

Maine Revised Statutes
Title 28-A: LIQUORS

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Title 28-A: LIQUORS
Part 1: GENERAL PROVISIONS
Chapter 1: GENERAL PROVISIONS

§1. COMPLIANCE REQUIRED; PENALTY

Any person who purchases, imports, transports, manufactures, possesses or sells alcohol in violation of law commits a Class E crime. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY
1987, c. 45, §A4 (NEW).

§1-A. LICENSE REQUIRED

Unless specifically provided under this Title, a person may not engage in wholesale or retail sales of liquor without a license issued in accordance with this Title. [2013, c. 476, Pt. A, §1 (NEW).]

SECTION HISTORY
2013, c. 476, Pt. A, §1 (NEW).

§2. DEFINITIONS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 45, Pt. A, §4 (NEW).]

1. Agency liquor store. "Agency liquor store" means a person who is licensed by the bureau to sell spirits to be consumed off the premises.

[2005, c. 539, §1 (AMD) .]

2. Alcohol. "Alcohol" means the substance known as ethyl alcohol, hydrated oxide of ethyl or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, sugar, potatoes or other substances, and includes all dilutions and mixtures of these substances.

[1987, c. 45, Pt. A, §4 (NEW) .]

2-A. Alcohol bureau.

[2013, c. 368, Pt. V, §5 (RP) .]

3. Bottle club. "Bottle club" means a person operating on a regular, profit or nonprofit basis a facility for social activities in which members or guests provide their own liquor, where no liquor is sold on the bottle club premises, which maintains suitable facilities for the use of members on a regular basis or charges an admission fee to members or the general public and where members, guests or others are regularly permitted to consume liquor. As used in this definition, "regularly" includes daily, weekly or monthly, but does not include once a year or less often. A bottle club is not a public place, as defined in Title 17, section 2003-A.

A. "Bottle club premises" includes all parts of contiguous real estate occupied by the bottle club over which the bottle club owner has direct or indirect control or interest and which the bottle club owner uses in the operation of the bottle club. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Bottler. "Bottler" means a person who packages spirits, wine or beer for sale in containers, and is not engaged in distilling, brewing, fermenting or rectifying liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Brewer. "Brewer" means a person who produces malt liquor by fermentation of malt, wholly or partially, or from any substitute for malt.

[1987, c. 45, Pt. A, §4 (NEW) .]

6. Bureau. "Bureau" means the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations.

[2013, c. 368, Pt. V, §6 (AMD) .]

6-A. B.Y.O.B. function. "B.Y.O.B. function" means an event held by a B.Y.O.B. sponsor where:

- A. The general public is invited; [1993, c. 266, §1 (NEW).]
- B. Admission is or is not charged; [1993, c. 266, §1 (NEW).]
- C. A person brings liquor for personal consumption; [1993, c. 266, §1 (NEW).]
- D. No liquor is sold; and [1993, c. 266, §1 (NEW).]
- E. Entertainment is provided. [1993, c. 266, §1 (NEW).]

[1993, c. 266, §1 (NEW) .]

6-B. B.Y.O.B sponsor. "B.Y.O.B sponsor" means a person who conducts or holds a B.Y.O.B. function and is not required to register as a bottle club pursuant to section 161.

[1993, c. 266, §1 (NEW) .]

7. Catering. "Catering" means service of liquor with or without food by a person to groups at a prearranged function.

A. "Off-premise catering" means service of liquor with or without food by a licensee to groups at prearranged functions located at a place other than the licensee's premises. [1987, c. 45, Pt. A, §4 (NEW).]

B. "On-premise catering" means service of liquor with or without food by a licensed club having the catering privilege to groups of nonmembers at prearranged functions. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

8. Certificate of approval holder. "Certificate of approval holder" means an in-state manufacturer, out-of-state manufacturer or out-of-state wholesaler licensed by the bureau.

[1997, c. 373, §11 (AMD) .]

8-A. Chief.

[2003, c. 451, Pt. T, §8 (RP) .]

8-B. Commission. "Commission" means the State Liquor and Lottery Commission established in Title 5, section 12004-G, subsection 14.

[1997, c. 373, §13 (NEW) .]

9. Commission.

[1993, c. 730, §6 (RP) .]

9-A. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

[2013, c. 368, Pt. V, §7 (AMD) .]

10. Corporation. "Corporation" means a corporation organized and incorporated under the laws of the State or authorized to transact business within the State.

[1987, c. 45, Pt. A, §4 (NEW) .]

10-A. Director.

[1993, c. 730, §7 (RP) .]

11. Distiller. "Distiller" means a person who produces spirits by the process of distillation.

[1987, c. 45, Pt. A, §4 (NEW) .]

11-A. Farm winery.

[2011, c. 629, §1 (RP) .]

11-B. Fortified wine. "Fortified wine" means:

A. Any liquor containing more than 15.5% alcohol by volume that is produced by the fermentation of fruit or other agricultural products containing sugar; and [1999, c. 535, §1 (NEW).]

B. Wine to which spirits have been added as long as the resulting liquor does not exceed 24% alcohol by volume. [1999, c. 535, §1 (NEW).]

[1999, c. 535, §1 (NEW) .]

11-C. Electronic funds transfer. "Electronic funds transfer" means the use of an electronic device for the purpose of ordering, instructing or authorizing a financial institution or credit union to debit or credit an account.

[2013, c. 476, Pt. A, §2 (AMD) .]

12. Fortified wine.

[1993, c. 462, §1 (RP) .]

12-A. (TEXT EFFECTIVE UNTIL 1/1/17) Hard cider. "Hard cider" means liquor produced by fermentation of the juice of apples, including, but not limited to, flavored, sparkling or carbonated cider, that contains not less than 1/2 of 1% alcohol by volume and not more than 7% alcohol by volume.

[2009, c. 652, Pt. A, §41 (AMD) .]

12-A. (TEXT EFFECTIVE 1/1/17) Hard cider. "Hard cider" means liquor produced by fermentation of the juice of apples or pears, including, but not limited to, flavored, sparkling or carbonated cider, that contains not less than 1/2 of 1% alcohol by volume and not more than 8.5% alcohol by volume.

[2015, c. 441, §1 (AMD); 2015, c. 441, §2 (AFF) .]

13. Imitation liquor. "Imitation liquor" means any product containing less than 1/2 of 1% alcohol by volume which seeks to imitate by appearance, taste and smell liquor or which is designed to carry the impression to the purchaser that the beverage has an alcohol content. "Imitation liquor" includes, but is not limited to, products bearing the brand names "Near Beer," "Brew" or "Champagne-0."

[1987, c. 45, Pt. A, §4 (NEW) .]

13-A. Law enforcement officer. "Law enforcement officer" means any person who by virtue of public employment is vested by law with a duty to maintain public order, to prosecute offenders, to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes, or to perform probation functions or who is an adult probation supervisor as defined in Title 17-A, section 2, subsection 3-C.

[2013, c. 133, §23 (AMD) .]

14. Licensee. "Licensee" means a person licensed by the bureau. "Licensee" includes, but is not limited to, agency liquor stores and certificate of approval holders.

[2013, c. 368, Pt. V, §9 (AMD) .]

15. Licensed establishment. "Licensed establishment" means premises to which a license for the sale of spirits, wine or malt liquor to be consumed on or off the licensed premises applies, and any person or organization which is licensed to sell spirits, wine or malt liquor in the times, places and manners as specified in the license. The following may be licensed establishments.

A. "Airline" means any person operating regularly scheduled intrastate or interstate passenger air transportation. [1987, c. 45, Pt. A, §4 (NEW) .]

B. "Auditorium" means any commercially operated facility designed or used for the gathering of an audience for speeches and live performances of theater, music, dance or other performing arts, which charges a fee and which has adequate facilities for the sale and consumption of liquor. [1989, c. 158, §1 (REEN) .]

B-1. "Bowling center" means an indoor facility operating at least 8 regulation lanes for the purpose of conducting the game of bowling which is open to the general public and which has suitable facilities for the sale and consumption of liquor. [1989, c. 244, §1 (NEW) .]

B-2. Bed and breakfast. "Bed and breakfast" means a place that advertises itself as a bed and breakfast where the public for a fee may obtain overnight accommodations that include a sleeping room or rooms and at least one meal per day. [1993, c. 730, §9 (NEW) .]

C. "Civic auditorium" means a municipal, county or state or a quasi-municipal, quasi-county or quasi-state owned or operated auditorium or civic center. [1987, c. 45, Pt. A, §4 (NEW) .]

D. "Club" means any reputable group of individuals incorporated and operating in a bona fide manner solely for purposes of recreational, social, patriotic or fraternal nature and not for pecuniary gain.

(1) "Club member" means a person who, whether as a charter member or admitted in accordance with the bylaws of the club, has become a bona fide member of that club and who maintains membership in good standing by payment of dues in a bona fide manner in accordance with bylaws and whose name and address is entered on the list of members. No person who does not have full club privileges may be considered a bona fide member. [1987, c. 45, Pt. A, §4 (NEW).]

D-1. "Curling club" means any facility offering curling facilities to the public for a fee that has adequate facilities for the sale and consumption of liquor. [1995, c. 558, §1 (NEW).]

E. "Dining car" and "passenger car" mean cars in which food and liquor are served. [1987, c. 342, §3 (RPR).]

F. [1987, c. 342, §4 (RP).]

G. "Golf club" means any commercially operated facility, whether publicly or privately owned, offering golfing facilities to the general public for a fee, which includes a regulation size golf course of not less than 9 holes and an average total of not less than 1,200 yards per 9 holes, which has a value of not less than \$100,000, which offers food for sale to the public and which has adequate facilities for the sale and consumption of liquor. [1987, c. 45, Pt. A, §4 (NEW).]

H. "Hotel" means any reputable place operated by responsible persons of good reputation, where the public obtains sleeping accommodations for a consideration and where meals may be served, whether or not under one roof.

(1) A hotel is considered to be serving meals when it provides on the premises one or more public dining rooms, open and serving food during the morning, afternoon and evening, and a separate kitchen in which food is regularly prepared for the public.

(2) Nothing in this paragraph may be held to prevent the bureau from issuing part-time licenses to bona fide part-time hotels.

(3) "Hotel guest" means a person whose name and address is registered on the registry maintained by the hotel and who is the bona fide occupant of a room of the hotel. A person registering solely for the purpose of obtaining liquor is not considered a hotel guest. [2005, c. 539, §2 (AMD).]

I. "Incorporated civic organization" means any organization incorporated as a corporation without stock under Title 13, chapter 81 or Title 13-B with a civic or charitable purpose, including but not limited to relief of poverty, advancement of education and the arts, promotion of social health, safety and welfare, fostering community and economic development, protection against animal cruelty, combating community deterioration, lessening the burdens of government and providing assistance to the underprivileged and distressed. [2015, c. 214, §1 (AMD).]

J. "Indoor ice skating club" means any commercially operated indoor facility offering ice skating facilities to the general public, which charges a fee and which has adequate facilities for the sale and consumption of liquor. [1987, c. 45, Pt. A, §4 (NEW).]

K. "Indoor racquet club" means any commercially operated indoor facility with 4 or more courts or areas designed or used for the playing of any racquet sport, which is open to the general public, which charges a fee and which has adequate facilities for the sale and consumption of liquor. Racquet sports include tennis, squash, handball, paddleball and badminton. [1987, c. 45, Pt. A, §4 (NEW).]

K-1. "International air terminal" means an airport served by one or more bona fide international air carriers. [1987, c. 342, §6 (NEW).]

L. "Class A lounge" means a reputable place operated by responsible persons of good reputation, where food and liquor are sold at tables, booths and counters. [1987, c. 45, Pt. A, §4 (NEW).]

M. "Outdoor stadium" means any commercially operated outdoor facility with 3,000 or more fixed seats designed or used for the playing of any sport or event that is open to the general public, charges a fee and has adequate facilities for the sale and consumption of wine and malt liquor. [2011, c. 629, §3 (AMD).]

N. "Performing arts center" means any charitable or nonprofit corporation incorporated as a corporation without capital stock under Title 13, chapter 81, and which has as its primary purpose the encouragement, promotion and presentation of the arts for the benefit of the general public. [1987, c. 45, Pt. A, §4 (NEW).]

O. "Public service corporation" means an airline, railroad or vessel corporation operating in the State. [1987, c. 45, Pt. A, §4 (NEW).]

P. "Qualified catering service" means a catering establishment as defined in Title 22, chapter 562, and licensed by the Department of Health and Human Services. [1987, c. 45, Pt. A, §4 (NEW); 2003, c. 689, Pt. B, §6 (REV).]

Q. "Restaurant" means a reputable place operated by responsible persons of good reputation, which is regularly used for the purpose of providing food for the public, and which has adequate and sanitary kitchen and dining room equipment and capacity for preparing and serving suitable food for the public. [1987, c. 45, Pt. A, §4 (NEW).]

R. "Class A restaurant" means a reputable place operated by responsible persons of good reputation that is regularly used for the purpose of providing full course meals for the public on the premises, that is equipped with a separate and complete kitchen, and that maintains adequate dining room equipment and capacity for preparing and serving full course meals upon the premises. A Class A restaurant/lounge is not a Class A restaurant.

(1) A full course meal consists of a diversified selection of food that ordinarily cannot be consumed without the use of tableware and that cannot be conveniently consumed while standing or walking. [1993, c. 410, Pt. ZZ, §4 (AMD).]

R-1. "Class A restaurant/lounge" means a reputable place operated by responsible persons of good reputation that is regularly used for the purpose of providing full course meals for the public on the premises, that is equipped with a separate and complete kitchen, and that maintains adequate dining room equipment and capacity for preparing and serving full course meals upon the premises but that:

- (1) After 9 p.m., serves liquor and does not serve full course meals; or
- (2) Maintains a room or rooms, separate from the main restaurant space, in which full course meals are not regularly served and where liquor is sold at tables, booths and counters.

For purposes of this paragraph, the term "full course meals" means meals consisting of a diversified selection of food that ordinarily can not be consumed without the use of tableware and that can not be conveniently consumed while standing or walking. [1993, c. 410, Pt. ZZ, §5 (NEW).]

R-2. [2003, c. 493, §14 (AFF); 2003, c. 493, §7 (RP).]

R-3. [2003, c. 493, §14 (AFF); 2003, c. 493, §7 (RP).]

S. "Ship chandler" means a retail establishment supplying provisions, including malt liquor and wine, to ships of foreign registry. [1987, c. 45, Pt. A, §4 (NEW).]

T. [1987, c. 342, §7 (RP).]

T-1. "Tavern" means a reputable place operated by responsible persons where food may be sold and malt liquor may be sold at tables, booths and counters. [1987, c. 342, §8 (NEW).]

U. [1987, c. 342, §9 (RP).]

V. "Vessel" means any ship, vessel or boat of any kind used for navigation of the coastal water or for commercial navigation of inland waters and licensed for carrying not less than 25 passengers under the requirements of the Public Utilities Commission or the United States Coast Guard. [1997, c. 656, §1 (AMD).]

[2015, c. 214, §1 (AMD) .]

15-A. Liquor Licensing and Tax Division.

[2013, c. 368, Pt. V, §10 (RP) .]

16. Liquor. "Liquor" means spirits, wine, malt liquor or hard cider, or any substance containing liquor, intended for human consumption, that contains more than 1/2 of 1% of alcohol by volume.

[1997, c. 767, §2 (AMD) .]

16-A. Low-alcohol spirits product. "Low-alcohol spirits product" means a product containing spirits that has an alcohol content of 8% or less by volume.

[2011, c. 629, §4 (AMD) .]

17. Maine farm winery.

[1993, c. 730, §11 (RP) .]

18. Malt liquor. "Malt liquor" means liquor produced by the fermentation of malt, wholly or partially, or from any malt substitute, which contains 1/2 of 1% of alcohol or more by volume. "Malt liquor" includes, but is not limited to, ale, beer, porter and stout. "Malt liquor" includes beverages made with malt liquor, but to which no spirits are added.

[1987, c. 342, §10 (AMD) .]

19. Manufacturer. "Manufacturer" means a person who distills, rectifies, brews, ferments, bottles or otherwise produces liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

19-A. Minibar. "Minibar" means a self-contained, locking cabinet, refrigerated or unrefrigerated, designed for the storage, dispensation and sale of alcoholic beverages and related merchandise.

[2009, c. 458, §1 (NEW) .]

20. Minor. "Minor" means a person who has not reached the age of 21 years.

[1987, c. 45, Pt. A, §4 (NEW) .]

21. Municipal officers. "Municipal officers" means the mayor and aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of plantations.

[1987, c. 45, Pt. A, §4 (NEW) .]

22. Municipality. "Municipality" means a city, town or plantation.

[1987, c. 45, Pt. A, §4 (NEW) .]

23. Person. "Person" means an individual, partnership, corporation, firm, association or other legal entity.

[1987, c. 45, Pt. A, §4 (NEW) .]

23-A. Pool hall. "Pool hall" means a pool hall or billiard room that contains at least 6 regulation pool tables and generates at least 50% of its gross annual income from the sale of games of pool or the rental of pool tables.

[1999, c. 760, §1 (NEW) .]

24. Premises. "Premises" means all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest that the licensee uses in the operation of the licensed business and that have been approved by the bureau as proper places for the exercise of the license privilege.

A. "Premises" includes the place where an incorporated civic organization sells or serves spirits, wine and malt liquor under a license obtained under section 1071. [1987, c. 45, Pt. A, §4 (NEW) .]

B. "Premises" includes the place where a B.Y.O.B. sponsor holds or conducts a B.Y.O.B. function under a permit obtained under section 163. [1993, c. 266, §2 (NEW) .]

[1997, c. 373, §16 (AMD) .]

25. Rectifier. "Rectifier" means a person who produces spirits by combining spirits with other products.

[1987, c. 45, Pt. A, §4 (NEW) .]

25-A. Retail employee. "Retail employee" means any person employed by a retailer to sell liquor in a licensed establishment or agency liquor store. For the purposes of violations of this Title and rules of the bureau, a retail employee is deemed an agent of the retailer or agency liquor store that employs that employee.

[2013, c. 368, Pt. V, §11 (AMD) .]

26. Retail sale. "Retail sale" means any single sale of liquor of less than 20 gallons, or its metric equivalent, for consumption on or off the premises where sold and whether in the original package or as a mixed drink for immediate consumption.

[1987, c. 45, Pt. A, §4 (NEW) .]

27. Retailer. "Retailer" means any person licensed by the bureau to engage in the purchase and resale of liquor in the original container or by the drink, for consumption on or off the premises where sold. "Retailer" does not include wholesalers as defined in subsection 35.

A. "Off-premise retail licensee" means a person licensed to sell liquor in sealed bottles, containers or original packages to be consumed off the premises where sold. [1987, c. 342, §11 (AMD) .]

B. "On-premise retail licensee" means a person licensed to sell liquor to be consumed on the premises where sold. [1987, c. 45, Pt. A, §4 (NEW) .]

[1997, c. 373, §18 (AMD) .]

27-A. Reselling agent. "Reselling agent" means an agency liquor store with a federal and state license permitting the agency liquor store to sell spirits to a retail licensee licensed for on-premises consumption.

[2001, c. 711, §1 (NEW) .]

28. Sale or sell. "Sale" or "sell" means any transfer or delivery of liquor for a consideration.

[1987, c. 45, Pt. A, §4 (NEW) .]

29. Small brewery. "Small brewery" means a facility that is brewing, lagering and kegging, bottling or packaging its own malt liquor, not to exceed 50,000 gallons per year.

[1993, c. 730, §12 (AMD) .]

29-A. Small distillery. "Small distillery" means a distiller that produces distilled spirits in an amount that does not exceed 50,000 gallons per year.

[2005, c. 390, §1 (NEW) .]

29-B. Small winery. "Small winery" means a facility that is fermenting, aging and bottling its own wine, not to exceed 50,000 gallons per year.

[2011, c. 629, §5 (NEW) .]

30. Sparkling wine. "Sparkling wine" means carbonated wine.

[1987, c. 45, Pt. A, §4 (NEW) .]

31. Spirits. "Spirits" means any liquor produced by distillation or, if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind. "Spirits" does not include low-alcohol spirits products or fortified wine.

[1999, c. 535, §2 (AMD) .]

31-A. Spirits administration. "Spirits administration" or "administration" means the management of spirits activities involving the distribution and sale of spirits by the bureau or any person awarded a contract under section 90. "Spirits administration" includes, but is not limited to, financial and performance management; profitable and responsible growth management; management of contracts; management of agency liquor store matters and orders; personnel management; monitoring and reporting of spirits inventory; management of bailment records and billing; management of accounts receivable, accounts payable and tax collection and reporting; and sales and profit reporting. "Spirits administration" does not include warehousing and distribution of spirits by the bureau.

[2013, c. 269, Pt. A, §1 (NEW); 2013, c. 368, Pt. V, §61 (REV) .]

31-B. Spirits trade marketing. "Spirits trade marketing" or "trade marketing" means oversight and management by the bureau or any person awarded a contract under section 90. "Spirits trade marketing" includes, but is not limited to, agency liquor store category management, analysis and recommendations; agency liquor store shelf reset recommendations; agency liquor store displays, advertising, point-of-sale material and event marketing recommendations; development, production and distribution of sales, marketing and informational publications; consultation and coordination with suppliers and brokers on matters affecting their brands; and development, production and distribution of any social responsibility initiatives and compliance related to those initiatives.

[2013, c. 269, Pt. A, §1 (NEW); 2013, c. 368, Pt. V, §61 (REV) .]

32. State liquor store.

[2013, c. 368, Pt. V, §12 (RP) .]

32-A. Tenant brewer. "Tenant brewer" means a person who has submitted a brewer's notice to and received approval from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the brewer to engage in an alternating proprietorship as defined by federal regulation and is licensed by the bureau to produce malt liquor at a manufacturing facility of another brewer who is licensed by the bureau.

[2013, c. 345, §1 (NEW) .]

32-B. Tenant winery. "Tenant winery" means a person who has been issued an approved application for an alternating proprietorship from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the winery to engage in an alternating proprietorship as defined by federal regulation and is licensed by the bureau to produce wine or hard cider at a manufacturing facility of another winery who is licensed by the bureau.

[2015, c. 185, §1 (NEW) .]

33. Unincorporated place. "Unincorporated place" means a place which is not incorporated as a municipality.

[1987, c. 45, Pt. A, §4 (NEW) .]

34. Wholesale licensee. "Wholesale licensee" means a person licensed by the bureau as a wholesaler.

[1997, c. 373, §20 (AMD) .]

35. Wholesaler. "Wholesaler" means a person who engages in the purchase and resale of malt or brewed beverages or wines, or both, in sealed bottles, containers or original packages, as prepared for the market by the manufacturer at the place of manufacture, but not for consumption, except when taste testing, on the premises of that wholesaler.

[1987, c. 342, §12 (AMD) .]

36. Wine. "Wine" means any liquor containing not more than 24% alcohol by volume that is produced by the fermentation of fruit or other agricultural products containing sugar or wine to which spirits have been added not to exceed 24% by volume. "Wine" includes, but is not limited to, wine coolers, table wine, still wine, sparkling wine, champagne and fortified wine, provided that the alcohol content is not above 24% by volume.

[1993, c. 462, §5 (AMD) .]

37. Winery. "Winery" means a facility that ferments, ages and bottles wine and hard cider.

[1997, c. 767, §3 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§2-13 (AMD). 1989, c. 158, §1 (AMD). 1989, c. 244, §1 (AMD). 1989, c. 526, §§1,28 (AMD). 1991, c. 376, §46 (AMD). 1991, c. 528, §§V1,2 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§V1,2 (AMD). 1991, c. 780, §§Y122,123 (AMD). 1993, c. 266, §§1,2 (AMD). 1993, c. 410, §§ZZ1-5 (AMD). 1993, c. 462, §§1-5 (AMD). 1993, c. 730, §§4-12 (AMD). 1995, c. 558, §§1,2 (AMD). 1997, c. 373, §§10-20 (AMD). 1997, c. 656, §1 (AMD). 1997, c. 767, §§1-3 (AMD). 1999, c. 421, §3 (AMD). 1999, c. 535, §§1,2 (AMD). 1999, c. 760, §1 (AMD). 2001, c. 711, §1 (AMD). 2003, c. 451, §§T7,8 (AMD). 2003, c. 493, §7 (AMD). 2003, c. 493, §14 (AFF). 2003, c. 689, §B6 (REV). 2005,

c. 390, §1 (AMD). 2005, c. 539, §§1-3 (AMD). 2009, c. 142, §13 (AMD). 2009, c. 458, §1 (AMD). 2009, c. 652, Pt. A, §41 (AMD). 2011, c. 629, §§1-5 (AMD). 2013, c. 133, §23 (AMD). 2013, c. 269, Pt. A, §1 (AMD). 2013, c. 345, §1 (AMD). 2013, c. 368, Pt. V, §§5-12 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2013, c. 476, Pt. A, §2 (AMD). 2015, c. 185, §1 (AMD). 2015, c. 214, §1 (AMD). 2015, c. 441, §1 (AMD). 2015, c. 441, §2 (AFF).

§3. PAYMENTS BY CHECK

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1993, c. 730, §13 (RPR). 1997, c. 373, §§21,22 (AMD). 2013, c. 368, Pt. V, §13 (RP).

§3-A. PAYMENTS

(REPEALED)

SECTION HISTORY

2013, c. 368, Pt. V, §14 (NEW). 2013, c. 476, Pt. A, §3 (RP).

§3-B. PAYMENTS SUBMITTED TO THE BUREAU

1. Form of payment. The bureau may accept payment by check, credit card, debit card or electronic funds transfer from a licensee for:

A. Purchase of spirits and, until June 30, 2014, fortified wine; [2013, c. 476, Pt. A, §4 (NEW).]

B. Payment of license fees, application fees, permit fees, excise taxes and premiums; and [2013, c. 476, Pt. A, §4 (NEW).]

C. Payment of any other fees or taxes authorized by this Title. [2013, c. 476, Pt. A, §4 (NEW).]

[2013, c. 476, Pt. A, §4 (NEW).]

2. Timing of payment from agency liquor store. An agency liquor store, when approved by the bureau, may pay for spirits purchased from the bureau by mailing a check for payment to the bureau or an entity awarded a contract under section 90 when notified of the amount due or upon receiving a delivery of spirits. Payments remitted by check must be received or postmarked within 3 days of receipt of a delivery of spirits or notification of the amount due. Payments remitted using electronic funds transfer must be debited within 3 days of receipt of a delivery of spirits or notification of the amount due.

[2013, c. 476, Pt. A, §4 (NEW).]

3. Payments returned for insufficient funds or not honored; suspension. If a payment made to the bureau is returned for insufficient funds or is not honored, the bureau shall immediately notify the licensee. If the bureau does not receive payment in full, in a manner prescribed by the bureau, by 5:00 p.m. on the 2nd business day after notifying the licensee, the bureau, notwithstanding chapter 33 and Title 5, chapter 375, subchapter 5, may immediately suspend the licensee's license. The director of the bureau or the director's designee shall notify the licensee of the suspension and shall demand that the licensee provide proof of payment within 30 days of the date of suspension. If the licensee fails to show proof that the payment returned for insufficient funds or not honored was subsequently paid in full, the suspension remains in effect until payment is made or until the license is subject to renewal as provided in section 458. A licensee aggrieved

by a decision of the director or the director's designee may request in writing and must be granted a hearing before the District Court, which shall consider the matter in the same manner as is provided in section 803. The bureau may require a licensee whose payment is returned for insufficient funds or not honored to make all payments to the bureau by cash, certified check or money order only for a period not to exceed one year for each instance of payments returned for insufficient funds or not honored. For the purposes of this subsection, payments made to the bureau include payments to the entity contracted by the State under section 90.

[2013, c. 476, Pt. A, §4 (NEW) .]

SECTION HISTORY

2013, c. 476, Pt. A, §4 (NEW).

§4. BUSINESS DAYS AND HOURS

No liquor may be sold except as provided in this section. [1987, c. 45, Pt. A, §4 (NEW) .]

1. Hours for sale of liquor. Except as provided in paragraphs B and D, licensees may sell or deliver liquor from 5 a.m. on any day until 1 a.m. of the following day.

A. [2015, c. 74, §1 (RP) .]

B. Licensees may sell liquor on January 1st of any year from 12 midnight to 2 a.m.

(1) In areas in which liquor may be sold except on Sundays, if January 1st falls on a Monday, licensees may sell or deliver liquor between 9 p.m. Sunday, December 31st and 2 a.m. January 1st, notwithstanding any local option decisions to the contrary. [1987, c. 45, Pt. A, §4 (NEW) .]

C. [1993, c. 266, §3 (RP) .]

D. Wholesale licensees may sell or deliver liquor to licensed establishments from 4 a.m. on any day until 1 a.m. the following day. [2001, c. 21, §1 (NEW) .]

[2015, c. 74, §1 (AMD) .]

2. Consumption and possession of liquor. Except as provided in paragraphs A and B, licensees may not permit the consumption or possession of liquor on their premises after 1:15 a.m.

A. Licensees may permit the consumption of liquor on their premises until 2:15 a.m. on January 1st. [1987, c. 45, Pt. A, §4 (NEW) .]

B. This subsection does not apply to consumption or possession by bona fide hotel guests in their rooms. [1993, c. 730, §14 (AMD) .]

[1993, c. 730, §14 (AMD) .]

3. Regulation of bottle clubs. Except as provided in paragraph A, municipalities may regulate the hours of operation of bottle clubs between the hours of 1 a.m. and 6 a.m.

A. Municipalities may regulate the hours of operation of bottle clubs between the hours of 2 a.m. and 6 a.m. on January 1st. [1987, c. 45, Pt. A, §4 (NEW) .]

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Local option decisions govern. Except as provided in subsection 1, paragraph B and section 353, nothing in this section may be construed to allow the sale of liquor in municipalities in violation of chapter 5.

[1991, c. 528, Pt. PP, §1 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. PP, §1 (AMD) .]

5. Illegal sales and purchases on Sunday.

[2015, c. 74, §2 (RP) .]

6. Penalty.

[2015, c. 74, §2 (RP) .]

7. License or right to sell on Sunday suspended or revoked.

[1987, c. 342, §14 (RP) .]

8. License suspended during appeal of conviction.

[1987, c. 342, §14 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §14 (AMD). 1991, c. 528, §PP1 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §PP1 (AMD). 1993, c. 266, §3 (AMD). 1993, c. 730, §14 (AMD). 1995, c. 46, §1 (AMD). 1995, c. 159, §1 (AMD). 2001, c. 21, §1 (AMD). 2013, c. 2, §1 (AMD). 2013, c. 240, §1 (AMD). 2013, c. 476, Pt. A, §5 (AMD). 2015, c. 74, §§1, 2 (AMD).

§5. PREVAILING TIME

The hours referred to in this Title are the legal time prevailing in the State on the day of the sale or other activity. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§6. FORM OF ADVERTISING RESTRICTED

1. Advertising form subject to bureau authorization. No person may advertise liquor within the State, except in the form specifically authorized by the bureau. Radio, television, billboards, signs, newspapers, magazines and periodicals may carry advertising subject to the rules of the bureau.

[1997, c. 373, §23 (AMD) .]

2. Bureau may adopt rules governing advertising brand names in local option areas. The bureau may adopt rules restricting the advertising of any type of liquor by brand names during the period when such sales are prohibited in any municipality that has voted in any particular local option election against the sale of all types of liquor.

[1997, c. 373, §23 (AMD) .]

3. Use of picture or representation of State House prohibited. No person may use or display a picture or other form of representation of the State House for the advertising of liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §23 (AMD).

§7. ACTION NOT MAINTAINABLE UPON PROMISE TO PAY FOR LIQUOR

1. No action maintainable for promises to pay for liquor. Except as provided in paragraph A, no action may be maintained upon any claim or demand, promissory note or other security contracted or given for liquor sold in violation of any of the provisions of this Title, or for any liquor purchased out of the State with intent to sell all or any part in violation of this Title.

A. This section does not apply to negotiable paper in the hands of a holder for a valuable consideration and without notice of the illegality of the contract. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§8. ENTRANCES FROM PREMISES

The bureau may grant written permission to a licensee to maintain entrances, doorways or other apertures leading directly from the licensed premises. [1997, c. 373, §24 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §24 (AMD).

§9. SEPARATION OF AREAS

The bureau shall establish rules for the separation of areas where the license privilege may be exercised from areas where it may not be exercised, but complete nonaccess between the areas controlled by the licensee need not be required. [1997, c. 373, §24 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §24 (AMD).

§10. CLASS A RESTAURANT AND OFF-PREMISE RETAIL LICENSEE ON SAME PREMISES

1. Class A restaurant or restaurant and off-premise retail licensee on same premises not prohibited. If a portion of premises is licensed as an off-premise retail licensee, no provision within this Title may be construed to prohibit issuance of a Class III or Class IV license to the same licensee for a restaurant or Class A restaurant for the remaining portion of the premises, as long as necessary qualifications are maintained for each separately licensed area.

[2013, c. 344, §1 (AMD) .]

