



Maine Beverage Distributors Association

March 5, 2025

LD 631 An Act to Allow a Home Distiller to Distill and Share Homemade Spiritous Liquor

Good morning, Sen. Hickman, Rep. Supica and members of the VLA committee. I am Cheryl Timberlake, a resident of Mt. Vernon. I serve as the Executive Vice President of the Maine Beverage Distributors Association (MBDA).

As family-owned businesses who have been in operation since Prohibition, MBDA remains committed to championing a smartly regulated alcohol distribution system where suppliers, wholesalers, and retailers maintain their distinct roles and independence.

This three-tier system ensures that alcohol sold in the U.S. undergoes rigorous checks at every stage of the supply chain. Producers must comply with strict manufacturing standards, distributors verify product integrity, and retailers are restricted to selling regulated products sourced through licensed channels. This structure effectively eliminates the possibility of tainted or counterfeit alcohol reaching consumers, protections many other nations lack.

The U.S. system of manufacturing, distribution and sales of alcohol has worked so well that we often take it for granted. In the U.S it is rare to hear about counterfeit alcohol, but in countries without a similar regulatory system, deaths and severe illnesses related to counterfeit or adulterated alcohol are much more common.

We oppose LD 631. Home distilling of spirits does not fit into the regulatory system. The Alcohol and Tobacco and Trade Bureau (TTB) provision on Home Distilling is attached; it states:

“While individuals of legal drinking age may produce wine or beer at home for personal or family use, Federal law strictly prohibits individuals from producing distilled spirits at home (see 26 United States Code (U.S.C.) 5042(a)(2) and 5053(e)). Producing distilled spirits at any place other than a TTB-qualified distilled spirits plant can expose you to Federal charges for serious offenses and lead to consequences ...”

Maine law requires alcohol manufacturers to be licensed and comply with federal law. The provision for distilleries is attached and referenced here:

§1355-A. Manufacturer licenses

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

5. 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

In addition to the federal and state oversight for spirits manufacturing, MBDA is concerned that under section 2 of the bill, **Personal use allowed**- the “home distillery” may produce distilled spirits for personal consumption, serve the product to guests (assuming adults of LDA) or **shipping** the product to family members and **friends**.

The law on alcohol transportation is narrowly defined. It references “delivery” which refers to instate modes of transportation by a licensee using their own vehicles and employees. Shipping in this bill is not defined and goes beyond the current permitted framework for alcohol.

Alcohol, as an intoxicant, is sold differently than other products; it requires a licensed system with safeguards to ensure age-appropriate sales and local controls. Home distilling does not satisfy these parameters.

Thank you for your consideration of our comments. I would be happy to answer any questions now or during the work session.



Home Distilling

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While individuals of legal drinking age may produce wine or beer at home for personal or family use, Federal law strictly prohibits individuals from producing distilled spirits at home (see 26 United States Code (U.S.C.) 5042(a)(2) and 5053(e)). Producing distilled spirits at any place other than a TTB-qualified distilled spirits plant can expose you to Federal charges for serious offenses and lead to consequences including, but not necessarily limited to, the following:

1. Within title 26 of the United States Code, section 5601 sets out criminal penalties for activities including the following. Offenses under this section are felonies that are punishable by up to 5 years in prison, a fine of up to \$10,000, or both, for each offense.
 - 5601(a)(1) – Possession of an unregistered still.
 - 5601(a)(2) – Engaging in business as a distiller without filing an application and receiving notice of registration.
 - 5601(a)(6) – Distilling on a prohibited premises. (Under 26 U.S.C. 5178(a)(1)(B), a distilled spirits plant may not be located in a residence or in sheds, yards, or enclosures connected to a residence.)
 - 5601(a)(7) – Unlawful production or use of material fit for production of distilled spirits.
 - 5601(a)(8) – Unlawful production of distilled spirits.
 - 5601(a)(11) – Purchase, receipt, and/or processing of distilled spirits when the person who does so knows or has reasonable grounds to believe that Federal excise tax has not been paid on the spirits.
 - 5601(a)(12) – Removal or concealment of distilled spirits on which tax has not been paid.

