

STATE OF MAINE

—

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

—

H.P. 1133 - L.D. 1642

**An Act To Clarify Licensing Provisions for the Manufacture and Sale of
Liquor**

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

Whereas, the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations is charged with enforcing the laws relating to licensing of the manufacture and sale of liquor; and

Whereas, the bureau's recent interpretation of a law regarding brewery ownership could lead to consequences that were not intended by the Legislature; and

Whereas, it is imperative that the law be clarified as soon as possible to avoid unintended consequences that could imperil operations by breweries during premium tourism season; 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-§2, ¶I, as amended by PL 2017, c. 34, §1, is further amended to read:

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, paragraphs D and E.

(5) The licensee shall ensure that products purchased for off-premises consumption under paragraph D are not consumed on the licensed premises.

Sec. 2. 28-A MRSA §1355-A, sub-§2-A is enacted to read:

2-A. Majority interest requirement. A person licensed as a manufacturer under this section who is authorized by this section to hold a retail license may be issued a retail license as long as the manufacturer has a controlling interest in both the licensed manufacturing facility and the licensed retail establishment, regardless of the business structure of either licensed entity.

Sec. 3. 28-A MRSA §1355-A, sub-§5, ¶E, as enacted by PL 2011, c. 629, §22, is amended to read:

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.

Sec. 4. Bureau of Alcoholic Beverages and Lottery Operations prohibited from suspending, revoking or refusing to renew certain licenses under certain circumstances. Before June 30, 2018, the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations may not suspend, revoke or refuse to renew a license issued under the Maine Revised Statutes, Title 28-A, section 1355-A or Title 28-A, chapter 43 or 45 that was initially issued prior to June 1, 2017 solely on the basis that the establishment licensed under Title 28-A, chapter 43 or 45 was determined by the bureau after June 1, 2017 to not be exclusively held or exclusively owned by a person licensed to manufacture liquor under Title 28-A, section 1355-A.

The prohibition described in this section does not apply if the reason for suspension, revocation or failure to renew is due to the licensee's substantial misrepresentation of or failure to disclose material facts required for the issuance or renewal of the license.

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