

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 251 - L.D. 364

An Act To Allow a Sales Representative To Serve Alcoholic Beverages at a Tasting Event

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 allows sales representatives to serve alcoholic beverages at tasting events; and

Whereas, it is necessary to implement this change immediately in order for it to be in place for the summer tourist 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 §460, sub-§1, as enacted by PL 2009, c. 459, §1, is amended to read:

1. Taste testing on agency liquor store premises. Subject to the conditions in subsection 2, the bureau may authorize an agency liquor store stocking at least 200 different codes of distilled spirits products to conduct taste testing of distilled spirits on that licensee's premises. An agency liquor store may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner. Any other consumption of alcoholic beverages on an agency liquor store's premises is prohibited, except as permitted under section 1205 or 1207.

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

L. The agency liquor store must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing.

Sec. 3. 28-A MRSA §1051, sub-§8, as enacted by PL 2013, c. 258, §1, is amended to read:

8. Liquor taste-testing events for general public on retail licensee's premises.

The bureau may authorize an on-premise retail licensee to conduct taste testings of liquor open to the public on the licensed premises. Taste-testing events under this subsection must be conducted during hours that are authorized by the bureau for the sale of liquor on the licensed premises and may be held in collaboration with a certificate of approval holder, sales representative licensed under section 1502 or wholesale licensee. An on-premise retail licensee may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples of liquor for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner. The following conditions apply to all taste-testing events conducted under this subsection.

- A. Liquor may not be served to persons who have not yet attained 21 years of age.
- B. A person may not be served more than a total of 12 ounces of malt liquor having an alcohol content of 6% or less; for malt liquor having an alcohol content greater than 6% but less than 12%, a person may not be served more than a total of 6 ounces; or, for malt liquor having an alcohol content of 12% or greater, a person may not be served more than a total of 3 ounces.
- C. A person may not be served more than a total of 5 ounces of wine having an alcohol content of 14% or less; or, for wine having an alcohol content greater than 14%, a person may not be served more than a total of 3 ounces of wine.
- D. A person may not be served more than a total of 1 1/2 ounces, in 1/2 ounce servings, of distilled spirits having an alcohol content of 80 proof or less; or, for distilled spirits containing an alcohol content of greater than 80 proof, a person may not be served more than a total of 3/4 of an ounce in 1/4 ounce servings.
- E. A person may not be charged a fee for any liquor served as part of a taste-testing event.
- F. A person may not be served who is visibly intoxicated.
- G. A taste-testing event must be conducted within the hours of retail sale established in this Title.
- H. The retail licensee must obtain the written permission of the bureau before conducting a taste-testing event.
- I. The retail licensee may conduct no more than one taste-testing event per month.

J. A taste-testing event is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.

K. The retail licensee must notify the bureau of the date and time scheduled for a taste-testing event. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing.

L. Liquor served at a taste-testing event may be provided by the retail licensee purchasing the liquor from a wholesale licensee or agency liquor store. A record of a transaction under this paragraph must be maintained and made available to the bureau.

M. The retail licensee shall establish a designated area in which to conduct a taste-testing event in accordance with this section and shall make reasonable attempts to ensure that tastings are confined to the designated area.

N. The retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the licensed premises in place of or to coincide with a taste-testing event that is open to the public.

O. After a taste-testing event is concluded, the retail licensee may return any unused portion of liquor used to conduct the taste-testing event to the licensee's existing stock.

P. A certificate of approval holder, licensed sales representative or wholesale licensee who participates in a taste-testing event may provide and distribute food or snacks to be consumed in conjunction with the liquor to be tasted at no cost to the public or the retail licensee if the total cost for the food or snacks does not exceed \$200 per event. Any remaining food or snacks provided in conjunction with a taste-testing event must be removed by the certificate of approval holder, licensed sales representative or wholesale licensee from the licensed premises at the conclusion of the event.

Q. A certificate of approval holder, licensed sales representative or wholesale licensee who participates in a taste-testing event may provide material to advertise the liquor being offered at the taste-testing event or for the promotion of responsible use of alcohol. A certificate of approval holder, licensed sales representative or wholesale licensee may use the advertising material only for promotional display on the licensed premises. Advertising material related to the taste-testing event may include signs, coasters, napkins, table tents and items of like value and must be removed by the certificate of approval holder, licensed sales representative or wholesale licensee from the licensed premises at the conclusion of the event.

R. A certificate of approval holder, licensed sales representative or wholesale licensee who participates in a taste-testing event may distribute novelties to the public during the event at a cost not to exceed \$3 per novelty. All remaining novelties under this paragraph must be removed by the certificate of approval holder, licensed sales representative or wholesale licensee from the licensed premises at the conclusion of the taste-testing event.

The bureau may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 28-A MRSA §1205, sub-§1, as amended by PL 2011, c. 69, §1, is further 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 125 different wine labels to conduct taste testings of wine on that licensee's premises. An off-premise retail licensee may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited.

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

J. The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing;

Sec. 6. 28-A MRSA §1207, sub-§1, as amended by PL 2009, c. 510, §8, is further 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 labels of malt liquor to conduct taste testing of malt liquor on that licensee's premises. An off-premise retail licensee may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner. 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. 7. 28-A MRSA §1207, sub-§2, ¶J, as enacted by PL 2009, c. 459, §4, is amended to read:

J. The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing.

Sec. 8. 28-A MRSA §1501, as amended by PL 2013, c. 588, Pt. B, §5, is further amended to read:

§1501. Lists of officers, partners and sales representatives

All persons selling liquor ~~to~~ in the State shall furnish to the bureau a list of all officers and directors, if a corporation, or a list of all partners, if a partnership, and the name of the sales representatives of the person within the State.

Sec. 9. 28-A MRSA §1505, first ¶, as enacted by PL 2009, c. 459, §5, is amended to read:

A sales representative holding a license under section 1502 may participate in a tasting event permitted under section 460 ~~or~~ section 1051, subsection 8; section 1205; or section 1207 subject to the provisions of this section.

Sec. 10. 28-A MRSA §1505, sub-§4, as enacted by PL 2009, c. 459, §5, is amended to read:

4. Pour or distribute. A sales representative participating in a tasting event pursuant to this section may not pour or distribute to consumers the products being offered for tasting during the event unless the sales representative was listed on a request submitted to the bureau by a licensee to conduct a taste testing in accordance with section 460; section 1051, subsection 8; section 1205; or section 1207. A sales representative who pours or distributes products to consumers at a tasting event under section 460; section 1051, subsection 8; section 1205; or section 1207 must have successfully completed an alcohol server education course approved by the commissioner.

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