2. Access between the 2 licensed areas. There may be access between the 2 licensed areas for the licensee or the licensee's employees if it is through areas open only to the licensee or the employees. There must be complete nonaccess between the 2 licensed areas by the public.

[2013, c. 344, §1 (AMD) .]

2-A. Access exception.

[2013, c. 344, §1 (NEW); T. 28-A, §10, sub-§2-A (RP) .]

2-B. Access exception. Notwithstanding subsection 2, there may be access between the 2 licensed areas by the public as provided by this subsection.

A. There may be access between the 2 licensed areas when there is a clear delineation of space, by a wall or permanent barrier that separates the 2 licensed areas and allows only one clearly defined and controlled point of access for patrons between the licensed establishments. The controlled point of access is not required to include a door that must be physically opened and closed. [2015, c. 494, Pt. D, §9 (NEW) .]

B. When access between the 2 licensed areas exists for patrons of either establishment, all malt liquor and wine sold for on-premises consumption must be served by an employee of the licensed establishment and may be served only when accompanying a full meal prepared in a separate and complete kitchen on the premises. For the purposes of this paragraph, "full meal" means a diversified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking. [2015, c. 494, Pt. D, §9 (NEW) .]

C. Malt liquor or wine sold or served on the premises may not be transported by a patron or employee of either establishment from one licensed area to another. The licensee shall ensure that easily readable signs are conspicuously posted to inform the public that transfer of alcoholic beverages from one licensed area to another is strictly prohibited. [2015, c. 494, Pt. D, §9 (NEW) .]

[2015, c. 494, Pt. D, §9 (NEW) .]

3. Licensee to maintain separate records, supplies and inventory. The licensee shall maintain records within each separate licensed establishment in accordance with the appropriate license privilege authorized for each separate area. The licensee shall maintain supplies and inventory separately in accordance with the appropriate license privilege either in each separate licensed establishment or, with prior approval of the bureau, in one storage area on the premises with appropriate separation of the supplies and inventory.

[2013, c. 344, §1 (AMD) .]

4. Application. This section does not apply to a dual license holder licensed under section 1208.

[2013, c. 344, §1 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2009, c. 438, §1 (AMD). 2013, c. 344, §1 (AMD). 2015, c. 162, §1 (AMD). 2015, c. 494, Pt. D, §9 (AMD).

§11. RETAILER ON SAME PREMISES AS OTHER BUSINESSES

1. Connection with other licensed premises. Notwithstanding any other law or rule of the bureau, any retailer's licensed premise may be connected with any other retailer's licensed premise by a doorway or other apertures that are not securely and permanently sealed.

[1997, c. 373, §25 (AMD) .]

2. Violation of public drinking law. Any persons taking a drink of liquor to another, offering a drink of liquor to another or consuming liquor within the licensed premises of an off-premise retail licensee under the common roof shall be considered in violation of Title 17, section 2003-A and shall be punished accordingly.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Premises operated by licensee identified. An applicant for a license shall fully describe in the application the part of the premises that the applicant owns, leases or rents. The bureau may require the licensee to identify on the premises by an appropriate marking the area that the licensee owns, rents or leases.

[1997, c. 373, §25 (AMD) .]

4. Inspection of business premises under common roof of licensee. All persons carrying on any business, except a financial institution or credit union, under the common roof and having common entranceways with a licensee shall agree in writing to allow reasonable inspection of their premises by authorized enforcement agents of the Department of Administrative and Financial Services and authorized representatives of the bureau.

[2013, c. 476, Pt. A, §6 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §25 (AMD). 2013, c. 368, Pt. V, §15 (AMD). 2013, c. 476, Pt. A, §6 (AMD).

§12. INSPECTION OF PREMISES

No licensee may refuse representatives of the bureau the right at any time to inspect the entire licensed premises or to audit the books and records of the licensee. [1997, c. 373, §26 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §26 (AMD).

§13. LOW-ALCOHOL SPIRITS PRODUCT SOLD BY WINE LICENSEES

Notwithstanding any provision of this Title, a person licensed to sell wine for consumption on or off the premises may also sell low-alcohol spirits products. All provisions of this Title applicable to wine, except chapters 65 and 67, apply to low-alcohol spirits products when sold by persons licensed to sell wine for consumption on or off the premises. [1991, c. 528, Pt. RRR, (AFF); 1991, c. 528, Pt. VV, §3 (NEW); 1991, c. 591, Pt. VV, §3 (NEW).]

SECTION HISTORY

1991, c. 528, §VV3 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §VV3 (NEW).

§14. HARD CIDER SOLD BY MALT LIQUOR LICENSEES

Notwithstanding any other provision of this Title, a person licensed to sell malt liquor for consumption on or off premises may also sell hard cider. All provisions of this Title applicable to malt liquor apply to hard cider when hard cider is sold by persons licensed to sell malt liquor for consumption on or off premises. [2003, c. 68, §1 (NEW).]

SECTION HISTORY

2003, c. 68, §1 (NEW).

§15. DISPLAY OF SIGNS

A licensee under chapter 19 or 45 shall post a sign provided by the commissioner in a conspicuous location at the licensed premises informing customers of the provisions of sections 2051 and 2081. A person who violates this section commits a civil violation for which a fine of not less than \$50 nor more than \$200 may be adjudged for any one offense. [2005, c. 437, §1 (NEW).]

SECTION HISTORY

2005, c. 437, §1 (NEW).

Chapter 3: ADMINISTRATION AND ORGANIZATION

Subchapter 1: GENERAL PROVISIONS

§51. ADMINISTRATION; ENFORCEMENT

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 503, §B117 (AMD). 1997, c. 373, §27 (RP).

§52. ELIGIBILITY OF MEMBERS AND EMPLOYEES

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §27 (RP).

§53. CONFLICT OF INTEREST

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §27 (RP).

Subchapter 2: THE STATE LIQUOR COMMISSION

§61. STATE LIQUOR COMMISSION

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 623, §4 (AMD). 1991, c. 376, §47 (AMD). 1997, c. 373, §27 (RP). 1997, c. 424, §B3 (AMD). 2007, c. 466, Pt. A, §46 (RP).

§62. POWERS OF THE STATE LIQUOR COMMISSION

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §15 (AMD). 1987, c. 769, §A112 (AMD). 1993, c. 730, §§15-20 (AMD). 1997, c. 373, §27 (RP).

§62-A. DUTIES OF THE BUREAU OF LIQUOR ENFORCEMENT*(REPEALED)*

SECTION HISTORY

1993, c. 730, §21 (NEW). 1995, c. 140, §2 (AMD). 1997, c. 373, §27 (RP).

§63. DUTIES OF THE STATE LIQUOR COMMISSION*(REPEALED)*

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §16 (AMD). 1991, c. 780, §Y124 (AMD). 1997, c. 373, §27 (RP).

§64. INVENTORY AND WORKING CAPITAL*(REPEALED)*

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 9, §FF (AMD). 1991, c. 780, §Y125 (AMD). 1993, c. 6, §B3 (AMD). 1993, c. 615, §1 (AMD). 1995, c. 560, §S1 (AMD). 1997, c. 373, §27 (RP).

Subchapter 3: BUREAU OF ALCOHOLIC BEVERAGES**§71. DIRECTOR OF THE BUREAU OF ALCOHOLIC BEVERAGES;
APPOINTMENT***(REPEALED)*

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 780, §Y126 (RP).

**§72. DIRECTOR OF THE BUREAU OF ALCOHOLIC BEVERAGES; POWERS
AND DUTIES***(REPEALED)*

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 376, §48 (RP).

§72-A. DIRECTOR; DUTIES*(REPEALED)*

SECTION HISTORY

RR 1991, c. 1, §36 (COR). 1991, c. 376, §49 (NEW). 1991, c. 780, §§Y127,128 (AMD). 1993, c. 730, §22 (AMD). 1997, c. 373, §27 (RP).

Chapter 3-A: ADMINISTRATION AND ORGANIZATION

§81. STATE LIQUOR AND LOTTERY COMMISSION

1. Oversight of Bureau of Alcoholic Beverages and Lottery Operations. The commission shall monitor the operation of the bureau in its administration of the laws relating to the sale of spirits.

[2013, c. 269, Pt. C, §1 (AMD); 2013, c. 269, Pt. C, §13 (AFF); 2013, c. 368, Pt. V, §61 (REV) .]

2. Advice. The commission shall advise the director of the bureau regarding the administration of the functions of the bureau. The commission may advise the Governor and the Legislature regarding issues relating to the operation of the bureau and the administration of the laws relating to the sale of spirits.

[2013, c. 269, Pt. C, §2 (AMD); 2013, c. 269, Pt. C, §13 (AFF); 2013, c. 368, Pt. V, §61 (REV) .]

3. Listing of items. The commission shall determine which items may be listed for sale in the State. Products listed must be made available by the supplier at a warehouse designated by the commission.

[1997, c. 373, §28 (NEW) .]

4. Notice to delist or stop purchases. Before any item listed by the commission is discontinued or delisted or before the commission issues any order to stop purchases of any item listed, the commission shall give the vendor of the items reasonable written notice of its intention to delist or stop purchase of the items.

[1997, c. 373, §28 (NEW) .]

SECTION HISTORY

1997, c. 373, §28 (NEW). 1999, c. 535, §3 (AMD). 2013, c. 269, Pt. C, §§1, 2 (AMD). 2013, c. 269, Pt. C, §13 (AFF). 2013, c. 368, Pt. V, §61 (REV).

§82. BUREAU OF LIQUOR ENFORCEMENT

(REPEALED)

SECTION HISTORY

1997, c. 373, §28 (NEW). 1997, c. 571, §1 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 451, §T9 (AMD). 2009, c. 213, Pt. X, §§1, 2 (AMD). 2013, c. 368, Pt. V, §16 (RP).

§82-A. ENFORCEMENT OF LICENSING

1. Authority. In addition to any authority a law enforcement officer has to enforce the laws, a law enforcement officer may, subject to subsections 2 and 4, enforce this Title or the rules adopted pursuant to this Title against violations that may result in an administrative sanction against a licensee or the licensee's agents or employees.

[2005, c. 139, §4 (NEW) .]

2. Commissioner. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may by agreement, with the consent and approval of the affected law enforcement agency, designate the law enforcement agency's officers to exercise the enforcement authority identified in subsection 1.

[2013, c. 368, Pt. V, §17 (AMD) .]

3. Contract officers. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may appoint contract officers for the purpose of enforcing this Title and the rules adopted pursuant to this Title against specific violations that may result in an administrative sanction against a licensee, or the licensee's agents or employees.

[2013, c. 368, Pt. V, §17 (AMD) .]

4. Limitation. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may limit the authority granted by this section to specific sections of this Title and rules adopted pursuant to those sections.

[2013, c. 368, Pt. V, §17 (AMD) .]

SECTION HISTORY

2005, c. 139, §4 (NEW). 2013, c. 368, Pt. V, §17 (AMD).

§83. BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS

(REPEALED)

SECTION HISTORY

1997, c. 373, §28 (NEW). 1999, c. 535, §4 (AMD). 2003, c. 20, §LLL1 (AMD). 2003, c. 20, §LLL4 (AFF). 2011, c. 693, §§1, 2 (AMD). 2013, c. 269, Pt. A, §2 (AMD). 2013, c. 269, Pt. C, §3 (AMD). 2013, c. 269, Pt. C, §13 (AFF). 2013, c. 368, Pt. V, §18 (RP). 2013, c. 476, Pt. A, §7 (RP).

§83-A. BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS

(REPEALED)

SECTION HISTORY

2013, c. 368, Pt. V, §19 (NEW). 2013, c. 476, Pt. A, §8 (RP).

§83-B. ENFORCEMENT AND LICENSING ACTIVITIES OF THE BUREAU

The bureau shall establish policies and rules and propose legislation concerning the administration and the enforcement of the laws under this Title and for the sale of liquor in this State. The bureau shall:
[2013, c. 476, Pt. A, §9 (NEW).]

1. Enforcement. Enforce the laws relating to the manufacture, importation, storage, transportation and sale of all liquor and administer those laws relating to licensing and the collection of taxes on liquor required to be remitted under this Title;

[2013, c. 476, Pt. A, §9 (NEW) .]

2. Licensing and licensing hearings. Issue and renew all licenses authorized by this Title and hold licensing hearings as required by this Title. The director of the bureau or the director's designee shall appoint a hearing officer who may conduct hearings in any licensing matter pending before the bureau. The hearing officer, after holding the hearing, shall render a final decision based upon the record of the hearing. Except as provided in section 805, the decision of the hearing officer is final.

The hearing officer may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any license question in dispute before the bureau or to any matter involved in a hearing. Witness fees in all proceedings are the same as for witnesses before the Superior Court and must be paid by the bureau, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur;

[2013, c. 476, Pt. A, §9 (NEW) .]

3. Recommend revocation of licenses. Recommend to the District Court that it suspend or revoke, in accordance with sections 802, 803 and 1503, any license issued pursuant to this Title or the rules adopted under this Title;

[2013, c. 476, Pt. A, §9 (NEW) .]

4. Prevent sale to minors and others. Prevent the sale of liquor by licensees to minors and intoxicated persons;

[2013, c. 476, Pt. A, §9 (NEW) .]

5. Appeals of municipal decisions. Review all appeals from the decisions of municipal officers. The director or the director's designee may appoint a hearing officer as provided in subsection 2 to conduct hearings;

[2013, c. 476, Pt. A, §9 (NEW) .]

6. Investigate and recommend changes. Carry out a continuous study and investigation of the sale of liquor throughout the State and the operation and administration of state activities relating to licensing and enforcement under this Title and recommend to the commissioner any changes in the laws or rules and methods of operation that are in the best interest of the State;

[2013, c. 476, Pt. A, §9 (NEW) .]

7. Rules. Adopt rules consistent with this Title or other laws of the State for the administration, licensing, clarification, execution and enforcement of all laws concerning liquor and to prevent violations of those laws. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. The rules adopted by the Department of Public Safety before July 1, 2013 are deemed adopted by the bureau;

[2013, c. 476, Pt. A, §9 (NEW) .]

8. Rules for food service organizations. Adopt rules permitting food service organizations to purchase malt liquor, wine and fortified wine from a wholesale licensee, notwithstanding section 1401, subsection 9. For the purposes of this subsection, "food service organization" means a business entity that provides catering services to passengers on international flights and cruises. The rules must provide that a food service organization is not required to have a license in order to purchase malt liquor, wine and fortified wine from a wholesale licensee for consumption by passengers on international flights and cruises after leaving port;

[2013, c. 476, Pt. A, §9 (NEW) .]

9. Publish laws and rules. Ensure that licensees have access to the provisions of this Title, other laws governing liquor and all rules adopted pursuant to this Title in accordance with this section.

A. The bureau shall provide notification to licensees that the provisions of this Title and rules adopted pursuant to this Title are available on the bureau's publicly accessible website and that the bureau will provide a paper copy of this Title or rules to a licensee at no charge, upon request from that licensee. [2013, c. 476, Pt. A, §9 (NEW).]

B. The bureau shall notify all licensees of changes to this Title and rules adopted within 90 days of adjournment of each regular session of the Legislature. [2013, c. 476, Pt. A, §9 (NEW).]

C. The bureau may charge a reasonable fee for paper copies of this Title, any new laws enacted in this Title or any newly adopted or existing rules to cover the cost of producing the paper copy to persons other than licensees. Nothing in this paragraph prevents the bureau, upon its own discretion, from providing paper copies for no fee. [2013, c. 476, Pt. A, §9 (NEW).]

D. The bureau shall keep that part of its publicly accessible website regarding this section updated with any new or updated laws or rules; [2013, c. 476, Pt. A, §9 (NEW).]

[2013, c. 476, Pt. A, §9 (NEW) .]

10. Deposit revenues. Deposit all net revenues derived from licensing and enforcement under this Title to the General Fund; and

[2013, c. 476, Pt. A, §9 (NEW) .]

11. Certification. Certify monthly to the Treasurer of State and the commissioner a complete statement of expenses and revenues collected in accordance with the licensing and enforcement functions of the bureau. The bureau shall submit an annual report that includes a complete statement of expenses and revenues collected in accordance with the licensing and enforcement functions of the bureau to the Governor and the joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters, together with recommendations for changes to this Title.

[2013, c. 476, Pt. A, §9 (NEW) .]

SECTION HISTORY

2013, c. 476, Pt. A, §9 (NEW).

§83-C. ADMINISTRATION OF THE SPIRITS BUSINESS BY THE BUREAU; RULES

The bureau shall establish policies and rules and propose legislation concerning the administration of the spirits business laws under this Title. The bureau shall: [2013, c. 476, Pt. A, §9 (NEW).]

1. Administration and trade marketing supervision. Manage the administration and trade marketing of spirits through agency liquor stores and consistent with one or more contracts awarded under section 90;

[2013, c. 476, Pt. A, §9 (NEW) .]

2. Price regulation. Establish the wholesale and retail prices of spirits sold in this State. The bureau shall adopt rules regarding the wholesale pricing of spirits and the retail pricing of spirits sold by agency liquor stores. An entity awarded a contract under section 90 is granted the privilege to distribute spirits under this Title and is immune from antitrust action so long as the entity is in compliance with the bureau's rules and all other applicable laws and regulations;

[2013, c. 476, Pt. A, §9 (NEW) .]

3. Purchase. Oversee the wholesale purchase and storage of spirits for sale in the State. If the bureau awards a contract under section 90, spirits delivered to and stored at a warehouse approved by the bureau are the property of the supplier. Spirits become the property of the bureau upon removal from the warehouse for shipment to an agency liquor store. Spirits delivered to an agency liquor store become the property of the licensee upon receipt of delivery. A person awarded a contract under section 90 at no time takes legal title to any spirits delivered to the warehouse. The bureau may buy and have in its possession spirits for sale to the public. The bureau shall buy spirits directly and not through the State Purchasing Agent. All spirits must be free from adulteration and misbranding;

[2013, c. 476, Pt. A, §9 (NEW) .]

4. Investigate and recommend changes. Carry out a continuous study and investigation of the sale of spirits throughout the State and the operation and administration of state activities regarding the sale of spirits and recommend to the commissioner any changes in the laws or rules and methods of operation that are in the best interest of the State;

[2013, c. 476, Pt. A, §9 (NEW) .]

5. Sales incentives to agents; rules. Consider federal regulations that govern sales incentives for alcoholic beverages and the effect of a sales incentive program on General Fund revenue and pending or existing contracts with any person awarded a contract under section 90. The bureau may adopt rules to provide for a sales incentive program for agency liquor stores. Rules adopted in accordance with this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A;

[2013, c. 476, Pt. A, §9 (NEW) .]

6. Rules. Adopt rules consistent with this Title or other laws of the State for the administration of all laws concerning the sale of spirits. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A;

[2013, c. 476, Pt. A, §9 (NEW) .]

7. Certification. Certify monthly to the Treasurer of State and the commissioner a complete statement of revenues from and expenses for the sale of spirits by the bureau and submit an annual report that includes a complete statement of the revenues and expenses of the bureau to the Governor and the joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters, together with recommendations for changes to this Title;

[2013, c. 476, Pt. A, §9 (NEW) .]

8. Establish performance standards for contracts. Establish performance standards for any contract awarded under this Title, subject to applicable laws relating to public contracts; and

[2013, c. 476, Pt. A, §9 (NEW) .]

9. Report on expenditures. Report annually on expenditures and investments made by the bureau, including, but not limited to, reductions in the list price at which spirits are sold and incentives offered to agency liquor stores, to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters. The report must include the impact of those spending initiatives on the number of cases of spirits sold in the State and on sales of spirits generally.

[2013, c. 476, Pt. A, §9 (NEW) .]

SECTION HISTORY

2013, c. 476, Pt. A, §9 (NEW).

§84. DIRECTOR OF BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS

The director of the bureau or the director's designee shall: [2013, c. 368, Pt. V, §20 (AMD) .]

1. Manage sale of spirits. Manage the sale of spirits through agency liquor stores in accordance with applicable laws and rules that provide for the operation of wholesale distribution of spirits;

[2013, c. 588, Pt. A, §35 (AFF); 2013, c. 588, Pt. A, §34 (RPR) .]

1-A. Manage enforcement and licensing activities. Manage the enforcement and licensing activities of the bureau under section 83-B;

[2013, c. 476, Pt. A, §10 (NEW) .]

2. Act as chief administrative officer of bureau. Act as chief administrative officer of the bureau, having general charge of the office and records and employ such personnel as necessary to fulfill the purpose of this Title. The personnel must be employed with the approval of the Commissioner of Administrative and Financial Services and are subject to the Civil Service Law;

[1997, c. 373, §28 (NEW); 2013, c. 368, Pt. V, §61 (REV) .]

3. Act as executive secretary. Act as executive secretary of the commission;

[1997, c. 373, §28 (NEW) .]

4. Confer with commissioner. Confer regularly as necessary or desirable and not less than once a month with the Commissioner of Administrative and Financial Services on the operation and administration of the bureau and make available for inspection by the Commissioner of Administrative and Financial Services, upon request, all books, records, files and other information and documents of the bureau;

[2015, c. 430, §1 (AMD) .]

5. Certification. Certify monthly to the Treasurer of State and the Commissioner of Administrative and Financial Services a complete statement of revenues and expenses for liquor sales for the preceding month and submit an annual report that includes a complete statement of the revenues and expenses for the bureau to the Governor and the Legislature, together with recommendations for changes in this Title; and

[2015, c. 430, §2 (AMD) .]

6. Implement a spirits sales data reporting system. Collect from reselling agents data on spirits sales made by each reselling agent to establishments licensed to sell spirits for on-premises consumption. The data must include, but is not limited to, the amount and date of sale of each product code sold to on-premises licensees by the reselling agent. For the purposes of this subsection, "product code" has the same meaning as in section 461. For the purposes of collecting on-premises spirits sales data from reselling agents, the director shall enter into a contract with a trade association representing states that control and manage the sale of spirits. The contract must require that neither the bureau nor the trade association may make publicly

available any information that would specifically identify the reselling agent, including, but not limited to, the reseller's name, the name of the reseller's agency liquor store, the reseller's agency liquor store's address or the address of any associated storage facility of the reselling agent.

[2015, c. 430, §3 (NEW) .]

SECTION HISTORY

1997, c. 373, §28 (NEW). RR 1999, c. 2, §29 (COR). 1999, c. 535, §5 (AMD). 2013, c. 269, Pt. C, §4 (AMD). 2013, c. 269, Pt. C, §13 (AFF). 2013, c. 368, Pt. V, §§20, 21 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2013, c. 476, Pt. A, §10 (AMD). 2013, c. 588, Pt. A, §34 (AMD). 2013, c. 588, Pt. A, §35 (AFF). 2013, c. 588, Pt. B, §1 (AMD). 2015, c. 430, §§1-3 (AMD).

§85. INVENTORY AND WORKING CAPITAL

1. Net profits are general revenue.

[2013, c. 368, Pt. V, §22 (RP) .]

2. Inventory. The bureau may keep and have on hand a stock of spirits for sale, the value of which when priced for resale must be computed on the delivered case cost F.O.B. liquor warehouse designated by the commission filed by liquor suppliers. The inventory value must be based upon actual cost for which payment may be due. Spirits may not be considered to be in the inventory until payment has been made for them.

[2013, c. 476, Pt. A, §11 (RPR) .]

3. Authorized working capital.

[2013, c. 368, Pt. V, §22 (RP) .]

SECTION HISTORY

1997, c. 373, §28 (NEW). 2013, c. 269, Pt. C, §5 (AMD). 2013, c. 269, Pt. C, §13 (AFF). 2013, c. 368, Pt. V, §22 (AMD). 2013, c. 476, Pt. A, §11 (AMD).

§86. CONFLICT OF INTEREST

In addition to the limitations set forth in Title 5, section 18, any member of the commission or any employee of the commission or the bureau may not accept directly or indirectly any samples, gratuities, favors or anything of value from a manufacturer, wholesaler, wholesale licensee or retail licensee or any representative of a manufacturer, wholesaler, wholesale licensee or retail licensee under circumstances that may reasonably be construed as influencing or improperly relating to past, present or future performance of official duties. [2013, c. 588, Pt. B, §2 (AMD).]

SECTION HISTORY

1997, c. 373, §28 (NEW). 2013, c. 588, Pt. B, §2 (AMD).

§87. ELIGIBILITY OF EMPLOYEES

A person is not eligible for employment with the bureau if that person: [2013, c. 588, Pt. B, §3 (AMD).]

1. Interest in corporation. Has any official, professional or other connection with or owns any stock in a corporation interest either directly or indirectly in the manufacture or sale of liquor; or

[1997, c. 373, §28 (NEW) .]

2. Violation of state or federal law. Has been convicted or adjudicated guilty of violating any state or federal law regulating the manufacture, sale or transportation of liquor.

[1997, c. 373, §28 (NEW) .]

SECTION HISTORY

1997, c. 373, §28 (NEW). 2013, c. 588, Pt. B, §3 (AMD).

§88. TRANSFER OF WHOLESALE LIQUOR ACTIVITIES

(REPEALED)

SECTION HISTORY

2003, c. 20, §LLL2 (NEW). 2003, c. 20, §LLL4 (AFF). 2013, c. 269, Pt. A, §10 (AFF). 2013, c. 269, Pt. A, §3 (RP). 2013, c. 368, Pt. V, §23 (AMD).

§89. RENEWAL OF CONTRACTS FOR WHOLESALE LIQUOR ACTIVITIES

(REPEALED)

SECTION HISTORY

2011, c. 380, Pt. S, §1 (NEW). 2013, c. 1, Pt. G, §1 (RP).

§90. CONTRACT FOR OPERATIONS OF WHOLESALE LIQUOR ACTIVITIES

1. Statement of purpose. The Legislature finds that it is in the public interest to seek efficiencies and maximize growth in the State's wholesale spirits business while ensuring that growth in revenue from the business is achieved in a socially responsible manner. The contracting of the operations of the wholesale spirits business should serve this purpose and provide the State's agency liquor store partners with effective and efficient services in order to responsibly serve consumers of spirits in the State.

[2013, c. 269, Pt. A, §4 (NEW) .]

2. Contract for operations. The Commissioner of Administrative and Financial Services, referred to in this section as "the commissioner," shall enter into a contract for warehousing, distribution and spirits administration and a contract for spirits trade marketing, each for a term of 10 years. Each contract must be awarded pursuant to a competitive bid process in a manner similar to the process described in Title 5, chapter 155, subchapter 1-A. The commissioner is prohibited from contracting with a bidder who also holds a license in this State or another state to distill, bottle or manufacture spirits.

[2013, c. 269, Pt. A, §4 (NEW) .]

3. Development of request for bid proposals; fee. The commissioner shall develop a request for proposals designed to encourage vigorous bidding for the purpose of awarding 2 contracts for the operations of the State's wholesale spirits business. The commissioner shall request bids for the operation of spirits trade marketing separately from bids for the combined operations of warehousing, distribution and spirits administration. In order to be considered for a contract to conduct spirits trade marketing, a bidder must submit a nonrefundable application fee of up to \$5,000. In order to be considered for a contract to conduct warehousing, distribution and spirits administration, a bidder must submit a nonrefundable application fee

of up to \$20,000. The application fee must be credited to an Other Special Revenue Funds account within the division of purchases within the Department of Administrative and Financial Services to be used for managing the application process. A request for proposals must inform potential bidders of the State's target gross revenue profit margin over the term of the contract and require the bidder to affirm that the bidder, or any of the principal officers of the bidder, does not hold or have a direct financial interest in a license or permit in this State or any other state for the distillation, bottling or manufacture of alcoholic beverages. The request for proposals must instruct potential bidders to propose the scope of operations the bidder will provide and the fee for that service expressed as a percentage of revenue generated by the wholesale business. The request for proposals must direct bidders to indicate if the bidder intends to use subcontractors and to identify those subcontractors. The request for proposals must also inform potential bidders that they may propose incentives for the bidder intended to encourage responsible growth of revenue and enhanced efficiencies in services provided.

[2013, c. 269, Pt. A, §4 (NEW) .]

4. Information provided by bidders. A bidder seeking consideration of the award of a contract for the operations of the State's wholesale spirits business pursuant to this section shall comply with the requirements of this subsection.

A. A bidder on a contract to operate the warehousing, distribution and spirits administration functions of the wholesale spirits business shall identify services or operations for which the bidder may use a subcontractor and shall demonstrate:

- (1) The bidder's financial capacity and access to capital to maintain the operations;
- (2) The bidder's capabilities to provide adequate transportation and distribution of liquor to agency liquor stores;
- (3) The bidder's warehousing capabilities and proposed bailment rates for liquor and related fees to be charged to liquor suppliers;
- (4) That the bidder, including any principal officer of the bidder and any named subcontractor, is of good moral character and has not been found to have violated any state or federal law or rule governing the manufacture, distribution or sale of alcoholic beverages;
- (5) The bidder's knowledge of the wholesale liquor business, alcoholic beverage industry or a related field;
- (6) The bidder's plan to provide agency liquor stores with a minimum of 2 deliveries per week;
- (7) The bidder's methods for processing orders and invoices, including any minimum ordering requirements, split case restrictions and inventory control plans;
- (8) The bidder's business plan to provide services in a manner that will assist the State in achieving a target growth rate comparable to or exceeding that of other states that control the sale and distribution of alcoholic beverages;
- (9) The bidder's plan for enhancing services to liquor suppliers and agency liquor stores; and
- (10) The positive impact on the economy, employment and state revenues that the bidder's overall proposal will provide. [2013, c. 269, Pt. A, §4 (NEW) .]

B. A bidder on a contract to provide spirits trade marketing shall:

- (1) Demonstrate the bidder's business plan and marketing strategies to encourage responsible growth to the wholesale spirits business;
- (2) Demonstrate the bidder's experience or knowledge, if any, of responsible marketing of alcoholic beverages;
- (3) Identify services for which the bidder may use a subcontractor;

(4) Demonstrate that the bidder, including any principal officer of the bidder and any named subcontractor, is of good moral character and has not been found to have violated any state or federal law or rule governing the manufacture, distribution or sale of alcoholic beverages; and

(5) Demonstrate the positive impact on the economy, employment and state revenues that the bidder's overall proposal will provide. [2013, c. 269, Pt. A, §4 (NEW).]

In addition to the requirements of paragraphs A and B, the commissioner, in order to ensure that the objective of maximizing growth in the State's wholesale spirits business is achieved, may require bidders to provide additional information, including disclosure of the potential of a bidder's direct and substantial conflict of interest with the State's financial interest.

[2013, c. 269, Pt. A, §4 (NEW) .]

5. Award criteria and issuance of contract. The commissioner shall select successful bidders for the contract to conduct the operations of warehousing, distribution and spirits administration and the contract to provide spirits trade marketing; however, both contracts may be awarded to the same bidder. The commissioner shall choose the best value bidder in conformity with Title 5, section 1825-B, subsection 7 and shall consider as criteria for award the information required to be provided in subsection 4, as applicable. When selecting a successful bidder for the contract to conduct the operations of warehousing, distribution and spirits administration, the commissioner may not consider as cause for disqualification for consideration any weakness in or inability to demonstrate proficiency in any one criterion listed in subsection 4, paragraph A, subparagraphs (6) to (10).

The commissioner shall ensure that the following criteria are met before entering into a contract with a bidder for operations of warehousing, distribution and spirits administration:

A. That revenue to the State from the sale of spirits is predictable over the term of the contract; [2013, c. 269, Pt. A, §4 (NEW).]

B. That revenue from the sale of spirits will be maximized by the issuance of the contract and achieved through efficiency of services or profit sharing or both; [2013, c. 269, Pt. A, §4 (NEW).]

C. That the contract establishes standards of efficiency and quality of operations; [2013, c. 269, Pt. A, §4 (NEW).]

D. That the bidder has demonstrated that services provided to agency liquor stores will be enhanced; [2013, c. 269, Pt. A, §4 (NEW).]

E. That, upon execution of the contract, the disruption of services to agency liquor stores and suppliers will be minimal or absent; and [2013, c. 269, Pt. A, §4 (NEW).]

F. That the contract provides that the bureau must approve all bailment rates and related fees. [2013, c. 269, Pt. A, §4 (NEW); 2013, c. 368, Pt. V, §61 (REV).]

[2013, c. 269, Pt. A, §4 (NEW); 2013, c. 368, Pt. V, §61 (REV) .]

6. Contract provisions; oversight and performance review. A contract provided to a successful bidder in accordance with this section must require that the person awarded the contract submit to the bureau, in a form determined by the bureau, an annual report audited by an independent 3rd party. The bureau, following receipt of the report, shall provide the report annually to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and alcoholic beverages matters. The contract must prohibit the person awarded the contract from engaging in activities reserved for agency liquor stores licensed as reselling agents to provide spirits to establishments licensed for on-premises consumption. The contract must also include provisions that allow for ongoing performance standards review so that deficiencies in such standards may result in amendments to the contract or nullification. Performance standards subject to contract amendments or nullification include:

A. Working in partnership with the State to achieve the goal of a revenue growth rate comparable to the average growth rate of other states that control the sale and distribution of alcoholic beverages; [2013 , c. 269 , Pt. A, §4 (NEW) .]