Under 26 U.S.C. 5602, engaging in business as a distiller with intent to defraud the United States of tax is a felony punishable by up to 5 years in prison, a fine of up to \$10,000, or both. Under 26 U.S.C. 5604(a)(1), transporting, possessing, buying, selling, or transferring any distilled spirit unless the container bears the closure required by 26 U.S.C. 5301(d) (i.e., a closure that must be broken in order to open the container) is a felony punishable by up to 5 years in prison, a fine of up to \$10,000, or both, for each offense. Under 26 U.S.C. 5613, all distilled spirits not closed, marked, and branded as required by law and the TTB regulations shall be forfeited to the United States. In addition, 26 U.S.C. 5615(1) provides that unregistered stills and/or distilling apparatus also will be forfeited. Under 26 U.S.C. 5615(3), whenever any person carries on the business of a distiller without having given the required bond or with the intent to defraud the United States of tax on distilled spirits, the personal property of that person located in the distillery, and that person's interest in the tract of land on which the still is located, shall be forfeited to the United States. Under 26 U.S.C. 5686, possessing liquor or property intended to be used in violation of the law is a misdemeanor punishable by up to 1 year in prison, a fine of up to \$5,000, or both. Such liquor and property is also subject to the seizure and forfeiture provisions in 26 U.S.C. 5688. Under 26 U.S.C. 7201, any person who willfully attempts to evade or defeat any Internal Revenue Code tax (including the tax on distilled spirits) has committed a felony and shall be fined up to \$100,000, imprisoned for up to 5 years, or both, plus the cost of prosecution. Under 26 U.S.C. 7301, any property subject to tax, or raw materials and/or equipment for the production of such property, in the possession of any person for the purpose of being sold or removed in violation of the internal revenue laws may be seized and shall be forfeited to the United States. In addition, any property (including aircraft, vehicles, and vessels) used to transport or used as a container for such property or materials may be seized and shall be forfeited to the United States. Further, 26 U.S.C. 7302 adds that it is unlawful to possess any property intended for use, or which has been used, in violation of the internal revenue laws; no property rights shall exist in any such property.

Last updated: March 7, 2024

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Title 28-A: LIQUORS
Part 3: LICENSES FOR SALE OF LIQUOR
Subpart 3: NON-RETAIL SALES
Chapter 51: CERTIFICATE OF APPROVAL HOLDERS
Subchapter 2: MANUFACTURERS

§1355-A. Manufacturer licenses

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. [PL 2011, c. 629, §22 (NEW).]

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

(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 a \$100 license fee per location, 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. [PL 2021, c. 658, §226 (AMD).]

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. [PL 2011, c. 629, §22 (NEW).]

D. Except as otherwise provided in this section, 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. [PL 2021, c. 658, §226 (AMD).]

E. [PL 2021, c. 658, §226 (RP).]

F. [PL 2021, c. 658, §226 (RP).]

F-1. A distillery or small distillery may sell to the public for on-premises consumption cocktails containing samples of spirits produced by the distillery or small distillery under the conditions specified in this paragraph.

(1) A cocktail may be sold only at the manufacturing facility where the spirits are produced or at an additional location licensed under paragraph B, subparagraph (3).

(2) The distillery or small distillery may include wine or spirits not manufactured by the distillery or small distillery as an ingredient in the cocktail only if the distillery or small distillery purchased the wine or spirits from an agency liquor store licensed as a reselling agent.

(3) A cocktail may not contain more than 4 1/2 ounces of spirits.

G. Notwithstanding paragraph D, a holder of a small distillery license that sells its products directly to consumers for off-premises consumption under paragraph B, subparagraph (3), subsection 2, paragraph D or subsection 2, paragraph I, subparagraph (4-A) may pay the bureau the difference between the distillery's price charged to the bureau and the discounted retail price charged by the bureau under section 606, subsection 4-B. A small distillery is not required to transport spirits that will be sold for off-premises consumption as described in this paragraph to a warehouse operated by the bureau or by a wholesale spirits provider. A holder of a small distillery license shall record the quantity of spirits sold for off-premises consumption that were not transported to a warehouse as described in this paragraph and submit monthly reports of this information, along with the full amount of state liquor tax due as prescribed by chapter 65, to the bureau in a manner prescribed by the bureau. [PL 2021, c. 658, §226 (AMD).]

H. Notwithstanding paragraph D, a holder of a small distillery license that sells its products or offers complimentary samples of its products directly to consumers for on-premises consumption under paragraph F-1 or under subsection 2, paragraph B or I may pay the bureau the difference between the distillery's price charged to the bureau and the discounted retail price charged by the bureau under section 606, subsection 4-B. A small distillery is not required to transport spirits that will be sold for on-premises consumption as described in this paragraph to a warehouse operated by the bureau or by the wholesale spirits provider. A holder of a small distillery license shall record the quantity of spirits sold for on-premises consumption that were not transported to a warehouse as described in this paragraph and submit monthly reports of this information, along with the full amount of state liquor tax due as prescribed by chapter 65, to the bureau in a manner prescribed by the bureau. [PL 2021, c. 658, §226 (AMD).]

I. [PL 2021, c. 658, §226 (RP).]

J. A holder of a distillery or small distillery license may produce low-alcohol spirits products.

(1) If a small distillery license holder produces low-alcohol spirits products pursuant to this paragraph, the combined total of spirits and low-alcohol spirits products produced at the small distillery may not exceed 50,000 gallons per year. [PL 2021, c. 658, §226 (NEW).]

REVISOR'S NOTE: (Paragraph J as enacted by PL 2021, c. 742, §1 is REALLOCATED TO TITLE 28-A, SECTION 1355-A, SUBSECTION 5, PARAGRAPH K)

K. (REALLOCATED FROM T. 28-A, §1355-A, sub-§5, ¶J) A rectifier and a holder of a distillery or small distillery license shall comply with all applicable requirements of Title 38, section 1615. [PL 2023, c. 405, Pt. A, §104 (AMD).]