event license

1. Taste-testing event license. A person who has been issued a license under section 1355-A, a wholesaler licensed under section 1401 or a person who has been

granted a certificate of approval from the bureau may apply jointly in any combination for a license to participate in a taste-testing event subject to the conditions prescribed by this section.

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 or certificate of approval holder.

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 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 or spirits the licensee or manufacturer manufactures listed for sale by the bureau. 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 or certificate of approval holder 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 or certificate of approval holder 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, 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.

Sec. 5. 28-A MRSA §1361, sub-§2, as amended by PL 2007, c. 539, Pt. QQQ, §1, is further amended to read:

2. Fee for certificate of approval. The fee for a certificate of approval is \$1,000 per year for malt liquor only and \$1,000 for wine only, except that the fee for a manufacturer or foreign wholesaler of wine or malt liquor who ships 120 gallons of wine or malt liquor or less per year is \$100. Payment of the fee must accompany the application for the certificate.

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