B. Transparency in annual reporting and conformance to the reporting requirements established by the bureau; and [2013 , c. 269 , Pt. A, §4 (NEW); 2013 , c. 368 , Pt. V, §61 (REV) .]

C. Except for a contract awarded to conduct spirits trade marketing, responsiveness to the service needs of agency liquor stores. [2013 , c. 269 , Pt. A, §4 (NEW) .]

[2013 , c. 269 , Pt. A, §4 (NEW); 2013 , c. 368 , Pt. V, §61 (REV) .]

7. Price regulation. The bureau shall regulate the wholesale and retail prices of all liquor sold by a person awarded a contract in accordance with this section.

[2013 , c. 269 , Pt. A, §4 (NEW); 2013 , c. 368 , Pt. V, §61 (REV) .]

SECTION HISTORY

2013 , c. 269 , Pt. A, §4 (NEW). 2013 , c. 368 , Pt. V, §61 (REV) .

Chapter 5: LOCAL OPTION

§121. LOCAL OPTION ELECTION IN A MUNICIPALITY

A local option election in a municipality shall be held in the following manner. [1987 , c. 45 , Pt. A, §4 (NEW) .]

1. Petition. A petition for a local option election must be signed by a number of voters equal to at least 15% of the number of votes cast in that municipality in the last gubernatorial election. All petition signatures must have been signed since the last general election. The petition must be addressed to and received by the municipal officers at least 45 days before holding any primary, special statewide, general or municipal election or town meeting.

[1993 , c. 608 , §2 (AMD) .]

2. Meeting. Upon receipt of a petition, the municipal officers shall notify the inhabitants of their respective municipalities to meet in the manner prescribed by law. The meeting shall be held to vote upon any or all of the questions contained in section 123.

[1987 , c. 45 , Pt. A, §4 (NEW) .]

3. Conduct of election. Except as provided in this section, the petition process and the voting at elections held in towns and plantations must be held and conducted in accordance with Title 30-A, sections 2528, 2529 and 2532, even if the town or plantation has not accepted the provisions of section 2528. The voting at elections held in cities must be held and conducted in accordance with Title 21-A. No referendum questions except those set out in section 123 may be printed on the ballot. The municipal clerk shall make a return of the results, certify the results and send it to the office of the Secretary of State. The Secretary of State shall forward the results to the bureau.

[1997 , c. 373 , §29 (AMD) .]

SECTION HISTORY

1987 , c. 45 , §A4 (NEW). 1987 , c. 147 , §1 (AMD). 1993 , c. 608 , §§2,3 (AMD). 1997 , c. 373 , §29 (AMD) .

§122. UNINCORPORATED PLACES

1. No local option election. No local option election may be held in unincorporated places.

[1989, c. 158, §2 (RPR) .]

2. Authorization of sales. The county commissioners may, after holding a public hearing:

A. Authorize or refuse to authorize the sale of liquor to be consumed on the premises where sold; and
[1987, c. 342, §17 (NEW).]

B. Authorize or refuse to authorize the sale of liquor to be consumed off the premises where sold.
[1987, c. 342, §17 (NEW).]

[1987, c. 342, §17 (NEW) .]

3. Approval of licenses. The county commissioners may refuse to approve a liquor license application on the ground that the license is not warranted for any substantial public convenience, necessity or demand.

[1987, c. 342, §17 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 147, §2 (AMD). 1987, c. 342, §17 (RPR). 1989, c. 158, §2 (AMD).

§123. LOCAL OPTION QUESTIONS

Any one or more of the following questions may be voted on in a local option election held under section 121. Each question applies to both full-time and part-time licensed establishments. [1987, c. 342, §18 (RPR).]

1. Sale of liquor for consumption on the premises on days other than Sunday. Shall this municipality authorize the State to issue licenses for the sale of liquor to be consumed on the premises of licensed establishments on days other than Sunday?

[1997, c. 373, §30 (AMD) .]

2. Sale of spirits and fortified wine for consumption off the premises on days other than Sunday. Shall this municipality authorize the State to permit the operation of agency liquor stores on days other than Sunday?

[2013, c. 368, Pt. V, §24 (AMD) .]

2-A. Sale of malt liquor and wine for consumption off the premises on days other than Sunday. Shall this municipality authorize the State to issue licenses for the sale of malt liquor and wine to be consumed off the premises of licensed establishments on days other than Sunday?

[1997, c. 373, §30 (AMD) .]

3. Sale of liquor for consumption on the premises on Sundays. Shall this municipality authorize the State to issue licenses for the sale of liquor to be consumed on the premises of licensed establishments on Sundays?

[1997, c. 373, §30 (AMD) .]

4. Sale of spirits and fortified wine for consumption off the premises on Sundays. Shall this municipality authorize the State to permit the operation of agency liquor stores on Sundays?

[2013, c. 368, Pt. V, §25 (AMD) .]

4-A. Sale of malt liquor and wine for consumption off the premises on Sundays. Shall this municipality authorize the State to issue licenses for the sale of malt liquor and wine to be consumed off the premises of licensed establishments on Sundays?

[1997, c. 373, §30 (AMD) .]

5. Operation of state liquor stores and agency liquor stores on Sunday.

[1987, c. 342, §18 (RP) .]

6. Sale of spirits to be consumed on the premises on Sunday.

[1987, c. 342, §18 (RP) .]

7. Sale of malt liquor and wine to be consumed on the premises on Sunday.

[1987, c. 342, §18 (RP) .]

8. Sale of malt liquor and wine for consumption on the premises on Sunday.

[1987, c. 342, §18 (RP) .]

9. Operation of bottle clubs.

[1987, c. 342, §18 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §18 (RPR). 1991, c. 95, §§1-4 (AMD). 1997, c. 373, §30 (AMD). 2013, c. 368, Pt. V, §§24, 25 (AMD).

§124. RESULTS OF VOTE

1. Determination vote. If the results of an election held under section 121 or 122 show that:

A. A majority of the votes cast in any municipality on any local option question is in the affirmative, the bureau may issue licenses of the type authorized by the affirmative vote in that municipality; [2001, c. 471, Pt. B, §14 (AMD) .]

B. A majority of the votes cast in any municipality on any local option question is in the negative, the bureau may not issue licenses of the type denied by the negative vote in that municipality; or [2001, c. 471, Pt. B, §14 (AMD) .]

C. The vote is tied on any local option question, the law remains as it was before the voting. [1997, c. 373, §31 (AMD) .]

[2001, c. 471, Pt. B, §14 (AMD) .]

2. Effective date. The vote is effective on the first day of the month following the certification of the vote to the Secretary of State.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Existing licenses. The holder of any license issued and outstanding on the effective date of the local option vote that denies issuance of that type of license and specifically indicates that the existing privilege is to be voided shall immediately surrender it to the bureau. The bureau shall refund that portion of the unused fee paid.

[1997, c. 373, §32 (AMD) .]

4. Repeal or reconsideration. When a municipality has voted to accept or reject any local option question, the vote is effective until repealed by a new petition and vote as required by section 121 or 122. A negative vote on a question repeals existing privileges only if the petition clearly indicates an intent that it do so. No local option vote may be taken on the same question more than once in any one-year period.

[2001, c. 471, Pt. B, §15 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 623, §5 (AMD). 1991, c. 95, §5 (AMD). 1991, c. 377, §15 (AMD). 1997, c. 373, §§31,32 (AMD). 2001, c. 471, §§B14,15 (AMD).

Chapter 7: BOTTLE CLUBS

§161. BOTTLE CLUBS

1. Registration. Each bottle club, as defined in section 2, subsection 3, shall register annually with the bureau on forms provided by the bureau. Registration consists of submission of the information required in paragraph A and payment of the registration fee established in paragraph B.

A. The information each bottle club is required to submit consists of only the following:

- (1) The name and address of each owner of the bottle club;
- (2) The name and address of each operator of the bottle club; and
- (3) The regular hours of operation. [1987, c. 45, Pt. A, §4 (NEW) .]

B. The annual fee for registration of a bottle club is \$50. [1987, c. 45, Pt. A, §4 (NEW) .]

C. [2003, c. 452, Pt. P, §1 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

A bottle club that does not register with the bureau commits a Class E crime. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. P, §1 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

1-A. Eligibility qualifications. The bureau may not register a bottle club unless each owner or operator of the bottle club meets the eligibility qualifications under section 601, subsection 1.

[1997, c. 373, §34 (AMD) .]

1-B. Disqualification. The bureau may not register a bottle club if the bureau determines that:

- A. An owner or operator of the bottle club is disqualified from receiving a liquor license under section 601, subsection 2; or [1993, c. 730, §23 (AMD) .]
- B. [1993, c. 730, §24 (RP) .]
- C. The purpose of the application is to circumvent the eligibility or disqualification provisions of section 601. [1989, c. 816, §2 (NEW) .]

The bureau shall notify each owner or operator of the bottle club in writing of its decision to approve or deny registration of the bottle club under this subsection. The decision of the bureau to approve or deny registration of a bottle club is final agency action.

[1997, c. 373, §35 (AMD) .]

1-C. Penalty for operation after denial. Notwithstanding subsection 1, paragraph C, a person who operates a bottle club after receipt of notice of denial of registration under subsection 1-B commits a Class D crime. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. P, §1 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Charges and fees. Charges paid by the bottle club's members or the general public for membership, admission, food, mixers or other supplies used with liquor or storage or handling of liquor belonging to members or the general public are not sales, as defined in this Title, or gifts.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Minors on the premises.

[2003, c. 452, Pt. P, §1 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

3-A. Minors on premises. A bottle club may not allow a minor not employed by the bottle club or not accompanied by the minor's parent, guardian or custodian, as defined in Title 22, section 4002, to remain on the bottle club premises, except on occasions when liquor is prohibited on the bottle club premises. The following penalties apply to violations of this subsection.

A. A bottle club that violates this subsection commits a civil violation for which a fine of not less than \$100 and not more than \$300 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A bottle club that violates this subsection after having previously violated this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A bottle club that violates this subsection after having previously violated this section 2 or more times commits a civil violation for which a fine of \$500 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

3-B. Employment of minors. A bottle club may employ minors only if an employee of legal drinking age or older is present in a supervisory capacity.

[2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

4. Consumption or possession on premises. A bottle club may not permit consumption or possession of imitation liquor on the bottle club premises by minors. A bottle club may not permit consumption of liquor on the bottle club premises by minors or visibly intoxicated persons. The following penalties apply to violations of this subsection.

A. A bottle club that violates this subsection commits a civil violation for which a fine of not less than \$100 and not more than \$300 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A bottle club that violates this subsection after having previously violated this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A bottle club that violates this subsection after having previously violated this section 2 or more times commits a civil violation for which a fine of \$500 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. P, §1 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

5. Violation of state law. A bottle club may not knowingly allow any violation of any state law on the bottle club premises to occur or continue. The following penalties apply to violations of this subsection.

A. A bottle club that violates this subsection commits a civil violation for which a fine of not less than \$100 and not more than \$300 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A bottle club that violates this subsection after having previously violated this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A bottle club that violates this subsection after having previously violated this section 2 or more times commits a civil violation for which a fine of \$500 may be adjudged. [2003, c. 452, Pt. P, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. P, §1 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

6. Jurisdiction. The District Court has jurisdiction over the civil violations, defined in this section, under Title 17-A, section 9.

[2003, c. 452, Pt. P, §1 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

7. Right of access. Every bottle club shall allow law enforcement officers to enter the premises at reasonable times for the purpose of investigating compliance with this Title.

A. Entry into the premises under this subsection must be conducted in a reasonable manner so as not to disrupt the operation of the bottle club. [2003, c. 510, Pt. E, §5 (RPR).]

B. The investigation must be limited to those areas involved in the actual operation of the bottle club, including storage areas. [2003, c. 510, Pt. E, §5 (RPR).]

C. The following penalties apply to violations of this subsection.

(1) A bottle club that violates this subsection commits a civil violation for which a fine of not less than \$100 and not more than \$300 may be adjudged.

(2) A bottle club that violates this subsection after having previously violated this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged.

(3) A bottle club that violates this subsection after having previously violated this section 2 or more times commits a civil violation for which a fine of \$500 may be adjudged. [2003, c. 510, Pt. E, §5 (RPR).]

[2003, c. 510, Pt. E, §5 (RPR) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 816, §§1,2 (AMD). 1993, c. 266, §4 (AMD). 1993, c. 730, §§23,24 (AMD). 1997, c. 373, §§33-35 (AMD). 2003, c. 451, §T10 (AMD). 2003, c. 452, §P1 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 510, §E5 (AMD).

§161-A. LOCAL APPROVAL OF BOTTLE CLUBS

(REPEALED)

SECTION HISTORY

1989, c. 816, §3 (NEW). 1993, c. 730, §25 (RP).

§161-B. LOCAL APPROVAL OF BOTTLE CLUBS

1. Application to local authorities. Prior to registration with the bureau under section 161, an owner or operator of a bottle club must apply to the municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, for permission to operate the bottle club or for transfer of location of an existing bottle club. The bureau shall prepare and supply application forms.

[1995, c. 462, Pt. D, §4 (AMD) .]

2. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located shall hold a public hearing for the consideration of applications for new bottle clubs and applications for transfer of location of existing bottle clubs. The municipal officers or the county commissioners shall provide public notice of a hearing held under this section. The notice, at the applicant's prepaid expense, must state the name and place of the hearing and must appear for at least 3 consecutive days before the date of the hearing in a daily newspaper having general circulation in the municipality or unincorporated place where the bottle club is located or for 2 consecutive weeks before the hearing date in a weekly newspaper having general circulation in the municipality or unincorporated place where the bottle club is located.

[1995, c. 140, §3 (NEW) .]

3. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. An application may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1995, c. 140, §3 (NEW) .]

B. Noncompliance of the bottle club with any local zoning ordinance or other land use ordinance not related directly to liquor control; [1995, c. 140, §3 (NEW) .]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club or other such conditions that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the bottle club to use their property in a reasonable manner; [1995, c. 140, §3 (NEW) .]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law at or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club; [1995, c. 140, §3 (NEW) .]

E. A violation of any provision of this Title; [1995, c. 140, §3 (NEW) .]

F. In the case of corporate applicants, ineligibility or disqualification under section 601 of any officer, director or stockholder of the corporation; and [1995, c. 140, §3 (NEW) .]

G. Location of the bottle club at any amusement area, beach or other area designed primarily for use by minors. [1995, c. 140, §3 (NEW) .]

[1995, c. 140, §3 (NEW) .]

4. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all of the requirements referred to in subsection 3.

A. If the decision appealed is approval of the application, the bureau may reverse the decision if it was arbitrary or based on an erroneous finding. [1995, c. 462, Pt. D, §4 (AMD).]

B. If the decision appealed is denial of the application, the bureau may reverse the decision and register the bottle club under section 161 only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1995, c. 462, Pt. D, §4 (AMD).]

[1995, c. 462, Pt. D, §4 (AMD) .]

5. Appeal to Superior Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the Superior Court.

[1995, c. 462, Pt. D, §4 (AMD) .]

SECTION HISTORY

1995, c. 140, §3 (NEW). 1995, c. 462, §D4 (AMD).

§162. LOCAL AUTHORITY FOR OPERATION OF BOTTLE CLUBS

1. Question on bottle clubs. A municipality may hold an election on the following question.

A. Bottle clubs are defined as persons operating, on a regular, profit or nonprofit basis, facilities for social activities in which members or guests provide their own liquor, where no liquor is sold on the bottle club premises, which maintain suitable facilities for the use of members on a regular basis or charge an admission fee to members or the general public and where members, guests or others are regularly permitted to consume liquor. Shall bottle clubs be operated in this municipality? [1987, c. 342, §19 (NEW).]

[1987, c. 342, §19 (NEW) .]

2. Procedure for election. The provisions of section 121 apply to elections under this section.

[1987, c. 342, §19 (NEW) .]

3. Results of vote. If the results of an election held under this section show that:

A. A majority of the votes cast in the municipality on the bottle club question is in the affirmative, bottle clubs may operate in that municipality; [1987, c. 342, §19 (NEW).]

B. A majority of the votes cast in the municipality on the bottle club question is in the negative, bottle clubs may not operate in that municipality; or [1987, c. 342, §19 (NEW).]

C. The vote is tied on any local option question, the law shall remain as it was before the voting. [1987, c. 342, §19 (NEW).]

[1987, c. 342, §19 (NEW) .]

4. Effective date. The vote is effective on the first day of the month following the certification of the vote to the Secretary of State.

[1987, c. 342, §19 (NEW) .]

5. Repeal or reconsideration. When a municipality has voted to allow or not allow the operation of bottle clubs, the vote is effective until repealed by a new petition and vote as required by this section. No vote may be taken on the bottle club question more than once in any 2-year period.

[1987, c. 342, §19 (NEW) .]

6. Unincorporated places. The county commissioners, after holding a public hearing, may or may not allow the operation of bottle clubs in the unincorporated place.

[1987, c. 342, §19 (NEW) .]

SECTION HISTORY

1987, c. 342, §19 (NEW).

§163. B.Y.O.B. FUNCTION PERMIT

1. Permit required. A person may not hold a B.Y.O.B. function unless a permit is obtained from the bureau. The bureau may issue a permit that authorizes multiple B.Y.O.B. functions over a period of 12 months as long as the B.Y.O.B. functions are held at the same location.

[2015, c. 106, §1 (AMD) .]

2. Application. A person must apply for a B.Y.O.B. function permit at least 24 hours prior to the proposed B.Y.O.B. function. The application must be on forms provided by the bureau and must be accompanied by a permit fee of \$10 for each day the function is to be held. The application must be signed by the B.Y.O.B. sponsor and must contain the following information:

A. Name and address of each person responsible for the B.Y.O.B. function; [1993, c. 266, §5 (NEW) .]

B. The date and the beginning and ending time of the B.Y.O.B. function; [1993, c. 266, §5 (NEW) .]

C. The location where the B.Y.O.B. function is to be held; [1993, c. 266, §5 (NEW) .]

D. The seating capacity of the location; [1993, c. 266, §5 (NEW) .]

E. Written approval of the municipal officers or a municipal official designated by the municipal officers, for the B.Y.O.B. function to be held at the location within the municipality; and [1993, c. 266, §5 (NEW) .]

F. Proof that the B.Y.O.B. sponsor is at least 21 years of age. [1993, c. 266, §5 (NEW) .]

[1997, c. 373, §36 (AMD) .]

3. Charges and fees. Charges paid by the general public for admission, food, mixers or other supplies used with liquor or storage or handling of liquor that belongs to the general public are not sales or gifts.

[1993, c. 266, §5 (NEW) .]

4. Minors prohibited at B.Y.O.B. function. The B.Y.O.B. sponsor may not allow any minor not employed by the B.Y.O.B. sponsor or not accompanied by a parent, legal guardian or custodian, as defined in Title 22, section 4002, to remain at the premises of a B.Y.O.B. function.

A B.Y.O.B. sponsor may employ a minor only if the sponsor is present in a supervisory capacity.

[1993, c. 266, §5 (NEW) .]

5. Possession or consumption by minors. A B.Y.O.B. sponsor may not allow a minor to possess or consume liquor or imitation liquor on the premises of the B.Y.O.B. function.

[1993, c. 266, §5 (NEW) .]

6. Consumption by intoxicated persons. A B.Y.O.B. sponsor may not allow a visibly intoxicated person to consume liquor on the premises of the B.Y.O.B. function.

[1993, c. 266, §5 (NEW) .]

7. Violation of the state law. A B.Y.O.B. sponsor may not knowingly allow any violation of any state law on the premises of the B.Y.O.B. function.

[1993, c. 266, §5 (NEW) .]

8. Right of access. A B.Y.O.B. sponsor shall allow a law enforcement officer to enter the premises of the B.Y.O.B. function at reasonable times for the purpose of investigating compliance with this Title.

Entry into the premises must be conducted in a reasonable manner so as not to disrupt the operation of the B.Y.O.B. function.

The investigation must be limited to those areas involved in the actual operation of the B.Y.O.B. function, including storage areas.

[1993, c. 266, §5 (NEW) .]

9. Violations. The following penalties apply to violations of this section.

A. A B.Y.O.B. sponsor that violates this section commits a civil violation for which a fine of not less than \$100 and not more than \$300 may be adjudged. [2003, c. 452, Pt. P, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A B.Y.O.B. sponsor that violates this section after having previously violated this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged. [2003, c. 452, Pt. P, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A B.Y.O.B. sponsor that violates this section after having previously violated this section 2 or more times commits a civil violation for which a fine of \$500 may be adjudged. [2003, c. 452, Pt. P, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. P, §2 (RPR); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1993, c. 266, §5 (NEW). 1997, c. 373, §36 (AMD). 2003, c. 452, §P2 (AMD). 2003, c. 452, §X2 (AFF). 2015, c. 106, §1 (AMD).

Chapter 9: PUBLIC INFORMATION

§201. ERECTION OF GUIDEPOST

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 45, Pt. A, §4 (NEW). 1997, c. 373, §37 (AMD). 2011, c. 629, §6 (RP).

Part 2: AGENCY LIQUOR STORES

Chapter 15: AGENCY LIQUOR STORES

§351. PROXIMITY TO CHURCHES AND SCHOOLS

1. Agency liquor store may not be located within 300 feet of school or church. The bureau may not license an agency liquor store located within 300 feet of any public or private school, church, chapel or parish house.

A. The bureau, after holding a public hearing near the proposed location, may locate an agency liquor store within 300 feet of a church, chapel, parish house or postsecondary school. [1997, c. 373, §38 (AMD).]

[2013, c. 368, Pt. V, §26 (AMD) .]

2. Method of measurement. The distance must be measured from the main entrance of the agency liquor store to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel.

[2013, c. 368, Pt. V, §26 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §20 (AMD). 1997, c. 373, §38 (AMD). 2013, c. 368, Pt. V, §26 (AMD).

§352. PURCHASE OF LIQUOR IN STATE AND AGENCY LIQUOR STORES; PURCHASE FROM BUREAU

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §21 (AMD). 1991, c. 376, §50 (RPR). 1991, c. 528, §VV4 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §VV4 (AMD). 1991, c. 791, §1 (RPR). 1993, c. 615, §§2,3 (AMD). 1997, c. 373, §39 (AMD). 2013, c. 368, Pt. V, §27 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2013, c. 476, Pt. A, §12 (RP).

§352-A. PURCHASE OF SPIRITS FROM AGENCY LIQUOR STORES; PURCHASE FROM RESELLING AGENTS

Purchases of spirits by a nonlicensee from an agency liquor store must be made by cash, check, credit card or debit card. Purchases from a reselling agent by a licensee authorized to sell spirits for on-premises consumption must be made by cash, check or electronic funds transfer. [2013, c. 476, Pt. A, §13 (NEW).]

SECTION HISTORY

2013, c. 476, Pt. A, §13 (NEW).

§353. BUSINESS HOURS

Agency liquor stores may be open for the sale and delivery of spirits and fortified wine between the hours of 5 a.m. and 1 a.m. in municipalities and unincorporated places that have voted in favor of the operation of agency liquor stores under local option provisions. Notwithstanding any local option decisions to the contrary, agency liquor stores may be open from 5 a.m. Sunday to 1 a.m. the next day. [2015, c. 74, §3 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 528, §PP2 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §PP2 (AMD). 1993, c. 266, §6 (AMD). 1997, c. 373, §40 (AMD). 2013, c. 368, Pt. V, §28 (AMD). 2013, c. 476, Pt. A, §14 (AMD). 2013, c. 476, Pt. A, §36 (AFF). 2013, c. 476, Pt. A, §36 (AFF). 2015, c. 74, §3 (AMD).

§353-A. BUSINESS HOURS

Agency liquor stores may be open for the sale and delivery of spirits as provided in section 4, subsection 1 in municipalities and unincorporated places that have voted in favor of the operation of agency liquor stores under local option provisions. Notwithstanding any local option decisions to the contrary, agency liquor stores may be open from 5 a.m. Sunday to 1 a.m. the following day. [2015, c. 74, §4 (AMD).]

SECTION HISTORY

2013, c. 476, Pt. B, §1 (NEW). 2013, c. 476, Pt. B, §6 (AFF). 2015, c. 74, §4 (AMD).

§354. SALES TO MINORS OR INTOXICATED PERSONS

An agency liquor store may not sell liquor to a minor or to a visibly intoxicated person. [2013, c. 476, Pt. A, §15 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2013, c. 368, Pt. V, §29 (AMD). 2013, c. 476, Pt. A, §15 (AMD).

§355. CLOSED IN CASES OF RIOTS; HURRICANES; FLOOD

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §41 (AMD). 2005, c. 539, §4 (AMD). 2013, c. 368, Pt. V, §30 (AMD). 2013, c. 476, Pt. A, §16 (RP).

Chapter 17: STATE LIQUOR STORES**§401. LOCATION OF FACILITIES**

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 528, §Z1 (RP). 1991, c. 591, §Z1 (RP).

§401-A. LOCATION OF FACILITIES

(REPEALED)

SECTION HISTORY

1991, c. 528, §Z2 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §Z2 (NEW). 1993, c. 509, §1 (AMD). 1997, c. 373, §42 (AMD). 2011, c. 629, §7 (RP).

§402. NOTICE ON LOCATING STATE LIQUOR STORES

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 528, §Z3 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §Z3 (AMD). 1997, c. 373, §43 (AMD). 2011, c. 629, §7 (RP).

§403. DISCOUNT STATE LIQUOR STORES

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 780, §Y129 (AMD). 1997, c. 755, §1 (AMD). 2001, c. 358, §V1 (RP).

Chapter 19: AGENCY LIQUOR STORES

§451. AGENCY LIQUOR STORES

The bureau may license and regulate persons as agency liquor stores on an annual or temporary basis for the purposes of selling liquor in sealed bottles, containers or original packages to be consumed off the premises. [1997, c. 373, §44 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1993, c. 509, §2 (AMD). 1997, c. 373, §44 (AMD).

§452. RULES GOVERNING AGENCY LIQUOR STORES

The bureau shall adopt rules for the selection, licensing and operation of agency liquor stores. These rules include, but are not limited to, the following: [1997, c. 373, §45 (AMD).]

1. Location. Location of agency stores, subject to section 453;

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Storage facilities. Storage facilities for liquor;

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Handling and sale. The handling and sale of liquor;

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Hours. The hours of operation;

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Separation from other merchandise. The separation of liquor from other merchandise in the agency liquor stores;

[1987, c. 45, Pt. A, §4 (NEW) .]

6. Size and nature of facilities. The size and nature of the facilities of agency liquor stores for different quantities of liquor to be sold; and

[1987, c. 45, Pt. A, §4 (NEW) .]

7. Other. Any other rules necessary to carry out the purposes of this chapter.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §45 (AMD).

§453. LOCATION OF AGENCY STORES

1. Location requirements. The bureau may license an agency liquor store only when the following requirements are met.

A. The proposed agency liquor store is located in a municipality or unincorporated place that has voted in favor of the operation of state liquor stores under local option provisions. [1997, c. 373, §46 (AMD).]

B. [1993, c. 380, §7 (AFF); 1993, c. 380, §1 (RP).]

C. [2001, c. 711, §2 (RP).]

D. [2001, c. 711, §2 (RP).]

[2001, c. 711, §2 (AMD) .]

2. Replacement of state or agency liquor stores.

[2001, c. 711, §2 (RP) .]

2-A. Limitation on number of agency liquor stores. Beginning July 1, 2009, the bureau may license up to 10 agency liquor stores in a municipality with a population over 45,000; up to 9 agency liquor stores in a municipality with a population over 30,000 but less than 45,001; up to 8 agency liquor stores in a municipality with a population over 20,000 but less than 30,001; up to 5 agency liquor stores in a municipality with a population of at least 10,001 but less than 20,001; up to 4 agency liquor stores in a municipality with a population of at least 5,001 but less than 10,001; up to 3 agency liquor stores in a municipality with a population of at least 2,000 but less than 5,001; and one agency liquor store in a municipality where the population is less than 2,000. The bureau may issue one additional liquor store license beyond those otherwise authorized by this subsection in a municipality with a population of less than 10,000. The bureau may consider the impact of seasonal population or tourism and other related information provided by the municipality requesting an additional agency liquor store license.

A. [2001, c. 711, §2 (RP).]

B. [2003, c. 20, Pt. SS, §8 (AFF); 2003, c. 20, Pt. SS, §1 (RP); 2003, c. 51, Pt. C, §2 (AFF).]

Nothing in this subsection may be construed to reduce the number of agency stores the bureau may license in a municipality as of June 30, 2009.

[2015, c. 494, Pt. A, §31 (RPR) .]

2-B. Requirement of at least one replacement agency liquor store before closing.

[2013, c. 368, Pt. V, §31 (RP) .]

2-C. Licenses. The bureau shall consider whether the applicant can satisfy the following criteria when determining whether to issue an agency liquor store license under this section:

A. Except as provided in subsection 2-D, the applicant has held a license to sell malt liquor and wine for off-premises consumption for more than one year immediately preceding application without a violation of any provision of this Title; [2013, c. 269, Pt. A, §5 (AMD) .]

B. The applicant will be able to stock at least \$10,000 worth of spirits purchased from the State or the State's wholesale distributor upon issuance of an agency liquor store license; and [2009, c. 213, Pt. JJJJ, §2 (NEW) .]

C. The applicant can purchase the initial stock of spirits using a bank check or other financial instrument that certifies that funds are available. [2009, c. 213, Pt. JJJJ, §2 (NEW) .]

[2013, c. 269, Pt. A, §5 (AMD) .]

2-D. Exception. If a retailer that is located in this State and has at least 5 locations licensed as an agency liquor store is sold or ownership is transferred to another company that will assume operation of some or all of the retailer's stores and that company submits an application for an agency liquor store license at some or all of those stores, the bureau may waive the requirement of subsection 2-C, paragraph A. The bureau may provide this waiver only if the applicant has held a license in another state to sell malt liquor and wine or spirits at retail for off-premises consumption, for at least one year prior to submitting the application, without a violation of the laws governing the sale of alcoholic beverages in that state and can provide the bureau with documentation of financial success as determined by the bureau. The bureau may not provide this waiver when issuing an additional liquor store license in a municipality with a population of less than 10,000 beyond the limit on the number of agency liquor stores authorized under subsection 2-A.

[2015, c. 221, §2 (AMD) .]

3. Measurement of distances.

[1993, c. 380, §7 (AFF); 1993, c. 380, §5 (RP) .]

4. Procedure for selection of agency liquor store location.

[1991, c. 622, Pt. K, §4 (RP) .]

5. Aggrieved applicants.

[1991, c. 622, Pt. K, §5 (RP) .]

SECTION HISTORY

1987, c. 45, Pt. A, §4 (NEW). 1987, c. 342, §22 (AMD). 1989, c. 502, Pt. B, §§26-28 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 528, Pt. E, §34 (AMD). 1991, c. 591, Pt. E, §34 (AMD). 1991, c. 622, Pt. K, §§3-5 (AMD). 1993, c. 380, §§1-5 (AMD). 1993, c. 380, §7 (AFF). 1997, c. 373, §46 (AMD). 2001, c. 711, §2 (AMD). 2003, c. 20, Pt. SS, §§1, 2 (AMD). 2003, c. 20, Pt. SS, §8 (AFF). 2003, c. 51, Pt. C, §2 (AFF).

2009, c. 213, Pt. JJJJ, §§1, 2 (AMD). 2013, c. 253, §1 (AMD). 2013, c. 269, Pt. A, §§5, 6 (AMD). 2013, c. 368, Pt. V, §31 (AMD). 2015, c. 128, §1 (AMD). 2015, c. 221, §§1, 2 (AMD). 2015, c. 494, Pt. A, §31 (AMD).

§453-A. ISSUANCE OF AGENCY LIQUOR STORE LICENSE

The bureau shall issue a license for an agency liquor store within a municipality or unincorporated place by the following procedure. [1997, c. 373, §47 (AMD).]

1. Bidding to replace state liquor stores.

[2001, c. 711, §3 (RP) .]

1-A. Bidding to establish or replace agency liquor stores.

[2001, c. 711, §3 (RP) .]

2. Public notice. The bureau shall, in accordance with the Maine Administrative Procedure Act, give public notice that an agency liquor store may be established in a particular municipality or unincorporated place. The bureau shall request all parties in the municipality or unincorporated place interested in a license to establish an agency liquor store there to submit applications to the bureau.

[2001, c. 711, §4 (AMD) .]

3. Information to applicants. The bureau shall provide all applicants with the necessary information for the establishment of an agency liquor store.

[1997, c. 373, §47 (AMD) .]

4. Notice to municipality. Upon receipt of all applications for an agency liquor store license in a municipality and at least 15 days before the final selection of an applicant or applicants by the bureau, the bureau shall notify the municipal officers of that municipality of the proposed location of each applicant.

[1997, c. 373, §47 (AMD) .]

5. Licensing decisions. The bureau shall conduct an investigation to determine the feasibility of the location and type of facility for the agency liquor store and shall issue the license to one or more of the applicants, taking into consideration the absence of an existing agency liquor store with less than 3,000 square feet of retail space in a downtown location and any other factors the bureau considers appropriate. The bureau is not required to consider the availability of parking spaces for motor vehicles for the issuance of an agency liquor store license to a store with less than 3,000 square feet of retail space in a downtown location. When considering the issuance of a license, the bureau shall consider the proximity of the proposed agency store to existing agency stores and the potential impact the location of the proposed agency store may have on an existing agency store. The bureau may deny a license if the bureau determines the proposed agency store location is in too close proximity to an existing agency store. For purposes of this subsection, "downtown" has the same meaning as in Title 30-A, section 4301, subsection 5-A.

[2005, c. 596, §1 (AMD) .]

5-A. Hearings on applications. The bureau, in accordance with the provisions of the Maine Administrative Procedure Act, shall conduct a hearing to take testimony, consider comment and deliberate on applications. In addition to giving any notice required by the Maine Administrative Procedure Act, the bureau shall give notice of public hearing in writing to any existing agency liquor stores located within 5 miles of the applicant's proposed store location by regular mail at least 15 days prior to the hearing.

[1997, c. 373, §47 (AMD) .]

6. Denial of application. The bureau shall notify any applicant denied a license of the reasons for the denial by certified mail to the mailing address given by the applicant in the application for an agency liquor store license.

[1997, c. 373, §47 (AMD) .]

7. Aggrieved applicants. Any applicant aggrieved by a decision made by the bureau may appeal the decision by filing an appeal with the District Court and serving a copy of the appeal upon the bureau in accordance with the Maine Rules of Civil Procedure, Rule 80C. The appeal must be filed and served within 30 days of the mailing of the bureau's decision.

[2001, c. 471, Pt. D, §26 (AMD) .]

8. Measurement of distance. All distances described in this section must be determined by the most reasonable direct route of travel.

[1993, c. 380, §6 (NEW) .]

9. Exception. Notwithstanding section 453, subsection 2-C, paragraph A, the bureau may issue an agency liquor store license to an applicant that has not held a license to sell malt liquor and wine for off-premises consumption for one year if the applicant is a branch of a chain retailer of which one or more locations has held a license to sell spirits without violating the provisions of this Title and the applicant, if licensed, will enhance the revenue to the State from the sale of spirits.

[2011, c. 460, §1 (NEW) .]

SECTION HISTORY

1991, c. 622, §K6 (NEW). 1993, c. 380, §6 (AMD). 1993, c. 509, §§3,4 (AMD). 1997, c. 373, §47 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 471, §D26 (AMD). 2001, c. 711, §§3-5 (AMD). 2005, c. 596, §1 (AMD). 2011, c. 460, §1 (AMD).

§453-B. LICENSE FEES

1. Agency liquor store.

[1993, c. 509, §5 (RP) .]

2. Seasonal agency liquor stores.

[1993, c. 509, §5 (RP) .]

The initial license fee for an agency liquor store and the fee for a transferee of a license for an agency liquor store under section 457 is \$2,000. The renewal fee for an annual license is \$300. [2007, c. 117, §1 (NEW) .]

SECTION HISTORY

1991, c. 622, §K6 (NEW). 1993, c. 509, §5 (RPR). 2001, c. 358, §V2 (RPR). 2007, c. 117, §1 (RPR).

§453-C. RESELLING AGENTS

1. Agent licensed to resell spirits purchased from the bureau. An agent licensed to resell spirits purchased from the bureau or through an entity awarded a contract under section 90 to a retail licensee licensed for on-premises consumption must be licensed as a reselling agent. A reselling agent is prohibited from reselling spirits to a retail licensee licensed for on-premises consumption unless the spirits are purchased from the bureau or through an entity awarded a contract under section 90.

[2013, c. 476, Pt. B, §6 (AFF); 2013, c. 476, Pt. B, §2 (RPR) .]

2. License fee. The fee for a state license to resell spirits to a retail licensee licensed for on-premises consumption is \$50 annually.

[2013, c. 269, Pt. C, §7 (AMD); 2013, c. 269, Pt. C, §13 (AFF) .]

3. Off-site facility license. A licensed reselling agent may obtain a license to maintain an off-site facility for the storage and distribution of spirits as provided in this subsection.

A. The off-site facility may be used for the storage of spirits intended for sale to an on-premises licensee or to fulfill and distribute orders to an on-premises licensee. The sales of spirits to an on-premises licensee may be transacted at the licensed retail agency store or at the licensed off-site facility. [2015, c. 434, §1 (AMD) .]

B. The off-site facility must be equipped with a security system providing 24-hour response. [2015, c. 434, §1 (AMD) .]

C. A licensed reselling agent may have only one off-site facility, which may not be located further than 5 miles from the licensed retail agency store. [2015, c. 434, §1 (AMD) .]

D. The fee for an off-site facility license is \$100 annually. [2015, c. 434, §1 (AMD) .]

[2015, c. 434, §1 (AMD) .]

4. Reporting of spirits sales to on-premises licensees. Beginning October 15, 2016, a licensed reselling agent shall report on a monthly basis all spirits sales made to establishments licensed to sell spirits for on-premises consumption.

A. A report under this subsection must be made to a trade association contracted by the bureau to collect spirits sales data from reselling agents as described in section 84, subsection 6. [2015, c. 430, §4 (NEW) .]

B. The bureau shall ensure that reports under this subsection may be made by electronic transmission through a secure website established by the bureau. A reselling agent that is not reasonably able to use the website may submit a report under this subsection on paper or by using other methods approved by the bureau. [2015, c. 430, §4 (NEW) .]

C. The bureau may provide a stipend or reimbursement to reselling agents licensed and actively selling spirits to on-premises licensees as of July 1, 2016 to mitigate the costs of compliance with this subsection. [2015, c. 430, §4 (NEW) .]

D. The bureau may adopt rules regarding mitigating the costs incurred by reselling agents in complying with this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [2015, c. 430, §4 (NEW).]

[2015, c. 430, §4 (NEW) .]

SECTION HISTORY

2001, c. 711, §6 (NEW). 2003, c. 639, §1 (AMD). 2005, c. 539, §5 (AMD). 2013, c. 269, Pt. C, §§6, 7 (AMD). 2013, c. 269, Pt. C, §13 (AFF). 2013, c. 368, Pt. V, §32 (AMD). 2013, c. 476, Pt. B, §2 (AMD). 2013, c. 476, Pt. B, §6 (AFF). 2015, c. 430, §4 (AMD). 2015, c. 434, §1 (AMD).

§453-D. CHANGE OF LOCATION

The bureau shall permit the relocation of an agency liquor store within the same municipality as prescribed by this section. [2011, c. 135, §1 (NEW).]

1. Relocation application requirements. The bureau shall permit a change of location of an agency liquor store licensee if:

A. The licensee submits a \$2,000 relocation fee and an application in a form prescribed by the bureau; [2011, c. 135, §1 (NEW).]

B. The application includes proof of receipt of municipal approval of the relocation; [2011, c. 135, §1 (NEW).]

C. The licensee has held the license and operated as an agency liquor store for no less than one year at the currently licensed location, unless the relocation is directly related to retroactive zoning or unintentional destruction of the property that prevents rebuilding at the current location; and [2011, c. 135, §1 (NEW).]

D. The proposed location of the agency liquor store meets all applicable criteria for licensure for an agency liquor store. [2011, c. 135, §1 (NEW).]

[2011, c. 135, §1 (NEW) .]

2. Hearing on relocation application. Within 45 days of receipt of a relocation application under this section, the bureau, in accordance with the provisions of the Maine Administrative Procedure Act, shall conduct a hearing to take testimony, consider comment and deliberate on the proposed relocation. In addition to giving any notice required by the Maine Administrative Procedure Act, the bureau shall give notice of public hearing in writing to any agency liquor stores located in the same municipality as the applicant's proposed relocation site by regular mail at least 15 days prior to the hearing.

[2011, c. 135, §1 (NEW) .]

SECTION HISTORY

2011, c. 135, §1 (NEW).

§454. AGENCY LIQUOR STORE IN FORMER STATE LIQUOR STORE LOCATION.

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2011, c. 629, §8 (RP).

§455. LIQUOR FOR AGENCY LIQUOR STORES

1. Agency liquor store purchases. Agency liquor stores shall buy their liquor from the bureau under section 606.

[2003, c. 20, Pt. SS, §3 (NEW); 2003, c. 20, Pt. SS, §8 (AFF); 2003, c. 51, Pt. C, §2 (AFF); 2013, c. 368, Pt. V, §61 (REV) .]

2. Monthly specials. The bureau may establish monthly specials for all agency liquor stores. The issuance of an agency liquor store license and the operation of agency liquor stores licensed pursuant to this Part are governed by this chapter.

[2003, c. 20, Pt. SS, §3 (NEW); 2003, c. 20, Pt. SS, §8 (AFF); 2003, c. 51, Pt. C, §2 (AFF); 2013, c. 368, Pt. V, §61 (REV) .]

SECTION HISTORY

1987, c. 45, Pt. A, §4 (NEW). 1991, c. 376, §51 (AMD). 1997, c. 373, §48 (AMD). 2003, c. 20, Pt. SS, §8 (AFF). 2003, c. 20, Pt. SS, §3 (RPR). 2003, c. 51, Pt. C, §2 (AFF). 2013, c. 368, Pt. V, §61 (REV).

§456. SPECIAL SEASONAL AGENCY LIQUOR STORES

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 600, §§A17,18 (AMD). 1989, c. 600, §§A17,A18 (AMD). 1989, c. 930, (AMD). MRSA T. 28A, §456, sub-§3 (RP).

§456-A. SPECIAL SEASONAL AGENCY LIQUOR STORES

(REPEALED)

SECTION HISTORY

1991, c. 367, (NEW). 1991, c. 622, §K7 (AMD). 1993, c. 509, §6 (RP).

§457. TRANSFER OF AGENCY LIQUOR STORE LICENSE

Upon application of a licensee under this chapter, an agency liquor store license must be transferred to a new owner upon the sale of the licensed establishment and payment of the transfer fee required in section 453-B if the new owner is eligible under section 601 and the physical premises of the establishment remain unchanged. [2007, c. 117, §2 (NEW).]

SECTION HISTORY

P&SL 1987, c. 50, (NEW). 1987, c. 342, §23 (NEW). 1987, c. 623, §6 (AMD). 1997, c. 373, §49 (AMD). 2007, c. 117, §2 (RPR).

§458. RENEWAL OF AGENCY LIQUOR STORE LICENSE; SELECTION OF ALTERNATE LICENSEE

1. Application by store. The holder of an agency liquor store license shall apply annually to the bureau for renewal of that license. An application for renewal must be submitted on a form prepared by the bureau.

[1997, c. 373, §50 (AMD) .]

2. Review by bureau. In reviewing applications for renewal submitted under subsection 1, the bureau shall consider the following criteria:

- A. The applicant's sales and inventory of liquor; [1991, c. 782, §1 (NEW).]
- B. The applicant's sales and inventory of groceries and related items; [1991, c. 782, §1 (NEW).]
- C. Any changes in the interior selling location of the premises or renovations to the applicant's licensed premises; [1999, c. 34, §1 (AMD).]
- D. Any customer complaints of poor service against the applicant's store; [1991, c. 782, §1 (NEW).]
- E. Any violations of liquor laws by the applicant; and [1991, c. 782, §1 (NEW).]
- F. Records of any bad checks rendered to the commission or bureau. [1997, c. 373, §50 (AMD).]

[1999, c. 34, §1 (AMD) .]

2-A. Review exemptions. Notwithstanding subsection 2, paragraph C, when considering an application for the renewal of an agency license, the bureau may not consider minor changes to the placement of liquor inventory if the changes are not for the purposes of marketing beyond those provided in law or agency rule or for increasing access by minors but are to address some other liquor placement issue that is within the scope of the person's license.

[1999, c. 34, §2 (NEW) .]

3. Rejection of application; selection of alternate licensee. If the bureau denies an application for renewal of an agency liquor store license, the bureau may select an alternate licensee in accordance with the criteria set forth in sections 453, 453-A and 453-B. If the alternate licensee held an agency liquor store license in the past, the bureau may consider any of the applicable criteria set forth in subsection 2 in considering whether to license the alternate agency liquor store.

[1997, c. 373, §50 (AMD) .]

4. Purchase of store merchandise by State. If the bureau does not renew the agency liquor store license, the bureau shall purchase from the agency liquor store all resalable spirits held in inventory by the agency liquor store. The purchase price is the cost at which that agency liquor store purchased the spirits from the bureau, minus 10% of that cost.

[1997, c. 373, §50 (AMD); 2013, c. 368, Pt. V, §61 (REV) .]

5. Aggrieved applicant. Any agency liquor store licensee aggrieved by a decision of the bureau not to renew an agency liquor store license may appeal the decision by filing an appeal with the District Court and serving a copy of the appeal on the bureau in accordance with the Maine Rules of Civil Procedure, Rule 80C. The appeal must be filed and served within 30 days of notification of the agency liquor store licensee by the bureau that the license will not be renewed.

[2001, c. 471, Pt. D, §27 (AMD) .]

SECTION HISTORY

1991, c. 782, §1 (NEW). 1997, c. 373, §50 (AMD). 1999, c. 34, §§1,2 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 471, §D27 (AMD). 2013, c. 368, Pt. V, §61 (REV).

§459. DELIVERY OF LIQUOR BY AGENCY LIQUOR STORES

Agency liquor stores may deliver liquor to establishments that are licensed to serve liquor on premises. [1993, c. 276, §1 (NEW).]

SECTION HISTORY

1993, c. 276, §1 (NEW).

§460. AGENCY LIQUOR STORE TASTE TESTING OF DISTILLED SPIRITS

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 or providing samples, or both, 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.

[2015, c. 329, Pt. D, §4 (AFF); 2015, c. 329, Pt. D, §1 (RPR) .]

2. Conditions on taste-testing activities. The conditions under this subsection apply to taste-testing activities under this section.

A. Distilled spirits may not be served to persons who have not yet attained 21 years of age. [2009, c. 459, §1 (NEW).]

B. 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. [2009, c. 459, §1 (NEW).]

C. Distilled spirits must be dispensed using a standard measuring device. [2009, c. 459, §1 (NEW).]

D. Distilled spirits having an alcohol content of greater than 80 proof may not be offered for tasting at the same time as distilled spirits having an alcohol content of 80 proof or less. [2009, c. 459, §1 (NEW).]

E. A person may not be charged a fee for any distilled spirits served as part of a taste-testing activity. [2009, c. 459, §1 (NEW).]

F. A person may not be served who is visibly intoxicated. [2009, c. 459, §1 (NEW).]

G. Taste testing must be limited to a designated area. [2009, c. 459, §1 (NEW).]

H. Taste testing must be conducted within the hours of retail sale established in this Title. [2009, c. 459, §1 (NEW).]

I. The agency liquor store must obtain the written permission of the bureau before conducting any taste-testing activity. [2009, c. 459, §1 (NEW).]

J. The agency liquor store may conduct up to 3 tastings per month, including tastings conducted under sections 1205 and 1207. [2011, c. 103, §1 (AMD).]

K. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5. [2009, c. 459, §1 (NEW).]

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. [2015, c. 129, §2 (AMD).]

M. [2015, c. 184, §2 (RP).]

M-1. Distilled spirits served at a taste testing must be provided by the agency liquor store or purchased, at the retail list price, by a licensed sales representative participating in the taste testing from existing stock available for purchase at the agency liquor store. [2015, c. 184, §3 (NEW).]

N. Prior to a taste-testing event, the agency liquor store shall post prominently at the entrance to the store a sign that announces the date and time of the event. [2013, c. 368, Pt. V, §33 (AMD).]

O. An agency liquor store, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the agency liquor store's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph N. [2009, c. 510, §3 (NEW).]

[2015, c. 129, §2 (AMD); 2015, c. 184, §§2, 3 (AMD) .]

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

[2013, c. 476, Pt. A, §17 (AMD) .]

SECTION HISTORY

2009, c. 459, §1 (NEW). 2009, c. 510, §§1-3 (AMD). 2011, c. 103, §1 (AMD). 2013, c. 368, Pt. V, §§33, 34 (AMD). 2013, c. 476, Pt. A, §17 (AMD). 2015, c. 129, §§1, 2 (AMD). 2015, c. 184, §§1-3 (AMD). 2015, c. 329, Pt. D, §1 (AMD). 2015, c. 329, Pt. D, §4 (AFF).

§461. MINIMUM STOCK REQUIREMENT

An agency liquor store shall maintain a minimum number of product codes in accordance with this section. For the purposes of this section, "product code" means a single spirit product purchased from the State or the State's wholesale distributor. [2013, c. 269, Pt. C, §8 (AMD); 2013, c. 269, Pt. C, §13 (AFF).]

1. Store in municipality with population of 1,000 or more. An agency liquor store located in a municipality with a population of 1,000 or more shall have in stock, or on hand, a minimum of 100 different product codes.

[2011, c. 140, §1 (NEW) .]

2. Store in municipality with population of 999 or less. An agency liquor store located in a municipality with a population of 999 or less shall have in stock, or on hand, a minimum of 50 different product codes.

[2011, c. 140, §1 (NEW) .]

SECTION HISTORY

2011, c. 140, §1 (NEW). 2013, c. 269, Pt. C, §8 (AMD). 2013, c. 269, Pt. C, §13 (AFF).

Chapter 21: WHOLESALE LIQUOR PROVIDER

§501. WHOLESALE LIQUOR PROVIDER; DEFINITION

As used in this chapter, unless the context otherwise indicates, "wholesale liquor provider" means an entity or entities contracted by the State as an agent of the State for the purpose of providing wholesale spirits to establishments licensed by the State to sell spirits for off-premises consumption. [2013, c. 269, Pt. C, §9 (AMD); 2013, c. 269, Pt. C, §13 (AFF).]

SECTION HISTORY

2003, c. 20, Pt. SS, §4 (NEW). 2003, c. 20, Pt. SS, §8 (AFF). 2003, c. 51, Pt. C, §2 (AFF). 2013, c. 269, Pt. C, §9 (AMD). 2013, c. 269, Pt. C, §13 (AFF).

§502. WHOLESALE LIQUOR PROVIDER PROHIBITED FROM HOLDING AN AGENCY LIQUOR STORE LICENSE

A wholesale liquor provider is prohibited from holding a retail license to sell liquor for off-premises consumption. [2003, c. 20, Pt. SS, §4 (NEW); 2003, c. 20, Pt. SS, §8 (AFF); 2003, c. 51, Pt. C, §2 (AFF).]

SECTION HISTORY

2003, c. 20, Pt. SS, §4 (NEW). 2003, c. 20, Pt. SS, §8 (AFF). 2003, c. 51, Pt. C, §2 (AFF).

§503. SALE TO ON-PREMISES LICENSEES PROHIBITED

A wholesale liquor provider shall sell spirits to establishments licensed by the State to sell liquor for off-premises consumption. A wholesale liquor provider is prohibited from selling spirits directly to establishments licensed by the State to sell liquor for on-premises consumption. [2013, c. 269, Pt. C, §10 (AMD); 2013, c. 269, Pt. C, §13 (AFF).]

SECTION HISTORY

2003, c. 20, Pt. SS, §4 (NEW). 2003, c. 20, Pt. SS, §8 (AFF). 2003, c. 51, Pt. C, §2 (AFF). 2013, c. 269, Pt. C, §10 (AMD). 2013, c. 269, Pt. C, §13 (AFF).

Part 3: LICENSES FOR SALE OF LIQUOR

Subpart 1: GENERAL PROVISIONS

Chapter 25: GENERAL PROVISIONS

§601. ELIGIBILITY

1. Eligibility qualifications. The bureau may not issue a license to an applicant unless that applicant meets the following qualifications.

A. If the applicant is an individual, the applicant must be:

- (1) At least 21 years of age; and
- (2) A citizen of the United States. [1993, c. 730, §26 (AMD).]

B. If the applicant is a partnership or association, each person having an interest in the partnership or association must be:

- (1) At least 21 years of age; and
- (2) A citizen of the United States. [1993, c. 730, §26 (AMD).]

C. If the applicant is a corporation, it must be incorporated under the laws of the State or authorized to transact business in the State. [1987, c. 45, Pt. A, §4 (NEW).]

[1993, c. 730, §26 (AMD) .]

2. Disqualifications. The bureau may not issue a license to an applicant if:

A. Any of the principal officers of the corporation is not personally eligible because that officer has had a license for sale of liquor revoked under chapter 33, if the applicant is a corporation; [1997, c. 373, §51 (AMD).]

B. The applicant held a license that was revoked for a specific period under chapter 33 and the applicant is applying for a license within that period since revocation; [1997, c. 373, §51 (AMD).]

C. The applicant, who was not at the time of the offense the holder of a liquor license, was convicted of violating any laws of the State or the United States with respect to manufacture, transportation, importation, possession or sale of liquor within 5 years of applying for the license. For the purposes of this paragraph, any person who sells liquor of a greater alcohol content than authorized by that person's license is not considered the holder of a license; [1997, c. 373, §51 (AMD).]

D. The applicant was convicted of selling liquor illegally on Sunday while an employee or agent of a licensee within 5 years of applying for the license; [1987, c. 45, Pt. A, §4 (NEW).]

E. The applicant's license expired pending an appeal from conviction of illegally selling liquor on Sunday within 5 years of applying for the license; [1987, c. 45, Pt. A, §4 (NEW).]

F. The applicant is a law enforcement officer or if a law enforcement officer benefits directly from the issuance of the license; [2013, c. 168, §1 (RPR).]

G. The applicant was denied a license within the 6 months before the application was filed, unless the bureau's denial of the license is overruled by the court under an appeal provided by section 805; [1997, c. 373, §51 (AMD).]

H. The applicant is the husband, wife, father, mother, child or other close relation of a person whose license or application for a license for the same premises was revoked by the District Court Judge or denied by the bureau within the 6 months before the application was filed; [1997, c. 373, §51 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

I. The bureau determines that the purpose of the application is to circumvent the provisions of this section; or [1997, c. 373, §51 (AMD).]

J. The applicant is a golf club or a restaurant located on the property of a golf club and the Maine Human Rights Commission has found reasonable grounds to believe that the golf club has denied membership to a person in violation of Title 5, chapter 337, subchapter V, and has determined that conciliation efforts under Title 5, chapter 337, section 4612, subsection 3 have not succeeded. The Maine Human Rights Commission shall notify the bureau when the golf club has corrected its discriminatory membership practices, after which the applicant ceases to be disqualified under this paragraph. [1997, c. 373, §51 (AMD).]

[2013, c. 168, §1 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 592, §§1,2 (AMD). 1991, c. 158, §§1-3 (AMD). 1993, c. 730, §26 (AMD). 1995, c. 192, §1 (AMD). 1997, c. 373, §51 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2013, c. 168, §1 (AMD).

§601-A. EXAMINATION OF NEW APPLICANTS

(REPEALED)

SECTION HISTORY

1989, c. 526, §§2,28 (NEW). 1997, c. 373, §52 (RP).

§602. NOTIFICATION OF LICENSE EXPIRATION

1. Seven-day grace period upon license expiration. Except as provided in subsection 3, a license holder who unintentionally fails to renew any license upon its expiration date and continues to make sales of liquor is not chargeable with illegal sales under section 2078 for a period of 7 days following the expiration date.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Bureau must notify licensee of expiration. The bureau shall notify the licensee by the most expedient means available that the license has expired and all sales of liquor must be suspended immediately and remain suspended until the license is properly renewed.

[1997, c. 373, §53 (AMD) .]

3. Illegal sales after expiration of grace period or after notice. A licensee that continues to make sales of liquor after having been properly notified of the expired license shall be charged with illegal sales under section 2078.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §53 (AMD).

§603. PART-TIME 7-MONTH LICENSE

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §24 (RP).

§604. PRODUCTION OF LICENSES

All licensees shall make available for inspection their licenses at the premises to which those licenses apply. [2011, c. 535, §3 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2011, c. 535, §3 (AMD).

§605. TRANSFER OF LICENSES; DEATH; BANKRUPTCY; RECEIVERSHIP; GUARDIANSHIP; CORPORATIONS

Except as otherwise provided in this section and section 608, a license or any interest in a license may not be sold, transferred, assigned or otherwise subject to control by any person other than the licensee. If the business, or any interest in the business, in connection with which a licensed activity is conducted is sold, transferred or assigned, the license holder shall immediately send to the bureau the license and a sworn statement showing the name and address of the purchaser. The bureau is not required to refund any portion of the license fee if the license is surrendered before it expires. For the purposes of this section, neither a tenant brewer who is licensed in accordance with section 1355-A, subsection 6 nor a tenant winery who is licensed in accordance with section 1355-A, subsection 7 is considered to be subject to the control of the host brewer or host winery, as the case may be, as described in those subsections, or considered to have been transferred or assigned the license or interest in the license of the host brewer or host winery. [2015, c. 185, §2 (AMD).]

1. Transfer within same municipality. Upon receipt of a written application, the bureau may transfer any retail liquor license from one place to another within the same municipality. If the approval of the municipal officers was required for the original license, the transfer may be made only with the approval of the municipal officers. No transfer may be made to premises for which the license could not have been originally legally issued.

[1997, c. 373, §55 (AMD) .]

2. Death, bankruptcy or receivership. In the case of death, bankruptcy or receivership of any licensee, the executor or administrator of the deceased licensee or the trustee or receiver of the bankrupt licensee or licensee in receivership may retain the license for the remaining term of the license or transfer the license without additional fee.

A. Personal representatives, receivers or trustees may operate the premises themselves or through a manager for a year from the date of their appointment for the benefit of the estate.

- (1) The license must be renewed upon the expiration date at the regular license fee.
- (2) If the license or renewed license is not transferred within one year from the date of appointment, it becomes void and must be returned to the bureau for cancellation.
- (3) Any suspension or revocation of the license by the District Court Judge for any violation applies against both the manager and the personal representative, receiver or trustee.
- (4) No personal representative, receiver, trustee or duly appointed manager may operate under the license unless approved by the bureau. [1997, c. 373, §56 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

B. If a licensee dies, the following persons, with the written approval of the bureau, may continue the operation of the license for not more than 60 days pending appointment of a personal representative of the estate:

- (1) The surviving spouse;
- (2) A person who has filed a petition for appointment as executor or administrator for the estate of the deceased licensee;
- (3) Any sole heir of the deceased licensee; or
- (4) Any person designated by all of the heirs of the deceased licensee. [1997, c. 373, §56 (AMD) .]

C. When no administration of the estate of a deceased licensee is contemplated, the surviving spouse or person designated by all of the heirs of the deceased licensee may take over the license under the same conditions as are provided for operation and transfer by executors and administrators. [1987, c. 45, Pt. A, §4 (NEW) .]

[1997, c. 373, §56 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

2-A. Transfer to surviving spouse or designated heir. When the term of the license of a deceased licensee expires, the bureau shall transfer the license for the existing location to the surviving spouse or a designated heir of the deceased licensee if the surviving spouse or designated heir submits a request for the transfer of that license at least 60 days prior to the expiration of the license. The bureau may deny the transfer of the license if the surviving spouse or designated heir does not meet all of the eligibility requirements for that license set forth in this chapter. If both the surviving spouse and the designated heir request transfer of the license, the bureau shall reissue the license by the same process used if no surviving spouse or designated heir requested that the license be transferred.

[2001, c. 711, §7 (NEW) .]

3. Guardians and conservators. Duly appointed and qualified guardians and conservators of the estate of a licensee may take over, operate and renew licenses of their wards during their term of office if they or their managers are approved by the bureau.

A. Guardians and conservators, except in the case of off-premise retail licensees approved by the municipal officers in their municipality, may not transfer their wards' licenses and must renew licenses each year. [1987, c. 45, Pt. A, §4 (NEW) .]

B. Penalties for violations apply to both guardians or conservators and their managers in the same manner as executors or administrators and their managers in subsection 2. [1987, c. 45, Pt. A, §4 (NEW) .]

[1997, c. 373, §57 (AMD) .]

4. Sale of stock of a corporate licensee. Any sale or transfer of stock of a corporate licensee which results in the sale or transfer of more than 10% of the shares of stock of the corporate licensee shall be considered a transfer within the meaning of this section and a new license must be purchased.

[1987, c. 342, §26 (AMD) .]

5. Incorporation of licensee's business. The incorporation of a licensee's business or a change in the form of incorporation of a licensee's business are transfers within the meaning of this section. This subsection does not apply to agency liquor stores as long as the licensed agent retains control of the corporate stock.

[1987, c. 623, §7 (AMD) .]

6. Change in partnership. Addition or deletion of a partner in a partnership is a transfer within the meaning of this section.

[1987, c. 342, §27 (NEW) .]

7. Corporate merger or acquisition. The merger or acquisition of a licensee which is incorporated is a transfer within the meaning of this section.

[1987, c. 342, §27 (NEW) .]

8. Application. This section does not apply to certificate of approval holders.

[1987, c. 623, §7 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§25-27 (AMD). 1987, c. 623, §7 (AMD). 1987, c. 769, §A113 (AMD). 1997, c. 373, §§54-57 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 711, §7 (AMD). 2013, c. 345, §2 (AMD). 2013, c. 446, §1 (AMD). 2015, c. 185, §2 (AMD).

§606. LIQUOR BOUGHT FROM BUREAU; SALE TO GOVERNMENT AGENCIES

1. Purchase of liquor. Subject to the restrictions provided in subsection 1-A, a person licensed to sell spirits and fortified wine must purchase spirits and fortified wine from an agency liquor store. This subsection does not apply to public service corporations operating interstate.

A. [1993, c. 276, §2 (RP).]

[2013, c. 368, Pt. V, §35 (AMD) .]

1-A. On-premises licensees; purchase from agency store. A person licensed to sell spirits for consumption on the premises shall purchase spirits from an agency liquor store only in accordance with this subsection.

A. The sale price of spirits sold by a reselling agent to an establishment licensed for on-premises consumption must equal the price established by the commission. [2013, c. 476, Pt. A, §19 (AMD).]

B. Upon completion of a transaction, the agency liquor store and the on-premises licensee shall each retain a copy of the licensee order form. [2005, c. 539, §6 (AMD).]

C. [1993, c. 276, §3 (RP).]

D. [1993, c. 276, §3 (RP).]

[2013, c. 476, Pt. A, §19 (AMD) .]

1-B. Price of sales to agency liquor stores.

[1997, c. 24, Pt. L, §1 (RP) .]

1-C. Price of state spirits sales to agency liquor stores. The bureau may offer discounts below the list price on spirits sold to agency liquor stores.

[2013, c. 476, Pt. A, §20 (AMD) .]

1-D. Purchase of spirits. Subject to the restrictions provided in subsection 1-A, a person licensed to sell spirits for on-premises consumption must purchase spirits from a reselling agent. This subsection does not apply to public service corporations operating interstate.

[2013, c. 476, Pt. B, §3 (NEW); 2013, c. 476, Pt. B, §6 (AFF) .]

2. On-premises retailers must report purchases.

[2015, c. 430, §5 (RP) .]

3. Prospective licensees may order liquor in advance. Upon approval of the bureau, persons who have been issued a license, effective at a future date, may order liquor in advance of the effective date of the license and may advertise the effective date.

[1997, c. 373, §58 (AMD) .]

4. Discount for agency liquor stores.

[2013, c. 476, Pt. A, §21 (RP) .]

4-A. Discount rates for agency liquor stores; rulemaking. Beginning July 1, 2014 the bureau shall set the price of spirits at a minimum discount of 12% of the list price. The bureau may establish discount rates greater than 12%, including graduated discount rates, but those discount rates must be established by rules that ensure that any graduated discount rate is structured in a way that does not adversely affect agency liquor stores that stock a low level of inventory. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2013, c. 269, Pt. A, §8 (NEW); 2013, c. 368, Pt. V, §61 (REV) .]

5. Sale to government instrumentalities. The bureau may authorize the sale of spirits to government instrumentalities within the State approved by the bureau. The bureau shall set the price.

[1997, c. 373, §58 (AMD); 2013, c. 368, Pt. V, §61 (REV) .]

6. Sale to airlines and ferry services for consumption outside the State. The bureau may authorize the sale of spirits not for consumption within the State to airlines and ferry services or their agents as authorized by the bureau. The bureau shall set the price.

[1997, c. 373, §58 (AMD); 2013, c. 368, Pt. V, §61 (REV) .]

7. Premium must be collected. Nothing in this section permits the sale of spirits without collecting the entire premium assessed under chapter 65.

[1997, c. 373, §58 (AMD) .]

8. Limits on price. An agency liquor store shall sell all spirits purchased from the bureau or through an entity awarded a contract under section 90 at the retail price established by the commission.

[2013, c. 476, Pt. B, §6 (AFF); 2013, c. 476, Pt. B, §4 (RPR) .]

SECTION HISTORY

1987, c. 45, Pt. A, §4 (NEW). 1987, c. 342, §§28,29 (AMD). 1991, c. 227, §§1,2 (AMD). 1991, c. 376, §52 (AMD). 1991, c. 622, Pt. K, §8 (AMD). 1991, c. 791, §2 (AMD). 1991, c. 824, Pt. A, §57 (AMD). 1993, c. 276, §§2,3 (AMD). 1995, c. 53, §1 (AMD). 1997, c. 24, Pt. L, §§1-4

(AMD). 1997, c. 373, §58 (AMD). 2001, c. 711, §8 (AMD). 2003, c. 20, Pt. SS, §§5,6 (AMD). 2003, c. 20, Pt. SS, §8 (AFF). 2003, c. 51, Pt. C, §2 (AFF). 2005, c. 539, §6 (AMD). 2011, c. 380, Pt. PPPP, §1 (AMD). 2013, c. 269, Pt. A, §§7, 8 (AMD). 2013, c. 269, Pt. A, §10 (AFF). 2013, c. 269, Pt. C, §11 (AMD). 2013, c. 269, Pt. C, §13 (AFF). 2013, c. 368, Pt. V, §§35-39 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2013, c. 476, Pt. A, §§18-21 (AMD). 2013, c. 476, Pt. A, §36 (AFF). 2013, c. 476, Pt. B, §§3, 4 (AMD). 2013, c. 476, Pt. B, §6 (AFF). 2015, c. 430, §5 (AMD).

§607. LICENSEES CLOSED IN CASE OF RIOTS, HURRICANES OR FLOODS

The Governor or the bureau may, in cases of riots, hurricanes and floods, order any or all licensees not to sell any liquor. [1997, c. 373, §59 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §59 (AMD).

§608. LICENSEES WITH PROFESSIONAL SPORTING EVENTS; REVENUES FROM THE SALE OF LIQUOR

A licensee authorized to sell liquor for on-premises consumption may enter into an agreement to share revenues from the sale of liquor with a professional sports team not licensed under this Title if: [2013, c. 446, §2 (NEW).]

1. Capacity. The licensee has a capacity to seat at least 3,000 people;

[2013, c. 446, §2 (NEW) .]

2. Licensee is designated host facility. The licensee is the designated host facility for the professional sports team. For the purposes of this subsection, "designated host facility" means a facility licensed to sell liquor for on-premises consumption, including, but not limited to, a civic auditorium or an outdoor stadium where a professional sports team conducts at least 75% of its sporting events as the home team in the competition;

[2013, c. 446, §2 (NEW) .]

3. Revenues from sales at sporting events only. Revenues to be shared as provided by this section between the licensee and the professional sports team are limited to revenues from the sale of liquor sold at the time of sporting events conducted by that professional sports team; and

[2013, c. 446, §2 (NEW) .]

4. Application. The licensee discloses any agreement, including any revenue-sharing provisions pursuant to subsection 3, with a professional sports team permitted under this section when submitting an application for a liquor license as required by section 651, subsection 2.

[2013, c. 446, §2 (NEW) .]

SECTION HISTORY

2013, c. 446, §2 (NEW).

Chapter 27: APPLICATION PROCEDURE

§651. APPLICATIONS

1. File application with bureau. An applicant for a liquor license shall file an application in the form required by the bureau.

[1997, c. 373, §60 (AMD) .]

2. Contents of application. The application must contain the following.

A. Each applicant shall disclose the entire ownership or any interest in the establishment for which a license is sought. If the applicant is a purchaser by contract, the applicant shall also disclose the terms of the contract. [1997, c. 373, §61 (AMD).]

B. Every applicant for a license for sale of liquor to be consumed on the premises where sold shall include in the application a description of the premises to be licensed and provide any other material information, description or plan of that part of the premises where the applicant proposes to keep or sell liquor as the bureau requires. [1997, c. 373, §61 (AMD).]

C. The owner or the bona fide prospective purchaser must sign the application. If the owner or bona fide prospective purchaser is:

(1) A natural person, then that person must sign;

(2) A partnership, then the partners of the partnership must sign; or

(3) A corporation, then a principal officer of the corporation or any person specifically authorized by the corporation must sign. [1987, c. 45, Pt. A, §4 (NEW).]

[1997, c. 373, §61 (AMD) .]

3. False answer given intentionally. Any person who intentionally gives an untruthful answer in an application for a liquor license violates Title 17-A, section 453.

[1987, c. 342, §30 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §30 (AMD). 1997, c. 373, §§60,61 (AMD).

§652. APPLICATION PROCEDURE

1. License fee. The applicant must enclose the fee prescribed by chapter 41 with the application for the license.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Effective date and term of license. All full-year licenses are effective for one year from the date of issuance. All part-time licenses are effective for the term of the license from the date of issuance.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Renewal. Licenses may be renewed upon application for renewal and payment of the annual fee, subject to bureau rules.

[1997, c. 373, §62 (AMD) .]

4. Multiple licenses. Any licensee applying for a license to operate more than one premise shall pay the fee prescribed for the type of license to be exercised at each premise.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Filing fee. Except as provided in paragraph A, every applicant for an original or renewal license shall pay a filing fee of \$10 when filing the application.

A. In unincorporated places, the applicant shall pay the filing fee of \$10 to the county treasurer of the county in which the unincorporated place is located. All applications for a license in unincorporated places must be accompanied by evidence of payment of the filing fee to the county treasurer. [1987, c. 769, Pt. A, §114 (AMD).]

[1987, c. 769, Pt. A, §114 (AMD) .]

6. Public service license. One public service license is sufficient to cover all steamboats, cars and aircraft operated by any one public service corporation.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §31 (AMD). 1987, c. 769, §A114 (AMD). 1997, c. 373, §62 (AMD).

§653. HEARINGS; BUREAU REVIEW; APPEAL

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The

bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).]

[2003, c. 213, §1 (AMD) .]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]

[2009, c. 81, §§1-3 (AMD) .]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP).]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD).]

[1995, c. 140, §6 (AMD) .]

4. No license to person who moved to obtain a license.

[1987, c. 342, §32 (RP) .]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §32 (AMD). 1987, c. 623, §8 (AMD). 1989, c. 592, §§3,4 (AMD). 1993, c. 730, §27 (AMD). 1995, c. 10, §1 (AMD). 1995, c. 140, §§4-7 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 1999, c. 589, §1 (AMD). 2001, c. 500, §1 (AMD). 2003, c. 213, §1 (AMD). 2009, c. 81, §§1-3 (AMD).

§654. ADDITIONAL CONSIDERATIONS FOR LICENSURE

1. Character; location; operation of business. In issuing or renewing licenses, the bureau, the municipal officers or the county commissioners, as the case may be, shall give consideration to:

- A. The character of any applicant; [1987, c. 45, Pt. A, §4 (NEW).]
- B. The location of the place of business; [1987, c. 45, Pt. A, §4 (NEW).]
- C. The manner in which the business has been operated; and [1997, c. 373, §63 (AMD).]
- D. Whether the operation has endangered the safety of persons in or on areas surrounding the place of business. [1987, c. 45, Pt. A, §4 (NEW).]

[1997, c. 373, §63 (AMD) .]

2. Qualifications of corporations. The bureau, the municipal officers or the county commissioners, as the case may be, may refuse to issue licenses to corporations when any of its officers, directors or stockholders do not possess the qualifications required of unincorporated persons under this section.

[1997, c. 373, §63 (AMD) .]

3. Areas primarily for minors. Without limitation of its other powers, the bureau may not approve as a proper place for the exercise of the license privilege amusement areas primarily for minors, beaches or any other area designed primarily for use by minors.

[1997, c. 373, §63 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §63 (AMD).

Chapter 29: LICENSE RESTRICTIONS

§701. PROXIMITY TO SCHOOLS; EXCEPTION

1. Location within 300 feet of churches and schools. Except as provided in paragraphs B and C, the bureau may not issue a new license for the sale of liquor to be consumed on the premises to new premises within 300 feet of a public or private school, school dormitory, church, chapel or parish house in existence as such at the time the application for the new license is made.

A. [1987, c. 342, §33 (RP).]

B. The bureau may after holding a public hearing near the proposed location issue licenses to premises that are either in or within 300 feet of a church, chapel, parish house or postsecondary school. [1997, c. 373, §64 (AMD).]

C. The restriction in this subsection does not apply if a public or private school, school dormitory, church, chapel or parish house:

(1) Locates in a commercial zone that includes restaurants or bars as permitted uses and that had been established pursuant to a zoning ordinance as defined in Title 30-A, section 4301, subsection 15-A prior to the public or private school, school dormitory, church, chapel or parish house locating in the commercial zone; or

(2) Is located in a downtown as defined in Title 30-A, section 4301, subsection 5-A. [2005, c. 269, §1 (NEW).]

[2005, c. 269, §1 (AMD).]

2. Method of measurement. The distance must be measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel.

[1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §33 (AMD). 1997, c. 373, §64 (AMD). 2005, c. 269, §1 (AMD).

§702. CERTAIN CLUBS INELIGIBLE

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §34 (RP).

§703. EMPLOYMENT OF VIOLATORS PROHIBITED

A licensee may not employ as a manager or leave in charge of the licensed premises any person who, by reason of conviction of violation of any liquor laws within the last 5 years or because of a revocation of that person's license for sale of liquor within the last 5 years, is not eligible for a liquor license. [1997, c. 373, §65 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §65 (AMD).

§703-A. PROHIBITION OF EMPLOYMENT OF VIOLATORS AS RETAIL EMPLOYEES

1. Employment prohibited. A retail licensee may not employ a person as a retail employee if that person, within 2 years of the date of that person's application for employment, has been convicted of a first offense of violating section 2078 or section 2081, subsection 1, paragraph A or B. A retail licensee may not employ a person as a retail employee if that person, within 5 years of the date of that person's application for employment, has been convicted of a 2nd offense of violating section 2078 or section 2081, subsection 1, paragraph A or B.

[1993, c. 254, §1 (AMD) .]

2. Affidavit required. Retail licensees shall require a person applying for employment as a retail employee to furnish to the licensee an affidavit stating that the applicant has not been convicted of a first offense of violating section 2078 or section 2081, subsection 1, paragraph A or B, within 2 years of the date of the affidavit. Retail licensees shall require a person applying for employment as a retail employee to furnish to the licensee an affidavit stating that the applicant has not been convicted of a 2nd offense of violating section 2078 or section 2081, subsection 1, paragraph A or B, within 5 years of the date of the affidavit. The affidavit must be executed at the time of application. The bureau shall develop the affidavit required by this section and make single copies of that affidavit available to retailers.

[1997, c. 373, §66 (AMD) .]

SECTION HISTORY

1989, c. 526, §§3,28 (NEW). 1993, c. 254, §1 (AMD). 1997, c. 373, §66 (AMD).

§704. EMPLOYMENT OF MINORS

1. Employees under 17 years of age. A licensee for the sale of liquor to be consumed on licensed premises may not employ a person under 17 years of age in the serving or selling of liquor on the premises where the liquor is sold. A licensee who violates this subsection is subject to the penalties in section 803.

[2003, c. 452, Pt. P, §3 (RPR); 2003, c. 452, Pt. X, §2 (AFF) .]

1-A. (REALLOCATED FROM T. 28-A, §704, sub-§2) Employees between 17 and 21 years of age. An employee who is at least 17 years of age but less than 21 years of age may serve or sell liquor only in the presence of an employee who is at least 21 years of age and is in a supervisory capacity.

A. A licensee whose employee violates this subsection is subject to the penalties in section 803.

[2003, c. 1, §27 (AFF); 2003, c. 1, §26 (RAL).]

B. An employee who violates this subsection is subject to the penalties in section 803. [2003, c. 1, §27 (AFF); 2003, c. 1, §26 (RAL).]

[2003, c. 1, §27 (AFF); 2003, c. 1, §26 (RAL) .]

2. Penalty.

[1993, c. 266, §8 (RP) .]

2. (REALLOCATED TO T. 28-A, §704, sub-§1-A) Employees between 17 and 21 years of age.

[2003, c. 1, §27 (AFF); 2003, c. 1, §26 (RAL); 2003, c. 452, Pt. P, §3 (RPR); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §35 (AMD). 1993, c. 266, §§7,8 (AMD). 1997, c. 373, §67 (AMD). RR 2003, c. 1, §27 (AFF). RR 2003, c. 1, §26 (COR). 2003, c. 452, §X2 (AFF). 2003, c. 452, §P3 (RPR).

§704-A. EMPLOYMENT OF LAW ENFORCEMENT OFFICERS

(REPEALED)

SECTION HISTORY

1993, c. 730, §28 (NEW). 1995, c. 16, §1 (RP).

§705. SALES FOR CASH; SALES TO CERTAIN PERSONS RESTRICTED

1. Sales for cash. Except as provided in subsection 1-B, a wholesale licensee, the employee of a wholesale licensee or a reselling agent as defined by section 2, subsection 27-A may not sell or offer to sell any liquor except for cash or payment by check or electronic funds transfer as provided in subsection 1-A.

- A. [2003, c. 349, §1 (RP).]
- B. [2003, c. 349, §1 (RP).]
- C. [2003, c. 349, §1 (RP).]
- D. [2003, c. 349, §1 (RP).]

[2003, c. 349, §1 (RPR) .]

1-A. Electronic funds transfer. For the purposes of this section, "electronic funds transfer" means using an electronic device for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

A. Electronic funds transfers are permissible under the following conditions:

- (1) Any agreement to engage in electronic funds transfer for payment for beer or wine between manufacturers, wholesale licensees or retail licensees must be voluntary and in writing. A manufacturer, wholesale licensee or retail licensee may not refuse to do business with or otherwise limit business with another manufacturer, wholesale licensee or retail licensee for declining to pay for beer or wine by electronic funds transfer;
- (2) When electronic funds transfer is the form of payment, the form of payment must be noted on the invoice at the time of delivery and acknowledged in writing by the buyer or the buyer's employee. The note on the invoice constitutes an irrevocable promise to pay. All parties to electronic funds transfer transactions will maintain records of those transactions for 2 years from the date of the transaction and make those records available for inspection by the bureau upon request;
- (3) Initiation of the electronic funds transfer must occur on the next business day after the delivery of the product;
- (4) Parties engaging in electronic funds transfers under this section pay their own costs associated with electronic funds transfers; and

(5) Any electronic funds transfer transaction that is not completed due to insufficient funds is subject to the provisions of the Uniform Commercial Code. [2003, c. 349, §2 (NEW).]

[2003, c. 349, §2 (NEW) .]

1-B. Sales on credit. Credit may be extended:

A. By a hotel or club to bona fide registered guests or members; [2003, c. 349, §2 (NEW).]

B. By a hotel or Class A restaurant to the holder of a credit card that authorizes the holder to charge goods or credits; and [2003, c. 349, §2 (NEW).]

C. By an on-premises licensee to the host of a private, prearranged function without a credit card. [2003, c. 349, §2 (NEW).]

[2003, c. 349, §2 (NEW) .]

1-C. Right of action. A right of action does not exist to collect claims for credits extended contrary to this section.

[2003, c. 349, §2 (NEW) .]

1-D. Credit for deposits. This section does not prohibit a licensee from giving credit to a purchaser for the actual amount of the deposit on beverage containers as defined in Title 38, section 3102, subsection 2 or on the packages or original containers as a credit on any sale or from paying the amount actually charged for such a deposit on the packages or original containers.

[2015, c. 166, §2 (AMD) .]

1-E. Goods in exchange for product prohibited; exception. A wholesale licensee or a wholesale licensee's employee or agent may not sell, offer to sell or furnish any liquor to any person on a passbook or store order or receive from any person any goods, wares, merchandise or other articles in exchange for liquor. This paragraph does not apply to beverage container deposits on packages or original containers that were originally purchased from that licensee by the person returning the packages or original containers.

[2003, c. 349, §2 (NEW) .]

2. Prohibited sales of liquor or imitation liquor to be consumed off the premises. A licensee or licensee's employee or agent may not sell, furnish, give or deliver malt liquor, imitation liquor or wine to be consumed off the premises to:

A. [1993, c. 266, §10 (RP).]

B. [1987, c. 342, §37 (RP).]

C. [1987, c. 342, §37 (RP).]

D. [1993, c. 266, §10 (RP).]

E. A minor. Any licensee who accepts an order or receives payment for liquor or imitation liquor from a minor violates this paragraph. [1993, c. 266, §10 (AMD).]

[1993, c. 266, §10 (AMD) .]

2-A. Prohibited sales of liquor to be consumed off the premises. A licensee or licensee's employee or agent may not sell, furnish, give or deliver malt liquor or wine to be consumed off the premises to a person who is visibly intoxicated.

[1993, c. 266, §11 (NEW) .]

3. Prohibited sales of liquor or imitation liquor to be consumed on the premises. No licensee or licensee's employee or agent may sell, furnish, give, serve or permit to be served any liquor or imitation liquor to be consumed on the premises where sold to:

- A. [1993, c. 266, §12 (RP).]
- B. [1987, c. 342, §38 (RP).]
- C. [1987, c. 342, §38 (RP).]
- D. [1993, c. 266, §12 (RP).]

E. A minor. Any licensee who accepts an order or receives payment for liquor or imitation liquor from a minor violates this paragraph. [1993, c. 266, §12 (AMD).]

[1993, c. 266, §12 (AMD) .]

3-A. Prohibited sales of liquor to be consumed on the premises. A licensee or licensee's employee or agent may not sell, furnish, give, serve or permit to be served any liquor to be consumed on the premises where sold to a person who is visibly intoxicated.

[1993, c. 266, §13 (NEW) .]

4. Permitting consumption or possession by a minor on the premises. No licensee, or agent or employee of a licensee, may permit a minor to consume or possess liquor or imitation liquor on the premises.

[1993, c. 266, §14 (AMD) .]

5. Sale of imitation liquor to minors.

[1993, c. 730, §29 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§36-39 (AMD). 1989, c. 140, (AMD). 1989, c. 526, §§4,28 (AMD). 1993, c. 266, §§9-15 (AMD). 1993, c. 730, §29 (AMD). 2003, c. 349, §§1,2 (AMD). 2015, c. 166, §2 (AMD).

§706. IDENTIFICATION CARDS

1. Acceptable identification. A licensee may refuse to serve liquor to any person who fails to display upon request an identification card issued under Title 29-A, section 1410, or a motor vehicle operator's license bearing the photograph of the operator and issued under Title 29-A, chapter 11.

[1997, c. 437, §3 (AMD) .]

2. Age requirement for identification. A licensee or licensee's employee or agent may not sell, furnish, give or deliver liquor or imitation liquor to a person under 27 years of age unless the licensee or licensee's employee or agent verifies the person is not a minor by means of reliable photographic identification containing that person's date of birth.

[2005, c. 38, §1 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1995, c. 65, §A79 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1997, c. 437, §3 (AMD). 2005, c. 38, §1 (AMD).

§707. LICENSEE NOT TO BE INDEBTED, OBLIGATED OR INVOLVED

1. Licensee not indebted. Except as provided by section 1363, the bureau may not issue any license to or renew the license of a person who is indebted in any manner, directly or indirectly:

A. To any other person for liquor; [1987, c. 45, Pt. A, §4 (NEW).]

B. To the State for any tax, other than property tax, assessed and considered final under Title 36 that the State Tax Assessor certifies, in accordance with Title 36, section 172, as remaining unpaid in an amount exceeding \$1,000 for a period greater than 60 days after the applicant or licensee has received notice of the finality of that tax; or [1997, c. 373, §68 (AMD).]

C. For any contributions assessed and considered final under Title 26, section 1225, when the Director of Unemployment Compensation certifies that the amount remains unpaid for a period greater than 60 days, after the applicant or licensee has received notice of the finality of that tax. [1987, c. 45, Pt. A, §4 (NEW).]

[1997, c. 373, §68 (AMD) .]

2. Licensee must not receive anything of value. No licensee or applicant for a license may receive, directly or indirectly, any money, credit, thing of value, indorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person within or without the State, if the person is:

A. Engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor; or [1987, c. 342, §40 (AMD).]

B. Engaged in the manufacture, distribution, sale or transportation of any commodity, equipment, material or advertisement used in connection with the manufacture, distribution, wholesale sale, storage or transportation of liquor. [1987, c. 342, §40 (AMD).]

Nothing in this subsection prevents an affiliate of a licensee from receiving money for sponsorship of a transportation system for transporting the public or for sponsorship of specific sporting events and cultural events as long as the licensee does not receive any payment or thing of value from the public transportation system or the sporting and cultural events and as long as such an affiliate does not derive any portions of its revenues from the licensee. All sponsorships must have prior written approval of the bureau. The bureau shall adopt rules implementing this paragraph.

[1993, c. 730, §30 (AMD) .]

3. Retail licensee; interest in wholesaler or certificate of approval. Except as authorized in section 1355-A, a retail licensee may not have any financial interest, direct or indirect, in any:

A. Maine manufacturer's or wholesaler's license; or [1987, c. 45, Pt. A, §4 (NEW).]

B. Certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor or wine. [1987, c. 45, Pt. A, §4 (NEW).]

[2011, c. 629, §9 (AMD) .]

4. Certificate of approval holder or Maine manufacturer; interest in wholesaler or retail license. Except as authorized in section 1355-A, a certificate of approval holder or in-state manufacturer may not have any financial interest, direct or indirect, in any:

A. Maine wholesale license; or [1987, c. 342, §42 (RPR).]

B. Maine retail license. [1987, c. 342, §42 (NEW).]

[2011, c. 629, §10 (AMD) .]

5. Wholesale licensee; interest in certificate of approval holder, Maine manufacturer or retail licensee. No wholesale licensee may have any financial interest, direct or indirect, in any:

A. Certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor; [1987, c. 342, §42 (NEW).]

B. Maine manufacturer license; or [1987, c. 342, §42 (NEW).]

C. Maine retail license. [1987, c. 342, §42 (NEW).]

[1987, c. 342, §42 (RPR) .]

6. Minor investment. Minor investment in securities of a corporation engaged in liquor business not amounting to more than 1% shall not be held to be an interest forbidden by this subsection.

[1987, c. 342, §43 (NEW) .]

7. Application. This section does not prohibit a wholesale licensee from receiving normal credits for the purchase of malt liquor or wine from the manufacturer located within or without the State.

[1987, c. 342, §43 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§40-43 (AMD). 1993, c. 730, §30 (AMD). 1997, c. 373, §68 (AMD). 2005, c. 390, §§2,3 (AMD). 2011, c. 629, §§9, 10 (AMD).

§707-A. EXCEPTIONS TO INDEBTEDNESS OR OPERATIONS LIMITATIONS

1. Certain financial interests permitted. Notwithstanding section 707, if the requirements of subsection 2 are met, section 707 does not prohibit:

A. A person that owns or has a financial interest in a holder of a retail license issued in conjunction with and as part of the operations of a hotel from owning or having a financial interest in a certificate of approval holder; or [1997, c. 659, §1 (NEW).]

B. A person that owns or has a financial interest in a certificate of approval holder from owning or having a financial interest in the holder of a retail license issued in conjunction with and as part of the operations of a hotel. [1997, c. 659, §1 (NEW).]

[1997, c. 659, §1 (NEW) .]

2. Requirements. The exceptions to section 707 set out in subsection 1 apply only if each of the following requirements is met.

A. The hotel must have at least 100 adequate sleeping rooms and the relationship between the occupants of those rooms and the owner or operator of the establishment is that of guest and innkeeper. [1997, c. 659, §1 (NEW).]

B. The hotel may not purchase any malt liquor and wine products sold by the certificate of compliance holder to Maine wholesale licensees, nor may the certificate of compliance holder require any brand of liquor product to be purchased or sold by the hotel. [1997, c. 659, §1 (NEW).]

C. Neither the certificate of approval holder nor the retail licensee may directly or indirectly own or have any interest in a Maine wholesale licensee. [1997, c. 659, §1 (NEW).]

D. The certificate of compliance holder and the retail licensees must be separate entities and may not have any common directors. [1997, c. 659, §1 (NEW).]

[1997, c. 659, §1 (NEW) .]

3. Construction. The exceptions to section 707 set out in subsection 1 must be construed narrowly and be limited to the express terms contained in subsection 1. The exceptions contained in subsection 1 may not be construed to undermine the general prohibition against tied interests contained in section 707.

[1997, c. 659, §1 (NEW) .]

SECTION HISTORY

1997, c. 659, §1 (NEW).

§708. PROHIBITED DISCOUNTS AND REBATES

1. Certificate of approval holders. A certificate of approval holder may not offer to wholesale licensees any special discounts, volume discounts or other reduced prices or discounts, except bona fide price reductions under section 1408 offered to all wholesale licensees. A certificate of approval holder may offer depletion allowances to wholesale licensees if the depletion allowance is posted in accordance with section 1408. Except as provided by this section, a certificate of approval holder may not offer any free merchandise, rebate or gift to the purchaser of an alcoholic beverage.

[2009, c. 145, §1 (AMD) .]

2. Wholesale licensees. A wholesale licensee may not offer to retail licensees any special discounts, volume discounts, depletion allowances, other reduced prices or discounts, or refunds except bona fide price reductions under section 1408 offered to all retail licensees. A wholesale licensee may not offer any free merchandise, rebate, refund or gift to the purchaser of an alcoholic beverage.

[1997, c. 501, §1 (AMD) .]

3. Retail licensees. A retail licensee may not offer any free merchandise, rebate or gift to the purchaser of any alcoholic beverage.

[1997, c. 501, §1 (AMD) .]

4. Special package plans or price premiums.

[1987, c. 342, §44 (RP) .]

5. Combination packages. Notwithstanding subsection 3, agency liquor store licensees may offer for sale any package or combination of packages of spirits that the commission has approved for sale in this State.

[2005, c. 503, §1 (AMD) .]

6. Marketing and mail-in promotions. Upon approval by the commission, promotional materials designed to encourage a consumer to purchase a spirits product to be attached to or displayed near the spirits product where it is offered for sale for off-premises consumption may be offered by those whose spirits products are listed by the commission. Upon approval by the commission, a mail-in rebate may be provided to consumers through print or electronic media, attached to the spirits product or displayed near the spirits product where the spirits product is offered for sale for off-premises consumption. Mail-in rebates approved by the commission must be redeemed by the manufacturer and not by the retail licensee and may not exceed the purchase price of the spirits product. Mail-in rebates authorized by this subsection must require the

inclusion of the original dated sales receipt for the spirits product to which the rebate is applied. Mail-in rebates, certificates or merchandise included with a spirits product must be inserted in the package or attached to the package by the manufacturer.

[2013, c. 514, §1 (AMD); 2013, c. 514, §3 (AFF) .]

7. Instant marketing promotions. A manufacturer or supplier of spirits listed for sale by the commission may offer monetary rebates in the form of instant redeemable coupons attached to the spirits product as approved by the commission in accordance with conditions or rules established by the commission. Agency store licensees may redeem the coupons only upon proof of purchase and in accordance with the terms listed on the coupon. Instant redeemable coupons included with a spirits product must be inserted in the package by the manufacturer or attached to the package by the manufacturer, manufacturer's agent or manufacturer's sales representative. Instant redeemable coupons provided by the manufacturer's agent or manufacturer's sales representative must be made available to all agency store licensees electing to offer the coupon in an amount equal to the agency store's inventory of spirits products that are subject to the coupon promotion. Instant redeemable coupons attached to spirits sold to on-premise retail licensees by reselling agents are for the benefit of the on-premise retail licensee. An instant redeemable coupon attached to a spirits product sold by an agency store licensee to a consumer is for the benefit of the consumer who purchases the spirits product.

[2009, c. 504, §1 (AMD) .]

This section does not prohibit a certificate of approval holder from including a certificate, instant redeemable coupon or merchandise in or on a package of beer, wine or low-alcohol spirits for sale by an off-premise retailer. The package containing the certificate, instant redeemable coupon or merchandise must be packaged by the certificate of approval holders at the brewery or winery. Upon approval of the bureau, a certificate of approval holder may offer a mail-in rebate for a malt liquor, wine or low-alcohol spirits product for consumers through print or electronic media, attached to the package of malt liquor, wine or low-alcohol spirits product or displayed near where the malt liquor, wine or low-alcohol spirits product is offered for sale for off-premises consumption. Mail-in rebates authorized by this paragraph must require the inclusion of the original dated sales receipt for the product to which the rebate is applied. Mail-in rebates must be redeemed by the certificate of approval holder and may not exceed the purchase price of the malt liquor, wine or low-alcohol spirits product to which the rebate is applied. [2013, c. 514, §2 (AMD); 2013, c. 514, §3 (AFF).]

This section does not prohibit the unconditional distribution of merchandise to the patrons of an on-premise establishment. [1997, c. 501, §1 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §44 (RPR). 1993, c. 100, §1 (AMD). 1993, c. 615, §4 (AMD). 1993, c. 730, §31 (AMD). 1995, c. 582, §1 (AMD). 1997, c. 501, §1 (AMD). 2005, c. 503, §§1,2 (AMD). 2009, c. 145, §1 (AMD). 2009, c. 504, §1 (AMD). 2013, c. 514, §§1, 2 (AMD). 2013, c. 514, §3 (AFF).

§708-A. IN-PACK SWEEPSTAKES, CONTESTS AND GAMES

Notwithstanding any provision of law to the contrary, a certificate of approval holder, wholesale licensee or retail licensee may offer sweepstakes, games and contests inside packages of alcoholic beverages, if that offer is not contingent on the purchase of an alcoholic beverage. A certificate of approval holder, wholesale licensee or retail licensee shall provide information about access to participate in a sweepstakes, game or contest by providing either a sign in the retail outlet or a notice on the primary or secondary packaging of the brand offering the sweepstakes, game or contest. [2003, c. 192, §1 (AMD).]

SECTION HISTORY

1995, c. 582, §2 (NEW). 2003, c. 192, §1 (AMD).

§708-B. DONATIONS TO PUBLIC BROADCASTING STATIONS AND INCORPORATED CIVIC ORGANIZATIONS

(REPEALED)

SECTION HISTORY

1997, c. 483, §1 (NEW). 2011, c. 629, §11 (RPR). 2015, c. 214, §2 (RP).

§708-C. DONATIONS TO PUBLIC BROADCASTING STATIONS, INCORPORATED CIVIC ORGANIZATIONS AND NATIONAL ORGANIZATIONS

1. Donations for an auction or award. A person licensed by the bureau under section 1355-A, a certificate of approval holder or a wholesaler may donate a certificate to purchase its product or donate its product to a public broadcasting station, an incorporated civic organization or a similarly purposed national organization designated by the United States Internal Revenue Service under the United States Internal Revenue Code of 1986, Section 501(c)(3) for the purpose of an auction or to offer as a prize, gift or award in conjunction with efforts to support the purposes of the incorporated civic organization, similarly purposed organization or public broadcasting station. Spirits donated in accordance with this subsection must have first been sold to the State or the State's contracted wholesaler for listing, pricing and distribution in accordance with this Title. A person authorized to make a donation in accordance with this subsection shall maintain a record of each donation, including the value of the donation and the date on which it was made. A recipient of a donation under this subsection must be 21 years of age or older.

[2015, c. 214, §3 (NEW) .]

2. Donations for consumption at on-premises events. A person licensed by the bureau under section 1355-A, a certificate of approval holder or a wholesaler may donate its product or provide malt liquor, wine or fortified wine at a reduced price to a person licensed by the bureau to serve alcoholic beverages for on-premises consumption at an event designed to benefit an incorporated civic organization or a similarly purposed national organization designated by the United States Internal Revenue Service under the United States Internal Revenue Code of 1986, Section 501(c)(3). Spirits donated in accordance with this subsection must have first been sold to the State or the State's contracted wholesaler for listing, pricing and distribution in accordance with this Title. A person authorized to make a donation or offer its product at a reduced price under this subsection shall maintain a record of the products donated or offered, including the value of each, the reduced price when applicable and the date on which the product was provided. All applicable excise taxes on donated malt liquor, wine and fortified wine must be remitted as required by this Title. A licensee provided product in accordance with this subsection:

- A. Shall maintain a record of each product received and the date on which it was received; [2015, c. 214, §3 (NEW) .]
- B. Shall maintain a record of the name of the incorporated civic organization or similarly purposed national organization the event was designed to benefit and for which the product is provided; [2015, c. 214, §3 (NEW) .]
- C. Shall ensure that the product provided is served only at the event designed to benefit the incorporated civic organization or similarly purposed national organization; [2015, c. 214, §3 (NEW) .]
- D. Shall ensure that excess product that was donated for the event is returned to the donor within a reasonable period after the event; and [2015, c. 214, §3 (NEW) .]

E. Shall ensure that containers holding donated product are returned to the donor for recycling as appropriate and not presented for redemption under Title 32, chapter 28. [2015, c. 214, §3 (NEW).]

[2015, c. 214, §3 (NEW).]

SECTION HISTORY

2015, c. 214, §3 (NEW).

§709. PROHIBITION OF CERTAIN PRACTICES

1. Certain practices prohibited. The following practices are prohibited.

A. No licensee or employee or agent of a licensee may:

- (1) Offer or deliver any free liquor to any person or group of persons;
- (2) Deliver more than 2 drinks containing spirits, a carafe containing more than one liter or 33.8 ounces of wine, or any serving or pitcher containing more than one liter or 33.8 ounces of malt liquor, to one person at one time;
- (3) Sell, offer to sell or deliver to any person or group of persons an unlimited number of drinks for a fixed price, except at private functions not open to the public;
- (4) Encourage or permit, on the licensed premises, any game or contest that involves drinking or the awarding of drinks as prizes; or
- (5) Engage in any other practice the specific purpose of which is to encourage customers of the licensee to drink to excess. [2013, c. 504, §1 (AMD).]

B. No licensee may advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under paragraph A. This paragraph does not prohibit a licensee or employee or agent of a licensee from including the alcohol content of malt liquor, wine or spirits in an advertisement or on a label, or in a display on an advertisement or label, if the alcohol content is expressed as a percentage of alcohol by volume. [2013, c. 504, §1 (AMD).]

[2013, c. 504, §1 (AMD).]

2. Exceptions. Subsection 1 does not prohibit the following practices:

- A. Licensees offering free food or entertainment either with or without the purchase of one drink; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Licensees increasing the prices for drinks when entertainment is provided; [1987, c. 45, Pt. A, §4 (NEW).]
- C. Licensees including a drink as part of a meal package; [1987, c. 45, Pt. A, §4 (NEW).]
- D. The sale or delivery of wine, malt liquor or mixed drinks by the bottle, carafe or pitcher when sold with meals or to more than one person; [1987, c. 342, §45 (AMD).]
- E. Those licensed under section 1052-D offering free samples or tastings; [2013, c. 531, §1 (AMD).]
- F. Those licensed as bona fide hotels offering room services to registered guests; [1987, c. 45, Pt. A, §4 (NEW).]
- G. Licensees offering reduced prices for prearranged private parties on the premises of the licensee; [2005, c. 319, §1 (AMD).]
- H. Licensees whose licensed premises include more than one room charging different prices for the same drink served in the different rooms; [2011, c. 629, §13 (AMD).]

I. Conducting taste testing under section 460, 1051, 1205, 1207 or 1355-A; [2011, c. 629, §14 (RPR).]

J. Providing samples authorized under section 1355-A, 1402, 1402-A or 1504; [2015, c. 142, §1 (AMD); 2015, c. 214, §4 (AMD).]

K. Donations authorized under section 708-C; [2015, c. 494, Pt. A, §32 (RPR).]

L. Licensees offering complimentary samples of wine under section 1055; or [2015, c. 494, Pt. A, §33 (RPR).]

M. Product supplied by licensees authorized under section 1052-D for the purposes of providing taste-testing samples under a taste-testing event license. [2015, c. 494, Pt. A, §34 (NEW).]

[2015, c. 494, Pt. A, §§32-34 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §45 (AMD). 1993, c. 266, §16 (AMD). 1997, c. 501, §2 (AMD). 1999, c. 275, §1 (AMD). 2005, c. 319, §§1,2 (AMD). 2011, c. 259, §1 (AMD). 2011, c. 629, §§12-15 (AMD). 2013, c. 504, §1 (AMD). 2013, c. 531, §1 (AMD). 2015, c. 142, §§1, 2 (AMD). 2015, c. 214, §§4, 5 (AMD). 2015, c. 494, Pt. A, §§32-34 (AMD).

§710. ADVERTISING SIGNS

1. Advertising outside of licensed premises. A person, except wholesale licensees and certificate of approval holders, may not advertise or permit to be advertised, by more than 2 signs, on the outside of any licensed premises, or on any building, ground or premises under that person's control and contiguous or adjacent to the licensed premises:

A. The fact that the licensee has liquor or any brand of liquor for sale; [1987, c. 45, Pt. A, §4 (NEW).]

B. The price at which liquor is sold by the licensee; or [1987, c. 45, Pt. A, §4 (NEW).]

C. Any other advertisement that indicates any reference to liquor. [1997, c. 373, §69 (AMD).]

For agency liquor stores, one of the 2 signs permitted by this subsection is an agency liquor store sign as described by rule.

[2013, c. 207, §1 (AMD).]

2. Advertising inside of licensed premises. A licensee may display no more than one sign inside the licensed premises, where it may be seen from the outside, advertising the fact that the licensee has liquor for sale. The sign may not be more than 750 square inches in total area.

[1987, c. 342, §46 (AMD).]

3. Exception. Subsection 1 does not prohibit the display of signs advertising sponsorship of specific sporting events and cultural events or sponsorship of a transportation system for transporting the public as long as the signs are not displayed on a licensed establishment as defined in section 2, subsection 15. Signs on a licensed establishment advertising sponsorship may be displayed with prior bureau approval.

The bureau shall adopt rules implementing this subsection.

[1993, c. 730, §32 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §46 (AMD). 1993, c. 730, §32 (AMD). 1997, c. 373, §69 (AMD). 2013, c. 207, §1 (AMD).

§711. ADVERTISING STRENGTH OF MALT LIQUOR

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1993, c. 730, §33 (AMD). 2013, c. 504, §2 (RP).

§712. ADVERTISING OR SALE OF MALT LIQUOR OR WINE BY TRADE NAME

1. Advertise or announce for sale by trade name. No licensee may advertise or offer for sale any malt liquor or wine by trade name or other designation which would indicate the manufacturer or place of manufacture of malt liquor or wine, unless the licensee actually has on hand and for sale a sufficient quantity of the particular malt liquor or wine advertised to meet requirements to be normally expected as the result of the advertisement or announcement.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Serve from faucet, spigot, dispensing apparatus by trade name. A licensee may not furnish or serve any malt liquor from any faucet, spigot or other dispensing apparatus, unless:

A. The trade name or brand of the malt liquor served appears in full sight of the customer in legible lettering upon the faucet, spigot or dispensing apparatus; or [2013, c. 165, §1 (NEW) .]

B. The licensee displays a list of all malt liquors currently available on tap that is clearly visible to patrons of the establishment in a manner that allows a patron to identify the trade name or brand of the malt liquor that is being dispensed from each faucet, spigot or dispensing apparatus. [2013, c. 165, §1 (NEW) .]

[2013, c. 165, §1 (RPR) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2013, c. 165, §1 (AMD).

§713. SELLING MALT LIQUOR OR WINE FROM TRUCK

1. Selling malt liquor or wine from truck prohibited. Except as provided in subsections 2 and 3, no wholesale or retail licensee may, either directly or indirectly, by any agent or employee, travel from town to town, or from place to place in the same town, selling, bartering or carrying for sale or exposing for sale any malt liquor or wine from any vehicle.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Delivery of orders received. The wholesale licensee may make sales of malt liquor or wine where transportation and delivery are required only upon orders actually received at the principal place of business or warehouse or distributing center, if licensed, of the wholesale licensee before shipment of the malt liquor or wine. The driver or any other employee of the wholesale licensee shall carry an invoice stating the names of the purchaser and the wholesale licensee and the kind and quantity of malt liquor or wine ordered by the sale, together with the date of the sale.

A. This subsection does not prohibit a wholesale licensee from collecting orders for malt liquor or wine by sales representatives calling upon retailers, then filing the orders at the principal place of business or warehouse or distributing center. [1987, c. 342, §47 (NEW).]

[1987, c. 342, §47 (AMD) .]

3. Sale from truck by wholesale licensee. A wholesale licensee, his agent or employee, may travel from town to town or from place to place in the same town selling, or carrying for sale or exposing for sale, malt liquor or wine from its vehicle only if the wholesale licensee, his agent or employee has in his possession on the vehicle a manifest bearing a detailed description of the total amount of malt liquor or wine on the vehicle and invoices, as required, as well as invoices drawn up at the time of delivery.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Sales or deliveries only to licensees. Sales or deliveries may be made only to licensees of the bureau.

[1997, c. 373, §70 (AMD) .]

5. Violation. Whoever violates this section commits a Class E crime.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §47 (AMD). 1997, c. 373, §70 (AMD).

§714. MALT LIQUOR SALES IN KEGS

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Keg" means a container capable of holding at least 7.75 gallons of liquid. [1991, c. 543, (NEW).]

B. "Off-premises licensee" means a licensee licensed to sell liquor for consumption off the premises. [1991, c. 543, (NEW).]

[1991, c. 543, (NEW) .]

2. Right of sale and purchase. The bureau may not deny the wholesale and retail sale of malt liquor in a keg or any fraction of a keg to a purchaser entitled to purchase malt liquor.

[1993, c. 730, §34 (AMD) .]

3. Tagging requirement. The sale of malt liquor in kegs is subject to the following.

A. Every keg of malt liquor offered for sale by an off-premises retail licensee must be tagged in a manner and with a label approved by the commissioner identifying the keg. The tag must be supplied for each keg, without fee, by the wholesaler or small brewer of the keg. [2003, c. 451, Pt. T, §11 (AMD).]

B. The retail seller of the keg shall complete a form designed and approved by the commissioner and affix the label to each keg supplied to the retail seller by the distributor of the keg. The form must be printed and distributed, without fee, by the wholesaler or small brewer of the keg. The form must include the name, address and date of birth of the purchaser and the identification number of the keg. The form

must summarize the requirements of this section, the penalties for violating any provision of this section and the penalties for providing alcohol to a minor. The seller shall retain the form as a record subject to chapter 31. [2003, c. 451, Pt. T, §11 (AMD).]

C. The seller of the keg shall require positive identification of the purchaser. [1991, c. 543, (NEW).]

D. The seller of the keg may require a deposit of up to \$50 from the purchaser of the keg, regardless of the size of the keg. The seller shall refund the deposit to a person who returns a properly tagged keg purchased from that seller. [1991, c. 543, (NEW).]

E. The seller shall inform the purchaser that if the keg is returned without the original numbered band intact, the deposit is forfeited. [1991, c. 543, (NEW).]

F. The seller may retain any deposit forfeited and use the funds forfeited for local school-based alcohol education programs or for any other purpose. [1991, c. 543, (NEW).]

[2003, c. 451, Pt. T, §11 (AMD) .]

4. Civil violation; possession of unlabeled keg. In addition to any other penalties imposed by law, a person possessing an unlabeled keg purchased in this State after the effective date of this section commits a civil violation for which a forfeiture of \$500 must be adjudged.

[1991, c. 543, (NEW) .]

5. Criminal penalty; removal or defacing of tag. A person commits defacing or removal of a malt liquor keg tag if that person defaces or removes from a keg a tag required by this section. Defacing or removal of a malt liquor keg tag is a Class E crime. If a person who purchased a properly tagged keg returns the keg without a tag or with a defaced tag, that person is presumed to have removed or defaced the tag.

[1991, c. 543, (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 543, (RPR). 1993, c. 266, §17 (AMD). 1993, c. 730, §§34,35 (AMD). 2003, c. 451, §T11 (AMD).

Chapter 31: RECORDS

§751. RETAIL LICENSEE TO KEEP RECORDS

1. Records to be kept. Every retail licensee shall keep for 2 years complete records showing:

A. The date of all purchases; [1987, c. 45, Pt. A, §4 (NEW).]

B. The actual prices paid; [1987, c. 45, Pt. A, §4 (NEW).]

C. The fact that the licensee paid by cash or check for all liquor bought by the licensee at the time of or before delivery of the liquor as evidenced by invoices, which must be retained by the licensee; [1993, c. 1, §71 (COR).]

D. The name and address of every person from whom the liquor was purchased; and [1993, c. 266, §19 (AMD).]

E. In the case of an on-premise licensee, records of food purchases. [1993, c. 266, §20 (NEW).]

[1993, c. 1, §71 (COR) .]

2. Retail licensee to keep separate records. Except as provided in paragraph A, a retail licensee shall keep the records required by subsection 1 separate and apart from records relating to any other transactions in which the licensee engages.

A. Malt liquor, wine and soft drinks may be listed on the same wholesale licensee's invoice if each product is separately listed. [1987, c. 45, Pt. A, §4 (NEW).]

[1997, c. 373, §71 (AMD) .]

3. On-premise retail licensee to keep records of sales separate. An on-premise retail licensee shall separate liquor sales from food sales by the licensee in the licensee's records.

[1987, c. 623, §10 (RPR) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§48,49 (AMD). 1987, c. 623, §§9,10 (AMD). RR 1993, c. 1, §71 (COR). 1993, c. 266, §§18-20 (AMD). 1997, c. 373, §71 (AMD).

§752. WHOLESALE LICENSEE TO KEEP RECORDS

1. Records to be kept. Every wholesale licensee shall keep records for 2 years:

A. Showing that all sales and purchases are in accordance with the law relating to cash or check sales; and [1987, c. 342, §50 (AMD).]

B. Including detailed accounts of all its transactions with brewers, wineries, other wholesalers and retailers. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 342, §50 (AMD) .]

2. Manner in which records to be kept. The wholesale licensee shall keep the records in its principal licensed establishment.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §50 (AMD).

§753. CERTIFICATE OF APPROVAL HOLDER TO KEEP RECORDS

1. Records to be kept. Every certificate of approval holder operating special warehouse storage facilities within the State shall keep complete records concerning all transactions conducted at the special warehouse storage facility. The records must show:

A. The date and amounts of all liquor received and from whom they were received; and [1987, c. 45, Pt. A, §4 (NEW).]

B. The dates and amounts of all liquor shipped or withdrawn and the name of the person for whom the liquor was shipped or withdrawn. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Manner in which records to be kept. The certificate of approval holder shall maintain the records upon the premises.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§754. RECORDS OPEN FOR INSPECTION

1. Records open for inspection. All records required to be kept under this chapter are open for inspection to the bureau or its representatives at any time. The bureau or its representatives may make copies of records that may be used as evidence of violation of this chapter.

[2013, c. 588, Pt. B, §4 (AMD) .]

2. Refusal of access. A licensee may not refuse to allow the bureau or its representatives to audit the books and records of the licensee.

[2013, c. 588, Pt. B, §4 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §72 (AMD). 2013, c. 588, Pt. B, §4 (AMD).

§755. RECORDS CONFIDENTIAL

Except for on-premises spirits sales data required to be reported by reselling agents in accordance with section 453-C, subsection 4, all business and financial records of licensees are confidential. [2015, c. 430, §6 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2015, c. 430, §6 (AMD).

Chapter 33: REVOCATION AND SUSPENSION

§801. JURISDICTION OF DISTRICT COURT JUDGE

1. Jurisdiction. The District Court Judge, as designated in Title 5, chapter 375, shall conduct hearings on all matters concerning violations by licensees and their agents or employees of any federal or state law or regulation relating to liquor or violations of any rule adopted by the bureau. Notwithstanding Title 5, chapter 375, subchapter VI, the District Court Judge has exclusive jurisdiction over all violations of this Title by licensees and their agents or employees when no criminal penalty is provided.

[1997, c. 373, §73 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

2. Powers. The District Court Judge may suspend or revoke licenses of licensees and levy fines or civil forfeitures against licensees and their agents or employees.

[1989, c. 526, §§5, 28 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 526, §§5,28 (AMD). 1997, c. 373, §73 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF).

§802. CAUSES FOR REVOCATION AND SUSPENSION OF LICENSES

The District Court Judge may revoke or suspend licenses for the following causes: [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

1. Violation of law or infraction of rule. Violation of any federal or state law, rule or regulation relating to liquor or substantial infraction of any rule adopted by the bureau.

A. This subsection does not require the District Court Judge to hold licensees who sold liquor to minors who furnished fraudulent proof of age liable administratively; [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[1997, c. 373, §74 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

2. False material statement. Knowingly making a false material statement of fact in the application for the license; and

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Failure to maintain requirements. Failure to have and maintain throughout the entire license period all of the requirements of definitions, laws and rules necessary to qualify for a license.

A. For this offense the District Court Judge may suspend licenses for an indefinite period of time until the District Court Judge is satisfied that the licensee has conformed to all qualifications required for licensing. [1997, c. 373, §75 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[1997, c. 373, §75 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §§74,75 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF).

§803. REVOCATION OR SUSPENSION PROCEDURE

1. Violation of law or rule. Upon discovering a violation of federal or state law, rule or regulation relating to liquor, or an infraction of a rule adopted by the bureau, the director of the bureau, or the director's designee, shall:

A. Report the violation to the District Court Judge in a signed complaint; or [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

B. Issue warnings to the licensees involved. [1987, c. 45, Pt. A, §4 (NEW).]

[2013, c. 476, Pt. A, §22 (AMD) .]

2. Notice and hearing. Except as provided under subsection 6, upon receipt of a signed complaint prepared under subsection 1, paragraph A, notice must be provided and a hearing must be held according to the following procedures.

A. The director of the bureau or the director's designee shall notify the licensee or the licensee's agent or employee by serving on the licensee or the licensee's agent or employee a copy of the complaint and a notice stating the time and place of the hearing and that the licensee or the licensee's agent or employee may appear in person or by counsel at the hearing. Service of the complaint and hearing notice upon the licensee is sufficient when served in hand by the director's designee or when sent by registered or certified mail at least 7 days before the date of the hearing to the address given by the licensee at the time of the licensee's application for a license. Service of the complaint and hearing notice upon a licensee's agent or employee is sufficient when served in hand by the director's designee or when sent by registered or certified mail at least 7 days before the date of the hearing to the address given by the agent or employee at the time the agent or employee was initially notified by the bureau of the violation. The director or the director's designee shall file proof of service with the District Court. [2013, c. 476, Pt. A, §23 (AMD).]

B. The District Court shall conduct a hearing limited to the facts, the law and rules of the bureau, as specified in the complaint. [2009, c. 199, §7 (AMD).]

C. The District Court shall conduct the hearing in the following manner.

(1) The District Court may administer oaths to witnesses and issue subpoenas at the request of any party, including subpoenas to compel the attendance of parents and legal guardians of unemancipated minors.

(a) The bureau shall pay to the witnesses the legal fees for travel and attendance, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur.

(2) Hearsay testimony is not admissible during the hearing. The licensees, agents or employees named in the complaint have the right to have all witnesses testify in person at the hearing.

(3) The District Court shall conduct hearings in one or more designated places that are the most convenient and economical for all parties concerned in the hearing. [2009, c. 199, §7 (AMD).]

D. The District Court shall render a decision in each case, based upon the facts, the law and the rules of the bureau. The findings must specify the facts found and the law or rules found to be violated. [2009, c. 199, §7 (AMD).]

[2013, c. 476, Pt. A, §23 (AMD) .]

2-A. Suspension or revocation decision.

[2011, c. 559, Pt. A, §31 (RP) .]

3. Suspension of penalty; place case on file. After hearing, the District Court Judge may:

A. Suspend a penalty; or [1987, c. 45, Pt. A, §4 (NEW).]

B. Place a case on file instead of imposing any penalty. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

4. Application of suspension or revocation. A suspension or revocation applies to premises and persons in the following manner.

A. If a licensee is directly or indirectly interested in more than one license, suspensions apply only to the premise where the violation occurs. [1987, c. 45, Pt. A, §4 (NEW).]

B. If a licensee is interested directly or indirectly in more than one license, the District Court Judge may order that a revocation apply to any of those premises. [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

C. If the licensee is a corporation, the District Court Judge shall treat the officers, directors and substantial stockholders as individuals. [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

5. Term of suspension or revocation. Except as provided by section 802, subsection 3, suspensions must be for a definite period of time. If the District Court Judge revokes a license, the District Court Judge shall specify that the bureau may not issue a license to the person whose license is revoked for a period of not less than one nor more than 5 years from the date of revocation.

[1997, c. 373, §78 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

6. Warnings. Upon the written recommendation of the director of the bureau, or the director's designee, the District Court Judge, instead of notifying a licensee against whom a complaint is pending to appear for hearing, may send the licensee a warning. Warnings must be sent by registered or certified mail and contain a copy of the complaint. A licensee to whom a warning is sent may demand a hearing by notifying the District Court Judge by registered or certified mail within 10 days from the date the warning was mailed.

[2013, c. 476, Pt. A, §24 (AMD) .]

7. License subsequent to violation. If violations by licensees occur in one year's license period and remain undiscovered or carry over into the next license year, pending investigation or final disposition either in criminal courts or before the District Court Judge, any license issued for a new license year subsequent to the violation may be suspended or revoked by the District Court Judge.

[1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

8. Fines. Notwithstanding any other provisions of this Title, the District Court Judge may impose a fine of a specific sum on a licensee or the licensee's agent or employee, of not less than \$50 nor more than \$1,500, for any one offense. Such a fine may be imposed instead of or in addition to any suspension or revocation of a license by the court.

A. The District Court Judge shall maintain a record of all fines received by the court and shall pay the fines into the General Fund by the 15th day of each month. [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

[2009, c. 199, §8 (AMD) .]

9. Offer in compromise. Notwithstanding any other provisions of this Title, the District Court Judge may accept from any wholesale licensee or certificate of approval holder under this Title an offer in compromise in lieu of suspension of any wholesale license or certificate of approval suspended by the District Court Judge.

A. A wholesale licensee or certificate of approval holder may petition the District Court Judge to accept an offer in compromise within 10 days following receipt of notice of the suspension. [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

B. The fine in lieu of suspension, when an offer in compromise is accepted by the District Court Judge, shall be calculated in accordance with the following formula:

(1) Fifty percent of the daily gross profit multiplied by the number of license suspension days. Daily gross profit shall be determined to be 1/30 of the total gross receipts from the sale of liquor during the 30 business days immediately before the date of receipt of the notice of the license suspension, less the invoice cost of the liquor which was sold by the wholesale licensee or certificate of approval holder during those 30 business days;

(2) No such fine, in any event, shall be less than \$75 for each day of license suspension; and

(3) The fine must not exceed \$1,500 for any one offense. [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

C. The wholesale licensee or certificate of approval holder shall pay the fine to the District Court within 5 days from the date of the acceptance of the offer in compromise. The District Court Judge shall then pay the fine into the General Fund. [1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

D. If a wholesale licensee or certificate of approval holder fails to pay the fine in full within the time period allowed in this subsection, the suspension of license or certificate of approval begins on the following day. [1987, c. 45, Pt. A, §4 (NEW).]

E. [1987, c. 342, §55 (RP).]

[1987, c. 342, §55 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§51-55 (AMD). 1997, c. 373, §§76-79 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2003, c. 451, §§T12,13 (AMD). 2009, c. 199, §§7, 8 (AMD). 2011, c. 559, Pt. A, §31 (AMD). 2013, c. 476, Pt. A, §§22-24 (AMD).

§804. RECORD OF PROCEEDINGS AND TRANSCRIPT

The District Court Judge shall keep a full and complete record of all proceedings on the revocation and suspension of any license issued by the bureau. The District Court Judge is not required to have a transcript of the testimony prepared unless required for rehearing or appeal. [1997, c. 373, §80 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §80 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF).

§805. APPEAL FROM DECISION OF DISTRICT COURT JUDGE OR BUREAU

1. Aggrieved person may appeal within 30 days. Any person aggrieved by the decision of the District Court Judge in revoking or suspending any license issued by the bureau or by refusal of the bureau to issue any license applied for may, within 30 days of the decision or refusal, appeal to the Superior Court by filing a complaint.

A. The 30-day period for appeal begins on:

(1) In the case of license revocation or suspension, the effective date of the suspension or revocation; or

(2) In the case of refusal by the bureau to issue a license, on the day when the bureau sends by registered or certified mail notice to the applicant at the address of the applicant's business given in the applicant's application for a license. [1997, c. 373, §82 (AMD).]

B. Filing the complaint in the Superior Court stops the running of the limitation period. [1987, c. 45, Pt. A, §4 (NEW).]

[1997, c. 373, §82 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

2. Suspension or revocation suspended pending appeal. The operation of a suspension or revocation of a license imposed by the District Court shall be suspended, pending judgment of the Superior Court, if the licensee files an appeal in the Superior Court and notifies the District Court that the appeal has been filed, within 7 days of the mailing of the decision of the District Court by certified mail to the address given by the licensee at the time of the application for a license.

[1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

3. Superior Court hearing.

[2011, c. 559, Pt. A, §32 (RP) .]

4. Superior Court decision. After the hearing, the Superior Court may affirm, modify or reverse the decision of the District Court Judge.

[1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

5. Further appeal. An aggrieved person may appeal the Superior Court decision to the Supreme Judicial Court. Upon appeal, the Supreme Judicial Court may, after consideration, reverse or modify any decree made by the Superior Court based upon an erroneous ruling or finding of law.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §§81,82 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2011, c. 559, Pt. A, §32 (AMD).

§806. RECORDS

1. Limitation on maintenance of records. Except as provided in subsection 2, the bureau shall maintain a record of each violation, revocation or suspension for not more than 5 years.

[1997, c. 373, §83 (AMD) .]

2. Records of Class A, B and C convictions. The bureau shall maintain records of convictions for Class A, B and C crimes for at least 5 years, and may maintain them longer according to the policy of the bureau.

[1997, c. 373, §83 (AMD) .]

3. Notice of violators. The District Court clerk shall provide the bureau with the names and dates of final adjudication of all persons found in violation of this Title or the rules of the bureau.

[1997, c. 373, §83 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 526, §§6,28 (AMD). 1997, c. 373, §83 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF).

Subpart 2: RETAIL LICENSES

Chapter 41: FEES AND ELIGIBLE PREMISES

§1001. CLASS I LICENSES

1. Types of liquor which may be sold. A Class I licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The license fees for a Class I license are:

- A. Full-time (one year).....\$ 900. [1993, c. 410, Pt. ZZ, §6 (AMD).]
- B. [1993, c. 410, Pt. ZZ, §6 (RP).]
- C. [1987, c. 342, §56 (RP).]
- D. [1993, c. 410, Pt. ZZ, §6 (RP).]

[1993, c. 410, Pt. ZZ, §6 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class I license:

- A. Airlines; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Auditoriums; [1989, c. 158, §3 (REEN).]
- B-1. Bowling centers; [1989, c. 244, §2 (NEW).]
- C. Civic auditoriums; [1987, c. 45, Pt. A, §4 (NEW).]
- D. Class A restaurants; [1987, c. 45, Pt. A, §4 (NEW).]
- E. Clubs with catering privileges; [1987, c. 45, Pt. A, §4 (NEW).]
- F. Dining cars and passenger cars; [1987, c. 342, §57 (AMD).]
- G. Golf clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- H. Hotels; [1987, c. 45, Pt. A, §4 (NEW).]
- I. Indoor ice skating clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- J. Indoor racquet clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- K. Performing arts centers; [1987, c. 45, Pt. A, §4 (NEW).]
- L. Qualified catering services; and [1987, c. 45, Pt. A, §4 (NEW).]

M. Vessels. [1987, c. 45, Pt. A, §4 (NEW).]

[1989, c. 158, §3 (AMD); 1989, c. 244, §2 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§56,57 (AMD). 1989, c. 158, §3 (AMD). 1989, c. 244, §2 (AMD). 1989, c. 526, §§7,8,28 (AMD). 1991, c. 528, §§L1,2 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§L1,2 (AMD). 1993, c. 410, §ZZ6 (AMD).

§1002. CLASS I-A LICENSES

1. Types of liquor which may be sold. A Class I-A licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class I-A license are as follows:

- A. Full-time (one year).....\$1,100. [1993, c. 410, Pt. ZZ, §7 (AMD).]
- B. [1993, c. 410, Pt. ZZ, §7 (RP).]
- C. [1987, c. 342, §58 (RP).]
- D. [1993, c. 410, Pt. ZZ, §7 (RP).]

[1993, c. 410, Pt. ZZ, §7 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class I-A license:

- A. Hotels which do not serve food. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §58 (AMD). 1989, c. 526, §§9,10,28 (AMD). 1993, c. 410, §ZZ7 (AMD).

§1003. CLASS II LICENSES

1. Types of liquor which may be sold. A Class II licensee may sell spirits to be consumed on the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class II license are as follows:

- A. Full-time (one year).....\$ 550. [1993, c. 410, Pt. ZZ, §8 (AMD).]
- B. [1993, c. 410, Pt. ZZ, §8 (RP).]
- C. [1987, c. 342, §59 (RP).]
- D. [1993, c. 410, Pt. ZZ, §8 (RP).]

[1993, c. 410, Pt. ZZ, §8 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class II license:

- A. Airlines; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Auditoriums; [1989, c. 158, §4 (REEN).]
- B-1. Bowling centers; [1989, c. 244, §3 (NEW).]
- C. Civic auditoriums; [1987, c. 45, Pt. A, §4 (NEW).]
- D. Class A restaurants; [1987, c. 45, Pt. A, §4 (NEW).]
- E. Clubs with catering privileges; [1987, c. 45, Pt. A, §4 (NEW).]
- F. Dining cars and passenger cars; [1987, c. 342, §60 (AMD).]
- G. Golf clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- H. Hotels; [1987, c. 45, Pt. A, §4 (NEW).]
- I. Indoor ice skating clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- J. Indoor racquet clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- K. Performing arts centers; [1987, c. 45, Pt. A, §4 (NEW).]
- L. Qualified catering services; and [1987, c. 45, Pt. A, §4 (NEW).]
- M. Vessels. [1987, c. 45, Pt. A, §4 (NEW).]

[1989, c. 158, §4 (AMD); 1989, c. 244, §3 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§59,60 (AMD). 1989, c. 158, §4 (AMD). 1989, c. 244, §3 (AMD). 1989, c. 526, §§11,12,28 (AMD). 1993, c. 410, §ZZ8 (AMD).

§1004. CLASS III LICENSES

1. Types of liquor which may be sold. A Class III licensee may sell wine to be consumed on the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class III license are as follows:

- A. Full-time (one year).....\$ 220. [1993, c. 410, Pt. ZZ, §9 (AMD).]
- B. [1993, c. 410, Pt. ZZ, §9 (RP).]
- C. [1987, c. 342, §61 (RP).]
- D. [1993, c. 410, Pt. ZZ, §9 (RP).]

[1993, c. 410, Pt. ZZ, §9 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class III license:

- A. Airlines; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Auditoriums; [1989, c. 158, §5 (REEN).]
- B-1. Bowling centers; [1989, c. 244, §4 (NEW).]
- B-2. Bed and breakfasts; [1993, c. 730, §36 (NEW).]
- C. Civic auditoriums; [1987, c. 45, Pt. A, §4 (NEW).]
- D. Class A restaurants; [1987, c. 45, Pt. A, §4 (NEW).]

- E. Clubs with catering privileges; [1987, c. 45, Pt. A, §4 (NEW).]
- E-1. Curling clubs; [1995, c. 558, §3 (NEW).]
- F. Dining cars and passenger cars; [1987, c. 342, §62 (AMD).]
- G. Golf clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- H. Hotels; [1987, c. 45, Pt. A, §4 (NEW).]
- I. Indoor ice skating clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- J. Indoor racquet clubs; [1987, c. 45, Pt. A, §4 (NEW).]
- K. Outdoor stadiums; [1987, c. 45, Pt. A, §4 (NEW).]
- L. Performing arts centers; [1987, c. 45, Pt. A, §4 (NEW).]
- L-1. Pool halls; [1999, c. 760, §2 (NEW).]
- M. Qualified catering services; [1987, c. 45, Pt. A, §4 (NEW).]
- N. Restaurants; and [1987, c. 45, Pt. A, §4 (NEW).]
- O. Vessels. [1987, c. 45, Pt. A, §4 (NEW).]

[1999, c. 760, §2 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§61,62 (AMD). 1989, c. 158, §5 (AMD). 1989, c. 244, §4 (AMD). 1989, c. 526, §§13,14,28 (AMD). 1993, c. 410, §ZZ9 (AMD). 1993, c. 730, §36 (AMD). 1995, c. 558, §3 (AMD). 1997, c. 85, §B14 (AMD). 1997, c. 85, §B38 (AFF). 1999, c. 760, §2 (AMD).

§1005. CLASS IV LICENSES

1. Types of liquor which may be sold. A Class IV licensee may sell malt liquor to be consumed on the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class IV license are as follows:

- A. Full-time (one year).....\$ 220. [1993, c. 410, Pt. ZZ, §10 (AMD).]
- B. [1993, c. 410, Pt. ZZ, §10 (RP).]
- C. [1987, c. 342, §63 (RP).]
- D. [1993, c. 410, Pt. ZZ, §10 (RP).]

[1993, c. 410, Pt. ZZ, §10 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class IV license:

- A. Airlines; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Auditoriums; [1989, c. 158, §6 (REEN).]
- B-1. Bowling centers; [1989, c. 244, §5 (NEW).]
- B-2. Bed and breakfasts; [1993, c. 730, §37 (NEW).]
- C. Civic auditoriums; [1987, c. 45, Pt. A, §4 (NEW).]
- D. Class A restaurants; [1987, c. 45, Pt. A, §4 (NEW).]

E. Clubs with catering privileges; [1987, c. 45, Pt. A, §4 (NEW).]

F. Dining cars and passenger cars; [1987, c. 342, §64 (AMD).]

G. Golf clubs; [1987, c. 45, Pt. A, §4 (NEW).]

H. Hotels; [1987, c. 45, Pt. A, §4 (NEW).]

I. Indoor ice skating clubs; [1987, c. 45, Pt. A, §4 (NEW).]

J. Indoor racquet clubs; [1987, c. 45, Pt. A, §4 (NEW).]

K. Outdoor stadiums; [1987, c. 45, Pt. A, §4 (NEW).]

L. Performing arts centers; [1987, c. 45, Pt. A, §4 (NEW).]

L-1. Pool halls; [1999, c. 760, §3 (NEW).]

M. Qualified catering services; [1987, c. 45, Pt. A, §4 (NEW).]

N. Restaurants; [1987, c. 45, Pt. A, §4 (NEW).]

O. Taverns; and [1987, c. 342, §65 (AMD).]

P. [1987, c. 342, §65 (RP).]

Q. Vessels. [1987, c. 45, Pt. A, §4 (NEW).]

[1999, c. 760, §3 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§63-65 (AMD). 1989, c. 158, §6 (AMD). 1989, c. 244, §5 (AMD). 1989, c. 526, §§15,16,28 (AMD). 1993, c. 410, §ZZ10 (AMD). 1993, c. 730, §37 (AMD). 1999, c. 760, §3 (AMD).

§1006. CLASS V LICENSES

1. Types of liquor which may be sold. A Class V licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class V license are as follows:

A. Full-time (one year).....\$ 495. [1993, c. 410, Pt. ZZ, §11 (AMD).]

B. [1993, c. 410, Pt. ZZ, §11 (RP).]

C. [1987, c. 342, §66 (RP).]

D. [1993, c. 410, Pt. ZZ, §11 (RP).]

[1993, c. 410, Pt. ZZ, §11 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class V license:

A. Clubs without catering privileges; and [1993, c. 730, §38 (AMD).]

B. Bed and breakfasts. [1993, c. 730, §39 (NEW).]

[1993, c. 730, §§38,39 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §66 (AMD). 1989, c. 526, §§17,18,28 (AMD). 1993, c. 410, §ZZ11 (AMD). 1993, c. 730, §§38,39 (AMD).

§1007. CLASS VI LICENSES

1. Types of liquor which may be sold. A Class VI licensee may sell malt liquor to be consumed off the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class VI license are as follows:

A. Full-time (one year).....\$ 200. [1993, c. 410, Pt. ZZ, §12 (AMD).]

B. [1993, c. 410, Pt. ZZ, §12 (RP).]

C. [1987, c. 342, §67 (RP).]

D. [1993, c. 410, Pt. ZZ, §12 (RP).]

[1993, c. 410, Pt. ZZ, §12 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class VI license:

A. Off-premise retailers with a qualifying stock of groceries, compatible merchandise or combination of both. [1987, c. 342, §68 (AMD).]

[1987, c. 342, §68 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§67,68 (AMD). 1987, c. 623, §11 (AMD). 1989, c. 158, §7 (AMD). 1989, c. 526, §§19,20,28 (AMD). 1989, c. 878, §§D8,9 (AMD). 1991, c. 528, §§L3,4 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§L3,4 (AMD). 1993, c. 410, §ZZ12 (AMD).

§1007-A. SURCHARGE ON CLASS VI LICENSES

(REPEALED)

SECTION HISTORY

1987, c. 632, (NEW). 1989, c. 158, §8 (RP).

§1007-B. SURCHARGE ON PART-TIME CLASS VI LICENSES

(REPEALED)

SECTION HISTORY

1989, c. 502, §D20 (NEW). MRS A T. 28A, §§1007-B (RP).

§1008. CLASS VI-A LICENSES

1. Types of liquor which may be sold. A Class VI-A licensee may sell malt liquor to be consumed off the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class VI-A license are as follows:

A. Full-time (one year).....\$ 200. [1993, c. 410, Pt. ZZ, §13 (AMD).]

B. [1993, c. 410, Pt. ZZ, §13 (RP).]

C. [1987, c. 342, §69 (RP).]

D. [1993, c. 410, Pt. ZZ, §13 (RP).]

[1993, c. 410, Pt. ZZ, §13 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class VI-A license:

A. Ship chandlers without a qualifying stock of groceries, compatible merchandise or combination of both. [1987, c. 342, §70 (RPR).]

[1987, c. 342, §70 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§69,70 (AMD). 1989, c. 526, §§21,28 (AMD). 1991, c. 528, §L5 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §L5 (AMD). 1993, c. 410, §ZZ13 (AMD).

§1009. CLASS VII LICENSES

1. Types of liquor which may be sold. A Class VII licensee may sell wine to be consumed off the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class VII license are as follows:

A. Full-time (one year).....\$ 200. [1993, c. 410, §14 (AMD).]

B. [1993, c. 410, Pt. ZZ, §14 (RP).]

C. [1987, c. 342, §71 (RP).]

D. [1993, c. 410, Pt. ZZ, §14 (RP).]

[1993, c. 410, Pt. ZZ, §14 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class VII license:

A. Off-premise retailers with a qualifying stock of groceries, compatible merchandise or combination of both. [1987, c. 342, §72 (RPR).]

B. [1987, c. 342, §72 (RP).]

[1987, c. 342, §72 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§71,72 (AMD). 1989, c. 526, §§22,28 (AMD). 1991, c. 528, §L6 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §L6 (AMD). 1993, c. 410, §ZZ14 (AMD).

§1010. CLASS VII-A LICENSES

1. Types of liquor which may be sold. A Class VII-A licensee may sell wine to be consumed off the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class VII-A license are as follows:

A. Full-time (one year).....\$ 200. [1993, c. 410, Pt. ZZ, §15 (AMD).]

B. [1993, c. 410, Pt. ZZ, §15 (RP).]

C. [1987, c. 342, §73 (RP).]

D. [1993, c. 410, Pt. ZZ, §15 (RP).]

[1993, c. 410, Pt. ZZ, §15 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class VII-A license:

A. Ship chandlers without a qualifying stock of groceries, compatible merchandise or combination of both. [1987, c. 342, §74 (RPR).]

[1987, c. 342, §74 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§73,74 (AMD). 1989, c. 526, §§23,28 (AMD). 1991, c. 528, §L7 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §L7 (AMD). 1993, c. 410, §ZZ15 (AMD).

§1010-A. CLASS VIII LICENSES

1. Types of liquor that may be sold. A Class VIII licensee may sell malt liquor, wine and spirits to be consumed off the premises where sold.

[2011, c. 460, §2 (NEW) .]

2. Fees. The fees for a Class VIII license are as follows:

A. Full-time, one year, after payment of the initial agency liquor store license fee under section 453-B, \$700. The license may be prorated; and [2011, c. 497, §1 (AMD).]

B. A Class VIII license is not subject to the renewal fee under section 453-B. [2011, c. 460, §2 (NEW) .]

[2011, c. 497, §1 (AMD) .]

3. Eligible premises. The following premises are eligible to obtain a Class VIII license:

A. Agency liquor store licensees with a qualifying stock of groceries, compatible merchandise or a combination of both. [2011, c. 460, §2 (NEW).]

[2011, c. 460, §2 (NEW) .]

SECTION HISTORY

2011, c. 460, §2 (NEW). 2011, c. 497, §1 (AMD).

§1011. CLASS X LICENSES

1. Types of liquor which may be sold. A Class X licensee may sell spirits, wine and malt liquor to be consumed on the premises where sold.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Fees. The fees for a Class X license are as follows:

A. Full-time (one year)..... \$2,200. [1993, c. 410, Pt. ZZ, §16 (AMD) .]

[1993, c. 410, Pt. ZZ, §16 (AMD) .]

3. Eligible premises. The following premises are eligible for a Class X license:

A. Class A lounges. [1987, c. 45, Pt. A, §4 (NEW) .]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §75 (AMD). 1989, c. 526, §§24,28 (AMD). 1993, c. 410, §ZZ16 (AMD).

§1011-A. CLASS XI LICENSES

1. Types of liquor that may be sold. A Class XI licensee may sell spirits, wine and malt to be consumed on the premises where sold.

[1993, c. 410, Pt. ZZ, §17 (NEW) .]

2. Fees. The fee for a Class XI license is \$1,500 (one year).

[1993, c. 410, Pt. ZZ, §17 (NEW) .]

3. Eligible premises. The following premises are eligible for a Class XI license:

A. Class A restaurant/lounge. [2003, c. 493, §8 (AMD); 2003, c. 493, §14 (AFF) .]

B. [2003, c. 493, §14 (AFF); 2003, c. 493, §8 (RP) .]

[2003, c. 493, §8 (AMD); 2003, c. 493, §14 (AFF) .]

SECTION HISTORY

1993, c. 410, §ZZ17 (NEW). 1999, c. 421, §§4,5 (AMD). 2003, c. 493, §8 (AMD). 2003, c. 493, §14 (AFF).

§1012. OTHER RETAIL LICENSES

1. Incorporated civic organizations. An incorporated civic organization may obtain up to 5 licenses per year to sell spirits, wine and malt liquor to be consumed on the premises.

A. The license fee for each license is\$ 50. [1987, c. 151, §1 (AMD) .]

B. [1987, c. 623, §12 (RP) .]

[1987, c. 623, §12 (AMD) .]

2. Auxiliary license. A Class A restaurant or a Class I hotel located at a ski area or a golf course, or a Class I golf club or a Class I or a Class V club located at a golf course may apply for one additional licensed premises at the same area for consumption of spirits, wine or malt liquor on the premises.

A. The license fee is.....\$100. [1987, c. 45, Pt. A, §4 (NEW).]

[1995, c. 195, §1 (AMD) .]

3. Off-premise catering license. A Class A restaurant, hotel, bed and breakfast or club licensed to sell spirits, wine and malt liquor may obtain a license to conduct off-premise catering of spirits, wine and malt liquor as provided in section 1052.

A. The license fee per calendar day of the event or gathering is\$10. [1987, c. 623, §13 (AMD) .]

[1999, c. 236, §1 (AMD) .]

4. Golf course mobile service bar. A licensee who is the owner of a golf course may apply for a license to sell malt liquor from a mobile service bar as provided in section 1075-A. The license fee per calendar year is \$100.

[2005, c. 108, §1 (AMD) .]

5. Small distillery off-premises license.

[2011, c. 629, §16 (RP) .]

6. Minibar license. The bureau may issue a license for the placement of a minibar to an operator of a hotel licensed under section 1061 or in accordance with the license required by Title 30-A, section 3811 subject to the following conditions and applicable rules established by the bureau:

A. The fee for a minibar license for a hotel holding an existing license under section 1061 is \$100 annually plus \$5 for each room in which a minibar is placed, not to exceed a maximum of \$900 per hotel; [2009, c. 458, §2 (NEW).]

B. The fee for a minibar license for a hotel holding an existing license under Title 30-A, section 3811 is \$200 annually plus \$10 for each room in which a minibar is placed; [2009, c. 458, §2 (NEW) .]

C. A minibar may be stocked with beer, wine and distilled spirits as well as other complementary merchandise; [2009, c. 458, §2 (NEW) .]

D. Supplies of beer and wine for a hotel minibar must be purchased from a wholesale licensee; [2009, c. 458, §2 (NEW) .]

E. Supplies of distilled spirits for a hotel minibar must be purchased from an agency liquor store; [2009, c. 458, §2 (NEW) .]

F. A hotel must maintain invoices for all alcoholic beverages stocked in a minibar and must maintain records of all sales of alcoholic beverages sold or dispensed from a minibar; [2009, c. 458, §2 (NEW) .]

G. A minibar must be equipped with a secure locking device that may be unlocked only by persons 21 years of age or older; [2009, c. 458, §2 (NEW) .]

H. A hotel room equipped with a minibar may be rented only to a person who is 21 years of age or older and who has demonstrated proof of age by presenting proper identification as described in section 2087 unless the minibar is secured in a manner that prevents access by a person under 21 years of age; [2009, c. 458, §2 (NEW) .]

I. The registered occupant of a hotel room equipped with a minibar is liable for any violation of liquor laws by anyone under 21 years of age who also occupies or enters the room; and [2009, c. 458, §2 (NEW) .]

J. A minibar may be stocked and serviced only by an employee who is 21 years of age or older. [2009, c. 458, §2 (NEW) .]

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.

[2013, c. 476, Pt. A, §25 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 151, §1 (AMD). 1987, c. 623, §§12,13 (AMD). 1995, c. 195, §1 (AMD). 1999, c. 236, §1 (AMD). 2003, c. 579, §1 (AMD). 2005, c. 108, §1 (AMD). 2005, c. 390, §4 (AMD). 2009, c. 458, §2 (AMD). 2011, c. 629, §16 (AMD). 2013, c. 368, Pt. V, §40 (AMD). 2013, c. 476, Pt. A, §25 (AMD).

§1013. UNDERAGE DRINKING PREVENTION

(REPEALED)

SECTION HISTORY

2011, c. 460, §3 (NEW). 2011, c. 497, §2 (RP).

Chapter 43: LICENSES FOR THE SALE OF LIQUOR TO BE CONSUMED ON THE LICENSED PREMISES

Subchapter 1: GENERAL CONDITIONS

§1051. LICENSES GENERALLY

1. Licenses for sale of liquor to be consumed on the premises where sold. Subject to subsection 2, the bureau may issue licenses for the sale of spirits, wine and malt liquor to be consumed on the premises where sold to qualified applicants upon payment of fees provided.

[2005, c. 539, §7 (AMD) .]

2. Local approval of application for license. The initial application for the license must first be approved under section 653 by the municipal officers of the municipality in which the applicant's premises are located or, if the premises are located in an unincorporated place, the application must be approved by the county commissioners of the county within which the unincorporated place is located.

[2003, c. 493, §9 (AMD); 2003, c. 493, §14 (AFF) .]

2-A. Temporary license upon transfer of ownership. An applicant applying for a new license, in accordance with subsection 2, resulting from the transfer of ownership of an existing on-premises license may simultaneously apply to the bureau for a temporary on-premises license. The bureau may issue a temporary license upon application unless the municipal officers or county commissioners notify the bureau of their objection to the issuance of the license. A temporary license issued in accordance with this subsection is valid from the date it is issued until a decision is made on the application for an annual on-premises license or for 60 days, whichever is shorter. The fee for a temporary license issued under this subsection is \$100.

[2003, c. 213, §2 (NEW) .]

3. Liquor not to be consumed elsewhere. Except as provided in paragraphs A and B and in section 1207, no licensee for the sale of liquor to be consumed on the premises where sold may personally or by an agent or employee, sell, give, furnish or deliver any liquor to be consumed elsewhere than upon the licensed premises. The service and consumption of liquor must be limited to areas that are clearly defined and approved in the application process by the bureau as appropriate for the consumption of liquor. Outside areas must be controlled by barriers and by signs prohibiting consumption beyond the barriers.

A. Subject to law and the rules of the bureau, hotel or bed and breakfast licensees may sell liquor in the original packages or by the drink to bona fide registered room guests. Any sale to a guest may be delivered to the guest's room only by a hotel or bed and breakfast employee. [1999, c. 236, §2 (AMD) .]

B. A licensee may serve liquor at locations other than the licensed premises under the off-premise catering license issued under section 1052. [1987, c. 45, Pt. A, §4 (NEW) .]

[2009, c. 438, §2 (AMD) .]

4. Partially consumed bottles of wine. Notwithstanding subsection 3, any establishment licensed by the State to sell wine on the premises may permit a person who has purchased a full course meal, and purchased and partially consumed a bottle of table wine with the meal, to remove the partially consumed bottle from the premises upon departure, provided that the person is not visibly intoxicated as provided in section 2503, subsection 7, and the bottle of table wine is removed and transported in a manner consistent with subsection 5.

[1997, c. 306, §1 (NEW) .]

5. Transporting partially consumed bottles. A partially consumed bottle of table wine that is removed from the premises under subsection 4 must be transported in compliance with Title 29-A, section 2112-A, if transported by motor vehicle, or securely sealed and bagged if transported on foot or by means other than a motor vehicle.

[1999, c. 293, §1 (AMD) .]

6. Spirits taste-testing events on retail licensee's premises. A distiller, licensed distilled spirits sales representative and the State's wholesale liquor provider, with the written permission of the bureau, may rent or lease an area or room from an on-premises retail licensee for the purpose of inviting retail licensees to taste test spirits. Spirits taste-testing events must be conducted during hours that are authorized by the bureau for the sale of the product on the premises. The following conditions apply to all taste testing conducted under this subsection.

A. The distiller, licensed distilled spirits sales representative or the State's wholesale liquor provider may provide the products for taste testing only if the retail price has been paid and a record of the transaction is maintained and made available to the bureau. [2005, c. 319, §3 (NEW) .]

B. The taste-testing activity may be conducted only within a special designated area or room. [2005, c. 319, §3 (NEW) .]

C. The taste-testing activity may be open only to invited retail licensees or their authorized agents and not to family members, guests or the general public. [2005, c. 319, §3 (NEW) .]

D. After the taste-testing activity is concluded, the distiller, licensed distilled spirits sales representative or wholesale liquor provider, as applicable, shall remove all products supplied for the taste-testing activity from the retail licensee's premises. [2005, c. 319, §3 (NEW) .]

[2005, c. 319, §3 (NEW) .]

7. Toilet facilities. An eating establishment licensed in accordance with this chapter is required to have toilet facilities as prescribed by rule, except that an eating establishment that has a seating capacity of 40 or fewer persons is required to have at least one toilet facility but may not be required to have more than one toilet facility.

[2011, c. 242, §2 (NEW) .]

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. [2013, c. 258, §1 (NEW) .]

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. [2013, c. 258, §1 (NEW) .]

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. [2013, c. 258, §1 (NEW) .]

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. [2013, c. 258, §1 (NEW) .]

E. A person may not be charged a fee for any liquor served as part of a taste-testing event. [2013, c. 258, §1 (NEW) .]

F. A person may not be served who is visibly intoxicated. [2013, c. 258, §1 (NEW) .]

G. A taste-testing event must be conducted within the hours of retail sale established in this Title. [2013, c. 258, §1 (NEW) .]

H. The retail licensee must obtain the written permission of the bureau before conducting a taste-testing event. [2013, c. 258, §1 (NEW) .]

I. The retail licensee may conduct no more than one taste-testing event per month. [2013, c. 258, §1 (NEW) .]

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. [2013, c. 258, §1 (NEW) .]

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. [2015, c. 129, §3 (AMD) .]

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. [2013, c. 258, §1 (NEW) .]

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. [2013, c. 258, §1 (NEW).]

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. [2013, c. 258, §1 (NEW).]

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. [2013, c. 258, §1 (NEW).]

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. [2013, c. 258, §1 (NEW).]

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. [2013, c. 258, §1 (NEW).]

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. [2013, c. 258, §1 (NEW).]

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.

[2015, c. 129, §3 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 306, §1 (AMD). 1997, c. 501, §3 (AMD).
1999, c. 236, §2 (AMD). 1999, c. 293, §1 (AMD). 1999, c. 421, §6 (AMD).
2003, c. 213, §2 (AMD). 2003, c. 493, §9 (AMD). 2003, c. 493, §14
(AFF). 2005, c. 319, §3 (AMD). 2005, c. 539, §7 (AMD). 2009, c. 438,
§2 (AMD). 2011, c. 242, §2 (AMD). 2013, c. 258, §1 (AMD). 2015, c.
129, §3 (AMD).

§1052. OFF-PREMISE CATERING AT PLANNED EVENTS OR GATHERINGS

1. Off-premise catering license for sale of liquor off-premise. Class A restaurants, Class A lounges, Class A restaurant/lounges, hotels, bed and breakfasts and clubs licensed to sell spirits, wine and malt liquor may apply for an additional license to conduct off-premises catering of spirits, wine and malt liquor at planned events or gatherings to be held at locations other than the licensee's premises under this section.

[1999, c. 236, §3 (AMD) .]

2. Fee. The license fee for the off-premise catering license is \$10 per calendar day of the event or gathering.

[1987, c. 342, §76 (AMD) .]

3. Sponsor. The off-premise sales license authorizes the licensee to sell liquor only at:

A. Public events or public gatherings sponsored by a charitable, nonprofit organization or civic group; and [1987, c. 45, Pt. A, §4 (NEW).]

B. Private events or private gatherings sponsored by an individual person, organization or association of persons. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Application. The licensee must apply for an off-premises catering license by filing a written application with the bureau at least 24 hours before the event or gathering. The application must include the following:

A. Title and purpose of the event; [1987, c. 45, Pt. A, §4 (NEW).]

B. Date, time and duration; [1987, c. 45, Pt. A, §4 (NEW).]

C. Location; [1987, c. 45, Pt. A, §4 (NEW).]

D. Approximate number of persons to be accommodated; [1987, c. 45, Pt. A, §4 (NEW).]

E. Name and address of sponsoring person, organization or association; [1987, c. 45, Pt. A, §4 (NEW).]

F. If food is to be served, the name and address of food caterer, if other than the licensee; and [1987, c. 45, Pt. A, §4 (NEW).]

G. Approval by the municipal officers, or a municipal official designated by the municipal officers, of the municipality in which the proposed additional licensed premises are located, which, notwithstanding section 653, may be granted without public notice. [1987, c. 342, §77 (AMD).]

[2005, c. 539, §8 (AMD) .]

5. Ruling on application. Upon receipt of the application, the bureau may immediately approve or deny the application. The bureau shall advise the applicant that the license and the off-premise sales license may be revoked and suspended under chapter 33.

[1997, c. 373, §84 (AMD) .]

6. Local option questions. The bureau may not grant approval for the sale of liquor at events to be held in areas where the voters have voted in the negative concerning the pertinent local option questions.

[1997, c. 373, §85 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§76-78 (AMD). 1993, c. 260, §1 (AMD). 1993, c. 730, §40 (AMD). 1997, c. 373, §§84,85 (AMD). 1999, c. 236, §3 (AMD). 2005, c. 539, §8 (AMD).

§1052-A. SPECIAL TASTE-TESTING FESTIVAL LICENSE (REPEALED)

SECTION HISTORY

1993, c. 259, §1 (NEW). 1995, c. 30, §§1-3 (AMD). 1997, c. 373, §86 (AMD). 1999, c. 677, §1 (RP).

§1052-B. SPECIAL TASTE-TESTING FESTIVAL LICENSE*(REPEALED)*

SECTION HISTORY

1999, c. 677, §2 (NEW). 2003, c. 91, §1 (AMD). 2011, c. 629, §17 (AMD). 2013, c. 345, §3 (AMD). 2013, c. 351, §§1, 2 (AMD). 2013, c. 368, Pt. XXXX, §1 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF). 2013, c. 531, §2 (RP).

§1052-C. SPECIAL FOOD AND BEVERAGE INDUSTRY TASTE-TASTING EVENT LICENSE*(REPEALED)*

SECTION HISTORY

2011, c. 259, §2 (NEW). 2011, c. 629, §18 (AMD). 2013, c. 531, §3 (RP).

§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.

[2013, c. 531, §4 (NEW) .]

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 [2013, c. 531, §4 (NEW) .]

B. The sponsored manufacturer is included on the application for the taste-testing event license. [2013, c. 531, §4 (NEW) .]

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.

[2013, c. 531, §4 (NEW) .]

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; [2013, c. 531, §4 (NEW) .]

B. The title and purpose of the taste-testing event; [2013, c. 531, §4 (NEW) .]

C. The date, time and duration of the taste-testing event; [2013, c. 531, §4 (NEW).]

D. The address and location of the taste-testing event including a description of the area designated for the taste-testing event; [2013, c. 531, §4 (NEW).]

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; [2013, c. 531, §4 (NEW).]

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 [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

[2013, c. 531, §4 (NEW) .]

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.

[2013, c. 531, §4 (NEW) .]

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.

[2013, c. 531, §4 (NEW) .]

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.

[2013, c. 531, §4 (NEW) .]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

H. A person who is visibly intoxicated may not be served. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

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. [2013, c. 531, §4 (NEW).]

[2013, c. 531, §4 (NEW) .]

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.

[2013, c. 531, §4 (NEW) .]

SECTION HISTORY

2013, c. 531, §4 (NEW).

§1053. LIGHTING OF PREMISES

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §79 (RP).

§1054. SPECIAL PERMIT FOR MUSIC, DANCING OR ENTERTAINMENT

1. Activities and entertainment prohibited. Without the permit described in subsection 2, no licensee for sale of liquor to be consumed on the premises may allow on the premises the following:

- A. Any music, except radio or other mechanical device; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Any dancing; or [1987, c. 45, Pt. A, §4 (NEW).]
- C. Entertainment of any sort. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Special amusement permit required. If a licensee for sale of liquor to be consumed on the premises provides activities or entertainment listed in subsection 1, the licensee must first obtain a special amusement permit from the municipality in which the licensed premises are located.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Term of permit. A permit is valid only for the license year of the existing license.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Public hearing on permit application. Before granting a permit and after reasonable notice to the municipality and the applicant, the municipal officers shall hold a public hearing at which the municipal officers shall take testimony of the applicant and any interested members of the public.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Permit requirements. The municipal officers shall grant a permit unless they find that issuance of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances or rules and regulations.

[1987, c. 45, Pt. A, §4 (NEW) .]

6. Issuance or denial of permit. Within 15 days of receiving the permit application, the municipal officers shall give the applicant written notice of their decision.

A. If the municipal officers deny a licensee a permit, they shall provide the licensee with the reasons for the denial in writing. [1987, c. 45, Pt. A, §4 (NEW).]

B. The licensee may not reapply for a permit within 30 days after denial of an application for a permit. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

7. Municipal suspension or revocation of a permit. After a public hearing preceded by notice to interested parties, the municipal officers may suspend or revoke any permits which they have issued under this section on the grounds that the music, dancing or entertainment permitted constitutes a detriment to the public health, safety or welfare, or violates municipal ordinances or regulations.

[1987, c. 45, Pt. A, §4 (NEW) .]

8. Appeal procedure. Any licensee who has applied for a permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the municipal board of appeals, as defined in Title 30-A, section 2691, within 30 days of the denial, suspension or revocation. The municipal board of appeals, if the municipality has such a board, may grant or reinstate the permit if it finds that:

A. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate municipal ordinances or regulations; or [1987, c. 45, Pt. A, §4 (NEW).]

B. The denial, revocation or suspension was arbitrary and capricious. [1987, c. 45, Pt. A, §4 (NEW).]

[1991, c. 377, §16 (AMD) .]

9. Admission. A licensee who has been issued an amusement permit may charge admission in designated areas approved by the special amusement permit.

[1987, c. 342, §80 (AMD) .]

10. Definition of entertainment. For the purposes of this section, "entertainment" includes any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value.

[1987, c. 45, Pt. A, §4 (NEW) .]

11. Municipal ordinances or regulations. A municipality shall adopt ordinances or authorize the municipal officers to establish written regulations governing the following aspects of the permits.

A. These ordinances or regulations shall govern:

- (1) The issuance, suspension and revocation of these permits;
- (2) The classes of permits and fees for the issuance of these permits;
- (3) The music, dancing or entertainment permitted under each class; and
- (4) Other limitations on these activities required to protect the public health, safety and welfare. [1987, c. 45, Pt. A, §4 (NEW).]

B. These ordinances or regulations may specifically determine:

- (1) The location and size of premises to which the permits may apply;
- (2) The facilities that may be required for the permitted activities on those premises;
- (3) The hours during which the permitted activities may take place; and

(4) The lighting level required, which may be lowered when the entertainment is provided.
[1987, c. 342, §81 (AMD).]

[1987, c. 342, §81 (AMD) .]

12. Unincorporated place. If a licensed premise is located in an unincorporated place, the county commissioners of the county in which the unincorporated place is located shall grant, suspend or revoke permits in the same manner and with the same authority as municipal officers. The county commissioners shall adopt regulations in the same manner as municipal officers.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§80,81 (AMD). 1991, c. 377, §16 (AMD).

§1055. LIQUOR SAMPLES AT RESTAURANTS

1. Liquor samples at restaurants. A restaurant licensed by the bureau as a Class A restaurant or a Class A restaurant/lounge may offer complimentary samples of malt liquor, wine or spirits to a customer, subject to the following conditions:

A. A sample may not be given to a person under 21 years of age; [2015, c. 142, §3 (NEW).]

B. A person may not be provided more than 3 samples per day, and samples are subject to the following size limits:

(1) A sample of malt liquor may not exceed 3 ounces;

(2) A sample of wine may not exceed one ounce; and

(3) A sample of spirits may not exceed 1/2 of one ounce; [2015, c. 142, §3 (NEW).]

C. A person who is visibly intoxicated may not be served; [2015, c. 142, §3 (NEW).]

D. The sampling must be conducted during regular business hours of the Class A restaurant or Class A restaurant/lounge and must take place on the licensed premises only in areas of the Class A restaurant or Class A restaurant/lounge where liquor is normally served to customers; [2015, c. 142, §3 (NEW).]

E. Samples may be provided only by employees of the Class A restaurant or Class A restaurant/lounge; [2015, c. 142, §3 (NEW).]

F. Wine or malt liquor served as a sample must be purchased from a wholesale licensee; and [2015, c. 142, §3 (NEW).]

G. Spirits served as a sample must be purchased from the State or the State's contracted wholesaler. [2015, c. 142, §3 (NEW).]

[2015, c. 142, §3 (NEW) .]

SECTION HISTORY

2015, c. 142, §3 (NEW).

Subchapter 2: SPECIFIC LICENSE REQUIREMENTS

§1061. HOTELS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to hotels, as defined in section 2, subsection 15, paragraph H.

[1995, c. 270, §1 (AMD) .]

2. Minors not permitted on premises. Except as provided in paragraph B, no hotel licensee may permit any minor in any hotel lounge that serves alcoholic beverages.

A. [1995, c. 270, §1 (RP) .]

B. This subsection does not apply when:

(1) The minor is accompanied by a parent, legal guardian or custodian, as defined in Title 22, section 4002;

(2) The minor is employed under section 704; or

(3) The licensee does not permit consumption of liquor on the licensed premises. [1987, c. 342, §82 (RPR) .]

[1995, c. 270, §1 (AMD) .]

3. Income from sale of food requirement. At least 10% of the gross annual income must be from the sale of food for each hotel.

[1987, c. 342, §83 (AMD) .]

4. Required number of sleeping rooms. Each hotel must be equipped with at least the required number of adequate sleeping rooms.

A. The number of rooms required is based on the population of the municipality in which the hotel is located, as reported in the 1960 Federal Decennial Census. If the population reported in the most recent Federal Decennial Census is at least 20% less than the population reported in the 1960 census, the most recent Federal Decennial Census must be used to determine the number of rooms required.

(1) If the hotel is located in a municipality having a population of 7,500 or less, the hotel must have at least 12 adequate sleeping rooms.

(2) If the hotel is located in a municipality having a population of more than 7,500, the hotel must have at least 30 adequate sleeping rooms. [1991, c. 824, Pt. D, §4 (RPR) .]

B. [1991, c. 376, §53 (RP) .]

C. [1987, c. 623, §14 (RP) .]

If the hotel is located on an offshore island that is part of a mainland municipality, then the number of rooms required is based on the population of the island, rather than that of the municipality as a whole.

[1995, c. 270, §1 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 232, (AMD). 1987, c. 342, §§82-84 (AMD). 1987, c. 623, §14 (AMD). 1989, c. 139, (AMD). 1991, c. 376, §53 (AMD). 1991, c. 583, (AMD). 1991, c. 824, §D4 (AMD). 1995, c. 270, §1 (AMD) .

§1061-A. BED AND BREAKFASTS

1. Issuance of licenses. The bureau may issue to a bed and breakfast, as defined in section 2, subsection 15, paragraph B-2, a license under this section for the sale of spirits, wine and malt liquor to be consumed on the premises.

[1993, c. 730, §41 (NEW) .]

2. Service restricted.

[1999, c. 236, §4 (RP) .]

SECTION HISTORY

1993, c. 730, §41 (NEW). 1999, c. 236, §4 (AMD).

§1062. RESTAURANT REQUIREMENTS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of wine and malt liquor to be consumed on the premises to restaurants, as defined in section 2, subsection 15, paragraph Q.

[1997, c. 373, §87 (AMD) .]

2. Restaurant qualifications.

[1987, c. 342, §85 (RP) .]

3. Income from sale of food requirement. Except as provided in paragraph B, at least 10% of the gross annual income must be from the sale of food for both year-round and part-time restaurants.

A. The bureau may not renew any license for the sale of wine or malt liquor unless the licensee furnishes proof to the bureau that the previous year's business conformed to the income requirement of this subsection. [1997, c. 373, §88 (AMD).]

B. Income from the bowling business in bowling alleys must not be included in the income requirement of this section. [1987, c. 45, Pt. A, §4 (NEW).]

[1997, c. 373, §88 (AMD) .]

4. Bureau determines who would probably qualify. The bureau may issue the license if it determines that the applicant for a new license would probably meet the requirements of subsection 3.

[1997, c. 373, §89 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§85-87 (AMD). 1989, c. 502, §B58 (AMD). 1997, c. 373, §§87-89 (AMD).

§1063. CLASS A RESTAURANTS

1. Issuance of license. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to restaurants, as defined in section 2, subsection 15, paragraph R and to Class A restaurant/lounges, as defined in section 2, subsection 15, paragraph R-1.

[1993, c. 410, Pt. ZZ, §18 (AMD) .]

2. Income from sale of food requirement. At least a minimum amount of the gross annual income must be from the sale of food for each Class A restaurant or Class A restaurant/lounge. The income from sale of food requirement is based on the population of the municipality in which the Class A restaurant or Class A restaurant/lounge is located.

A. In municipalities having a population of more than 50,000 persons:

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$50,000 per year from the sale of food to the public on their premises. [1993 , c. 730 , §42 (AMD) .]

B. In municipalities having a population of more than 30,000 but not more than 50,000 persons:

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$40,000 per year from the sale of food to the public on their premises. [1993 , c. 730 , §42 (AMD) .]

C. In municipalities having a population of more than 20,000 but not more than 30,000 persons:

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$30,000 per year from the sale of food to the public on their premises. [1993 , c. 730 , §42 (AMD) .]

D. In municipalities having a population of not more than 20,000 persons:

(1) Year-round Class A restaurants or Class A restaurant/lounges must have a minimum gross annual income of \$20,000 per year in sale of food to the public on their premises. [1993 , c. 730 , §42 (AMD) .]

[1993 , c. 730 , §42 (AMD) .]

3. Bureau determines applicant would probably qualify. The bureau may issue the license if it determines that the applicant would probably qualify.

[1993 , c. 410 , Pt. ZZ , §18 (AMD) .]

4. Licensee for renewal must show proof of meeting income requirement. The bureau may not renew any license for the sale of liquor under this subsection unless the licensee furnishes the bureau with proof that the previous year's business conformed to the income requirement of this subsection. The bureau shall prorate food requirements for licensees who operate during only part of an annual license period.

[1993 , c. 730 , §42 (AMD) .]

5. Class A restaurant/lounges; minors.

[1995 , c. 25 , §1 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §88 (AMD). 1993, c. 410, §ZZ18 (AMD). 1993, c. 730, §42 (AMD). 1995, c. 25, §1 (AMD).

§1063-A. OFF-TRACK BETTING FACILITY **(REPEALED)**

SECTION HISTORY

1999, c. 421, §7 (NEW). 2003, c. 493, §14 (AFF). 2003, c. 493, §10 (RP).

§1063-B. POOL HALLS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of malt liquor and wine to be consumed on the premises to pool halls as defined in section 2, subsection 23-A.

[1999, c. 760, §4 (NEW) .]

2. Minors prohibited on premises; exceptions.

[2003, c. 493, §14 (AFF); 2003, c. 493, §11 (RP) .]

3. Smoking when minors are prohibited.

[2003, c. 493, §14 (AFF); 2003, c. 493, §11 (RP) .]

SECTION HISTORY

1999, c. 760, §4 (NEW). 2003, c. 493, §11 (AMD). 2003, c. 493, §14 (AFF).

§1064. ESTABLISHMENT LOCATED AT FAIRGROUNDS

Establishments located on fairgrounds operated by agricultural societies or where pari-mutuel racing is conducted, which otherwise meet the definition of a hotel or a restaurant, shall be considered to be a hotel or restaurant for purposes of this Title, even if an admission charge must be paid to gain entrance to the fairgrounds or racing grounds. [2009, c. 2, §78 (COR).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). RR 2009, c. 2, §78 (COR).

§1065. LICENSES FOR CLASS A LOUNGES

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to Class A lounges as defined in section 2, subsection 15, paragraph L.

[1997, c. 373, §90 (AMD) .]

2. Food availability. The licensee shall offer food for sale to the public at all times that liquor is for sale.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Income from the sale of food requirement.

[1993, c. 730, §43 (RP) .]

4. Minors not allowed on premises. Minors are not permitted to remain on the premises except when:

A. The minor is accompanied by a parent, legal guardian or custodian as defined in Title 22, section 4002; or [2003, c. 493, §12 (AMD); 2003, c. 493, §14 (AFF).]

B. The licensee does not permit consumption of liquor on the premises for a specific period of time or event. [2003, c. 493, §12 (AMD); 2003, c. 493, §14 (AFF).]

C. [2003, c. 493, §14 (AFF); 2003, c. 493, §12 (RP).]

[2003, c. 493, §12 (AMD); 2003, c. 493, §14 (AFF) .]

5. Licensed by Department of Health and Human Services. All Class A lounges must be licensed by the Department of Health and Human Services.

[1987, c. 45, Pt. A, §4 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

6. Written evaluation.

[1987, c. 342, §91 (RP) .]

7. Sunset.

[1987, c. 342, §91 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§89-91 (AMD). 1993, c. 730, §43 (AMD). 1997, c. 373, §90 (AMD). 1999, c. 568, §2 (AMD). 2003, c. 493, §12 (AMD). 2003, c. 493, §14 (AFF). 2003, c. 689, §B6 (REV).

§1066. TAVERNS

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §92 (RP).

§1066-A. TAVERNS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of malt liquor to be consumed on the premises to taverns as defined in section 2, subsection 16, paragraph T-1.

[1997, c. 373, §91 (AMD) .]

2. Minors not permitted on premises. Minors are not permitted to remain on the premises unless:

A. Accompanied by a parent, legal guardian or custodian as defined in Title 22, section 4002; or
[1987, c. 342, §93 (NEW).]

B. Employed under section 704. [1991, c. 824, Pt. A, §58 (AMD).]

[1991, c. 824, Pt. A, §58 (AMD) .]

SECTION HISTORY

1987, c. 342, §93 (NEW). 1991, c. 824, §A58 (AMD). 1997, c. 373, §91 (AMD).

§1067. CLASS A TAVERNS

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §94 (RP).

§1068. PERFORMING ARTS CENTERS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to performing arts centers as defined in section 2, subsection 15, paragraph N.

[1997, c. 373, §92 (AMD) .]

2. Requirements. The performing arts center must have:

A. Been in existence one year before first applying for a license under section 653; and [1987, c. 45, Pt. A, §4 (NEW).]

B. Presented at least 24 public performances of theater, music, dance or other performing arts in the 12 months before first applying for a license. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §92 (AMD).

§1069. AUDITORIUMS

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). MRSA T. 28A, §1069, sub-4, ¶A (RP).

§1069-A. AUDITORIUMS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to auditoriums, as defined in section 2, subsection 15, paragraph B.

[1997, c. 373, §93 (AMD) .]

2. No sales at events for children. No liquor may be sold at an auditorium at any event primarily involving primary or secondary school children.

[1989, c. 158, §9 (NEW) .]

3. Conditions on sales.

[1995, c. 229, §1 (RP) .]

SECTION HISTORY

1989, c. 158, §9 (NEW). 1995, c. 229, §1 (AMD). 1997, c. 373, §93 (AMD).

§1070. CIVIC AUDITORIUMS

1. Issuance of licenses. The bureau may issue licenses to civic auditoriums as defined in section 2, subsection 15, paragraph C under this section for the sale of spirits, wine and malt liquor. The license may be issued to the owner of the civic auditorium, the operator of the civic auditorium or the entity providing alcoholic beverages to the public in the civic auditorium.

[2015, c. 101, §1 (AMD) .]

2. Events on licensed premises only. Licenses issued to civic auditoriums may be used only in conjunction with a function or event held on the licensed premises.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. No sales during events for minors. Licensees may not sell spirits, wine or malt liquor during any school activities or events primarily attended by minors in the rooms where these activities are taking place.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Licensee must notify bureau.

[2015, c. 101, §1 (RP) .]

5. Bottle service of spirits; designated areas. A civic auditorium licensee may sell spirits in original containers for service in a civic auditorium club suite under the following conditions:

A. Spirits to be consumed in the club suite are provided exclusively by the civic auditorium licensee; [2015, c. 101, §1 (NEW).]

B. Spirits containers provided for consumption in the club suite must remain in the club suite for the duration of the event for which they were provided; [2015, c. 101, §1 (NEW).]

C. The number of spirits containers provided for consumption in the club suite may not exceed 6; and [2015, c. 101, §1 (NEW).]

D. The registered tenant of the club suite or individual specifically granted access to the club suite by the civic auditorium signs a contract with the civic auditorium agreeing that no person under 21 years of age will be provided or served alcoholic beverages in the club suite. [2015, c. 101, §1 (NEW).]

For purposes of this subsection, "club suite" means a designated area within a civic auditorium designed to provide premium viewing of an event in the auditorium and to which access is limited to registered tenants, invited guests and those who have been specifically granted access by the operator of the civic auditorium and is not accessible to the general public or civic auditorium patrons with tickets that provide for general admission to that event at the auditorium. A club suite must have a clearly designated point of access for the registered tenant or person specifically granted access by the operator of the civic auditorium to ensure that persons present in the suite are limited to invited guests and employees providing services to the club suite.

[2015, c. 101, §1 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §95 (AMD). 1997, c. 373, §§94,95 (AMD). 2015, c. 101, §1 (AMD).

§1071. INCORPORATED CIVIC ORGANIZATIONS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to incorporated civic organizations, as defined in section 2, subsection 15, paragraph I.

[1997, c. 373, §96 (AMD) .]

2. Up to 5 licensed events per year; one event per license. An incorporated civic organization may obtain up to 5 licenses under this section per calendar year. Each license authorizes the licensee to sell or serve liquor at only one public event or public gathering which is sponsored by the licensee.

[1987, c. 151, §2 (RPR) .]

3. Length of licenses. One license issued under this section to each incorporated civic organization is valid for up to 7 consecutive days. The other 4 licenses for which the incorporated civic organization is eligible are valid for one day each. The bureau may not issue separate licenses under this section to the same incorporated civic organization for events or gatherings held on consecutive days.

[1997, c. 373, §97 (AMD) .]

4. Application. An incorporated civic organization shall file an application for a license. The application includes the following:

A. Title and purpose of the event; [1987, c. 45, Pt. A, §4 (NEW).]

B. Date, time and duration; [1987, c. 45, Pt. A, §4 (NEW).]

C. Location; [1987, c. 45, Pt. A, §4 (NEW).]

D. Approximate number of persons to be accommodated; [1987, c. 45, Pt. A, §4 (NEW).]

E. Name and address of the sponsoring civic organization and the name and title of the officer making the application; [1987, c. 45, Pt. A, §4 (NEW).]

F. If food is to be served, the name and address of food caterer, if other than the licensee; and [1987, c. 45, Pt. A, §4 (NEW).]

G. Approval by the municipal officers of the municipality in which the proposed licensed premises are located, which, notwithstanding section 653, may be granted without notice or a public hearing. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Ruling on application. The bureau shall approve or deny the application and immediately notify the applicant of its decision. The bureau shall advise the applicant that the license may be revoked and suspended under chapter 33.

[1997, c. 373, §98 (AMD) .]

6. Server requirements. A manufacturer licensed by the bureau under section 1355-A, a certificate of approval holder or a wholesaler who provides malt liquor, wine, fortified wine or spirits for the public event or gathering being sponsored may serve its product at the event. An incorporated civic organization issued a license in accordance with this section shall provide the names of persons not licensed under chapter 51, 55 or

59 who will be serving alcoholic beverages at the event. In the event that a server from that list is unavailable, a licensed manufacturer, distributor, wholesaler, small winery or small brewery that has provided alcoholic beverages to be served at the event may provide serving assistance.

[2015, c. 2, §17 (COR) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 151, §2 (AMD). 1997, c. 373, §§96-98 (AMD). 2009, c. 102, §1 (AMD). 2011, c. 629, §19 (AMD). RR 2015, c. 2, §17 (COR). 2015, c. 214, §6 (AMD).

§1072. CLUBS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to clubs, as defined in section 2, subsection 15, paragraph D.

[1997, c. 373, §99 (AMD) .]

2. Requirements. Except as provided in subsection 3, for at least one year immediately before filing the application for a license, a club must have:

A. Been in continuous operation and existence; [1987, c. 45, Pt. A, §4 (NEW).]

B. Regularly occupied as owner or lessee a suitable clubhouse or quarters for use of members; [1987, c. 45, Pt. A, §4 (NEW).]

C. Held regular meetings; [1987, c. 45, Pt. A, §4 (NEW).]

D. Conducted its business through officers regularly elected; and [1987, c. 45, Pt. A, §4 (NEW).]

E. Charged and collected dues from members. [1987, c. 342, §96 (AMD).]

[1987, c. 342, §96 (AMD) .]

3. Exception to one-year requirement. Any organization in the State having a charter from a national organization is exempt from the one-year requirement of subsection 2 if it has been established for not less than 3 months.

[1993, c. 730, §44 (AMD) .]

4. Register of club members. Every club shall keep and maintain a register of the name, identity and address of each member of the club. The club shall allow any liquor enforcement officer or other authorized agent of the bureau to inspect the register at any reasonable time.

[1997, c. 373, §99 (AMD) .]

5. Sale of liquor only to members and guests; exception. Except as provided in paragraph A, licensed clubs may not sell liquor to anyone except members and their guests accompanying them.

A. Licensed veterans' and fraternal organizations and social clubs may sell liquor to members of the same national or affiliated international organization and to members of auxiliaries of the same national or affiliated international organization and their guests accompanying them. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

6. Sales in containers forbidden. No club may sell spirits in the original container.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §96 (AMD). 1993, c. 730, §44 (AMD). 1997, c. 373, §99 (AMD).

§1073. INDOOR RACQUET CLUBS; ICE SKATING CLUBS; GOLF CLUB FACILITIES; CURLING CLUBS; AND BOWLING CENTERS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to bowling centers, curling clubs, golf clubs, indoor ice skating clubs and indoor racquet clubs as defined in section 2, subsection 15, paragraphs B-1, D-1, G, J and K respectively.

[1995, c. 558, §5 (AMD) .]

2. Food availability. The licensee shall offer food for sale to the public at all times that liquor is for sale. For bowling centers, at least 10% of the gross annual income, not including income from the bowling business, must be from the sale of food.

[1989, c. 244, §6 (AMD) .]

3. Separate area for sale of food and liquor. The licensee shall set aside a separate area for the sale and consumption of food and liquor in accordance with the rules of the bureau. For bowling centers, that separate area may not include the area in which the game of bowling is conducted.

[1997, c. 373, §100 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 244, §6 (AMD). 1995, c. 558, §§4-6 (AMD). 1997, c. 373, §100 (AMD).

§1074. OUTDOOR STADIUMS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of wine and malt liquor to be consumed on the premises to outdoor stadiums, as defined in section 2, subsection 15, paragraph M. A concessionaire or lessee may be issued a license under this section, regardless of whether it controls the premises, as long as that concessionaire or lessee complies with the notice provisions applicable to qualified catering services in section 1076, subsection 7 prior to exercising the license.

[1997, c. 373, §101 (AMD) .]

2. No sales at events for children. The licensee may not sell any liquor at an outdoor stadium at any event primarily involving primary or secondary school children.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Conditions on sales. The licensee may not sell liquor in the spectator stands at an outdoor stadium. Liquor may be sold only by the glass in plastic or paper cups.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §101 (AMD).

§1075. AUXILIARY LICENSES AT SKI AREAS AND GOLF COURSES

1. Licenses. The bureau may issue one auxiliary license under this section for additional premises to any Class A restaurant or Class A restaurant/lounge, Class I hotel located at a ski area or golf course, or to a Class I golf club or a Class I or Class V club located at a golf course, if the following requirements are met:

A. The additional premises are located at the same ski area or golf course where the Class A restaurant, Class A restaurant/lounge, lounge, hotel, or qualified club is licensed; [1995, c. 195, §2 (AMD) .]

B. Food is for sale at the additional premises, although not necessarily prepared there; [1987, c. 45, Pt. A, §4 (NEW) .]

C. The additional premises are properly equipped, including tables, chairs and restrooms; and [1995, c. 195, §2 (AMD) .]

D. The Department of Health and Human Services licenses the additional premises. [1987, c. 45, Pt. A, §4 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

[1995, c. 195, §2 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. Sales for consumption on slopes or courses prohibited. This section does not permit a ski area to sell liquor for consumption on the slopes away from the licensed area. Except as provided in section 1075-A, a golf course may not sell liquor for consumption on the course away from the licensed area.

[2005, c. 108, §2 (AMD) .]

2-A. Sales for consumption on slopes or courses prohibited.

[2005, c. 108, §3 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1993, c. 410, §ZZ19 (AMD). 1993, c. 730, §45 (AMD). 1995, c. 195, §2 (AMD). 2003, c. 579, §§2,3 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 108, §§2,3 (AMD).

§1075-A. GOLF COURSE MOBILE SERVICE BAR

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Mobile service bar" means a golf cart or other similar vehicle staffed by an employee of the golf course and outfitted for storage, cooling or refrigeration and sale and service of malt liquor in cans or bottles. [2003, c. 579, §4 (NEW) .]

[2003, c. 579, §4 (NEW) .]

2. License. The bureau may issue a license for a mobile service bar to a licensee who owns a golf course or may issue a license for a mobile service bar to a Class A restaurant, Class A restaurant/lounge or Class I hotel located at a golf course and to a golf course owner. The licensee shall ensure that:

- A. All individuals selling, serving or dispensing malt liquor from a mobile service bar are employees of the golf course, except as provided in subsection 2-A; [2009, c. 472, §1 (AMD).]
- B. The licensee does not possess or permit possession, sale or consumption of any malt liquor on the golf course other than that which is permitted and purchased by the licensee in accordance with the license or licenses granted; [2005, c. 108, §4 (RPR).]
- C. A sufficient number of employees are deployed to adequately control and ensure adherence to laws applying to the serving, sale and consumption of malt liquor on the golf course; [2003, c. 579, §4 (NEW).]
- D. Service or consumption of any liquor is not allowed in parking lots except as otherwise provided in this chapter; [2003, c. 579, §4 (NEW).]
- E. A licensee or licensee's employees do not allow patrons to leave the golf course with any liquor; [2003, c. 579, §4 (NEW).]
- F. Only one standard serving of malt liquor is served to an individual at a time; [2003, c. 579, §4 (NEW).]
- G. Signs are posted that state that a patron may not bring alcoholic beverages onto the premises of the golf course; [2003, c. 579, §4 (NEW).]
- H. Signs are placed on the mobile service bar that state that service or consumption of any liquor by a person under 21 years of age is prohibited; [2003, c. 579, §4 (NEW).]
- I. Malt liquor from a mobile service bar is purchased and consumed only by those patrons engaged in a round of golf; [2003, c. 579, §4 (NEW).]
- J. The operator of a mobile service bar is at least 21 years of age and has successfully completed an alcohol server education course; and [2003, c. 579, §4 (NEW).]
- K. The operator of a mobile service bar has the ability and necessary tools to immediately contact a golf course employee working at the part of the golf course licensed as an on-premises establishment or an employee of a Class A restaurant or Class A restaurant/lounge operating under a contract with a municipal golf course for assistance in enforcing the provisions of this section. [2009, c. 472, §2 (AMD).]

[2009, c. 472, §§1, 2 (AMD) .]

2-A. Municipal golf course. Notwithstanding subsection 2, paragraph A, employees of a Class A restaurant or Class A restaurant/lounge operating under a contract with a municipal golf course that does not have a license to serve alcoholic beverages may sell, serve or dispense malt liquor from a mobile service bar under the same conditions prescribed by subsection 2.

[2009, c. 472, §3 (NEW) .]

3. Penalty. A person who brings alcoholic beverages onto the premises of a golf course commits a civil violation for which a fine of not less than \$250 nor more than \$1,500 may be adjudged.

[2003, c. 579, §4 (NEW) .]

4. Revocation and suspension of license. A licensee who holds a license issued by the bureau under this section and any other licenses that that licensee holds to sell liquor for on-premises consumption are subject to chapter 33 to the same extent as are other on-premises licensees.

[2005, c. 108, §5 (RPR) .]

5. Transportation of open containers prohibited. A patron of a golf course licensed under this section who operates a golf cart is prohibited from transporting an open container of liquor across a public way as defined by Title 29-A, section 2112-A, subsection 1, paragraph D.

[2003, c. 579, §4 (NEW) .]

6. Repeal.

[2005, c. 108, §6 (RP) .]

SECTION HISTORY

2003, c. 579, §4 (NEW). 2005, c. 108, §§4-6 (AMD). 2009, c. 472, §§1-3 (AMD).

§1076. QUALIFIED CATERING SERVICES

1. Issuance of licenses. Notwithstanding any other provision of law, the bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to qualified catering services as defined in section 2, subsection 15, paragraph P.

A. "Premises," as used in this section, means the premises where the qualified catering service is selling and serving liquor, either its principal place of business or the premises where the event being catered is held. [1987, c. 342, §97 (NEW).]

[1993, c. 410, Pt. ZZ, §20 (AMD) .]

2. Compliance with local option decisions. The bureau may license only those qualified catering services whose principal place of business is located in municipalities that have previously voted affirmatively on questions pertaining to on-premise sales provided in chapter 5.

A. Every event catered by the qualified catering service must also be located in a municipality that has previously voted affirmatively on questions pertaining to on-premise sales provided in chapter 5. [1993, c. 410, Pt. ZZ, §20 (AMD).]

[1993, c. 410, Pt. ZZ, §20 (AMD) .]

3. Income from sale of food requirement. At least a minimum amount of gross annual income must be from the sale of food for each qualified catering service. The income from sale of food requirement is based on the population of the municipality in which the qualified catering service is located. For purposes of this section, "year-round" means operated for more than 6 months in a year.

A. In municipalities having a population of over 50,000 persons:

(1) Year-round qualified catering services must have a minimum gross income of \$50,000 a year from the sale of food to the public; and

(2) Part-time qualified catering services must have a minimum gross income of:

(a) Thirty thousand dollars from the sale of food to the public if the catering service operates for more than 3 months but no more than 6 months in a year; and

(b) Twenty thousand dollars from the sale of food to the public if the catering service operates for no more than 3 months in a year. [1993, c. 410, Pt. ZZ, §20 (AMD).]

B. In municipalities having a population of 30,001 to 50,000 persons:

(1) Year-round qualified catering services must have a minimum gross income of \$40,000 a year from the sale of food to the public; and

(2) Part-time qualified catering services must have a minimum gross income of:

- (a) Twenty-five thousand dollars from the sale of food to the public if the catering service operates for more than 3 months but no more than 6 months in a year; and
- (b) Twenty thousand dollars from the sale of food to the public if the catering service operates for no more than 3 months in a year. [1993, c. 410, Pt. ZZ, §20 (AMD).]

C. In municipalities having a population of 20,001 to 30,000 persons:

- (1) Year-round qualified catering services must have a minimum gross income of \$30,000 a year from the sale of food to the public; and
- (2) Part-time qualified catering services must have a minimum gross income of \$20,000 from the sale of food to the public if the catering service operates for more than 3 months but no more than 6 months in a year. [1993, c. 410, Pt. ZZ, §20 (AMD).]

D. In municipalities having a population of 7,501 to 20,000 persons:

- (1) Year-round qualified catering services must have a minimum gross income of \$15,000 a year from the sale of food to the public; and
- (2) Part-time qualified catering services must have a minimum gross income of \$10,000 from the sale of food to the public if the catering service operates for no more than 6 months in a year. [1993, c. 410, Pt. ZZ, §20 (AMD).]

E. In municipalities having a population of 7,500 persons or less:

- (1) Year-round qualified catering services must have a minimum gross income of \$5,000 a year from the sale of food to the public; and
- (2) Part-time qualified catering services must have a minimum gross income of \$2,500 from the sale of food to the public if the catering service operates for no more than 6 months in a year. [1993, c. 410, Pt. ZZ, §20 (AMD).]

[1993, c. 410, Pt. ZZ, §20 (AMD) .]

4. Bureau determines applicant would probably qualify. The bureau may issue the license if it determines that the applicant for a new license would probably qualify.

[1993, c. 410, Pt. ZZ, §20 (AMD) .]

5. Licensee for renewal must show proof of meeting income requirement. The bureau may not renew any license for the sale of liquor under this section unless the licensee furnishes the bureau with proof that the previous year's business conformed to the income requirements of this section.

[1993, c. 410, Pt. ZZ, §20 (AMD) .]

6. Income from vending machines not included. The income from the sale of food placed in vending machines must not be included in the minimum dollar requirements of this section.

[1987, c. 45, Pt. A, §4 (NEW) .]

7. Provision of liquor at places other than principal place of business. Licensed qualified catering services that would like to provide the service of liquor at locations other than their principal places of business shall file an application with the bureau at least 24 hours in advance of any function or event at which liquor is to be sold or served. Application must be made on a form provided by the bureau and must contain the following:

- A. Date, time and approximate duration; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Location; [1987, c. 45, Pt. A, §4 (NEW).]

C. Name and address of the person or persons, firm or corporation making arrangements; [1987, c. 45, Pt. A, §4 (NEW).]

D. Approval by the municipal officers or a municipal official designated by the municipal officers of the municipality in which the catered function or event is to be held, which, notwithstanding the provisions of section 653, may be granted without public notice; and [1987, c. 45, Pt. A, §4 (NEW).]

E. Any other information the bureau considers necessary. [1993, c. 410, Pt. ZZ, §20 (AMD).]

[1993, c. 410, Pt. ZZ, §20 (AMD).]

8. Ruling on application. The bureau shall approve or deny the application to provide service of liquor at a location other than the principal place of business, and shall immediately notify the applicant of its decision.

[1993, c. 410, Pt. ZZ, §20 (AMD).]

9. No additional fee. The bureau may not charge a fee for provision of the service of liquor at locations other than the principal place of business in addition to the license fee paid by the qualified catering service.

[1993, c. 410, Pt. ZZ, §20 (AMD).]

10. Self-sponsored event permit. The bureau may issue a self-sponsored event permit to a qualified catering service in addition to a license issued in accordance with this section. A self-sponsored event permit authorizes the licensee to serve spirits, wine and malt liquor at an event sponsored by the licensee at the facility that is the licensee's principal place of business as a qualified catering service. The permit allows for up to 100 self-sponsored events per year under the following conditions:

A. The licensee submits an application as prescribed by the bureau; [2009, c. 530, §1 (NEW).]

B. The primary business of the licensee does not involve serving alcoholic beverages on a day-to-day basis at self-sponsored events; [2009, c. 530, §1 (NEW).]

C. The licensee notifies the bureau of a self-sponsored event a minimum of 3 business days prior to the event by first class mail, facsimile transmission, electronic mail or other method prescribed by the bureau; [2009, c. 530, §1 (NEW).]

D. The licensee provides at a self-sponsored event a diverse selection of food, primarily prepared from a complete kitchen at the licensee's facility and served at multiple food stations or a buffet service or passed by servers or served as a plated sit-down meal. The selection of food must include more than snack foods such as potato chips, crackers, pretzels or nuts, but snack foods may be used in the preparation of a meal or as an accompaniment to a prepared meal; [2009, c. 530, §1 (NEW).]

E. If liquor is served later than 9:00 p.m. at a self-sponsored event and after the service of food described in paragraph D is complete, the licensee continues to offer food, which may be lighter than a buffet service or a sit-down meal, such as sandwiches and pizza; [2009, c. 530, §1 (NEW).]

F. Self-sponsored events are public or private events requiring an admission fee for the service of food and beverages by the licensee that may include visual or participatory entertainment provided by the licensee in accordance with the laws and rules governing this Title; and [2009, c. 530, §1 (NEW).]

G. Self-sponsored events do not exceed 7 hours. [2009, c. 530, §1 (NEW).]

The license fee for a self-sponsored event permit is \$700 annually. Renewal of a permit under this subsection must coincide with renewal of the license issued in accordance with this section.

[2009, c. 530, §1 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§97-99 (AMD). 1987, c. 360, (AMD). 1993, c. 410, §ZZ20 (AMD). 2009, c. 530, §1 (AMD).

§1077. PUBLIC SERVICE CORPORATIONS: VESSEL, RAILROAD AND AIRLINE CORPORATIONS

1. Licenses. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor by vessel, railroad and airline corporations in their boats, cars and aircraft.

[1997, c. 373, §102 (AMD) .]

2. Vessels. The requirements and conditions for licenses for vessels are as follows.

A. The bureau may not require that the vessels be equipped to supply food or provide food service.

[1997, c. 373, §103 (AMD).]

B. Except as provided in subparagraph (1), licenses issued under this section to vessel companies operating boats within the State authorize the licensees to sell liquor in the boats after leaving and before reaching ports within the State and licenses issued under this section to commercial vessel companies operating boats on inland waters authorize the licensees to sell liquor on board the boat after leaving and before reaching docks on inland waters.

(1) A licensee may sell liquor for consumption on board a vessel that is in port or docked, only if prior approval for the sale is obtained from the bureau under the license application procedure in section 653. A separate approval must be obtained for each port or dock location from which on-board sales of liquor are to be made. [1997, c. 656, §2 (AMD) .]

C. A vessel licensed to sell liquor under this section may sell liquor on Sundays only between the hours of 5 a.m. and 1 a.m. the following day on inland waters and when operated within the 3-mile limit on coastal waters. [2015, c. 74, §5 (AMD) .]

D. Notwithstanding the provisions of sections 121 and 122, a vessel on inland waters may sell liquor without approval of the municipal officers or, in the case of unincorporated places, the county commissioners. [1997, c. 656, §4 (NEW) .]

[2015, c. 74, §5 (AMD) .]

3. Railroad corporations. The requirements and conditions for licenses for railroad corporations are as follows.

A. The license issued to a railroad corporation operating dining cars or passenger cars within the State authorizes the licensee to sell liquor to be consumed in the cars only after leaving and before reaching the terminal stops. [1987, c. 342, §100 (RPR) .]

[1987, c. 342, §100 (AMD) .]

4. Airlines. The requirements and conditions for licenses for airlines are as follows.

A. The license issued to an airline operating aircraft within the State authorizes the licensee to sell liquor in the aircraft to be consumed in the aircraft only after leaving and before reaching airports within the State. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

5. License sufficient throughout the State. One license issued under this section is sufficient to cover all aircraft, passenger cars or vessels operated by the licensed public service corporation.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §100 (AMD). 1997, c. 373, §§102,103 (AMD). 1997, c. 656, §§2-4 (AMD). 2015, c. 74, §5 (AMD).

§1078. VESSEL CORPORATIONS OWNED BY CERTIFICATE OF APPROVAL HOLDERS

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1079. INTERNATIONAL AIR TERMINALS

1. Issuance of license to operators of air terminals. The bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to operators of international air terminals, as defined in section 2, subsection 15, or their agent or concessionaire.

[1997, c. 373, §104 (AMD) .]

2. Sale of liquor. An international air terminal licensee may sell liquor during the hours permitted under section 4, subsection 1, to:

A. International passengers in transit; and [1987, c. 342, §101 (NEW).]

B. Other persons. [1987, c. 342, §101 (NEW).]

[1987, c. 342, §101 (RPR) .]

3. Sale of liquor to international passengers in transit. Notwithstanding section 4, subsection 1, an international air terminal licensee may sell liquor to international passengers in transit during the hours sales are prohibited under section 4, subsection 1.

[1987, c. 342, §101 (RPR) .]

4. International passengers in transit defined. "International passenger in transit" means an airline passenger who is in transit and whose point of either origin or destination is a foreign country.

[1987, c. 342, §101 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §101 (RPR). 1997, c. 373, §104 (AMD).

Chapter 45: LICENSES FOR THE SALE OF LIQUOR TO BE CONSUMED OFF THE LICENSED PREMISES

§1201. ISSUANCE OF LICENSES; STOCK OF MERCHANDISE

1. Licenses for sale of malt liquor and table wine. The bureau may issue licenses under this section for the sale and distribution of malt liquor or wine to off-premise retail licensees, as defined in section 2, subsection 27, paragraph A.

[1997, c. 373, §105 (AMD) .]

2. Ineligible as licensee. The bureau may not issue a license for the sale of malt liquor or wine to any person who is not engaged in a bona fide retail business other than the sale of malt liquor or wine at retail.

[1997, c. 373, §105 (AMD) .]

3. Cannot sell liquor to be consumed on the premises. Except as provided in section 1207, a person licensed under this section may not sell malt liquor or wine to be consumed on the premises.

[2009, c. 438, §3 (AMD) .]

3-A. Sale of liquor for off-premises consumption to retailer prohibited. A person licensed under this section, or an agent or employee of the person, may not knowingly sell liquor to another retailer licensed under this section for resale except as provided in section 606.

[2013, c. 476, Pt. A, §26 (AMD) .]

4. Licenses in unincorporated places where no local option vote is taken. Licenses in an unincorporated place, where no local option vote is taken under chapter 5, must be approved by the county commissioners of the county.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Qualifications. The bureau may not issue any licenses for new premises unless:

A. The premises have been in operation for a period of at least 3 months immediately before the date of the application; or [1997, c. 373, §107 (AMD).]

B. The applicant proves to the satisfaction of the bureau that all proper standards and requirements of laws and rules of the bureau have been met and that the applicant is a resident of the State. [1997, c. 373, §107 (AMD).]

[1997, c. 373, §107 (AMD) .]

6. Stock of groceries or compatible merchandise required. All off-premise retail licensees must have and maintain:

A. An adequate stock of groceries fit for human consumption of at least \$1,000 wholesale value; [1987, c. 342, §103 (RPR).]

B. A stock of merchandise reasonably compatible with a stock of malt liquor or wine of at least \$1,000 wholesale value; or [1987, c. 342, §103 (RPR).]

C. A combination of both groceries fit for human consumption and compatible merchandise of at least \$1,000 wholesale value. [1987, c. 342, §103 (RPR).]

[1987, c. 342, §103 (RPR) .]

7. Compatible merchandise. Each licensee shall display the groceries or compatible merchandise, or both, in the general sales area of the licensed premises, except that foodstuffs and other consumable products used in the preparation of food and cut flowers and potted flowers are not required to be displayed if they are stored elsewhere on the premises. Compatible merchandise:

A. Includes:

- (1) Tobacco products;
- (2) Newspapers;
- (3) Greeting cards;
- (4) Paper products;
- (5) Cut flowers and potted flowers;
- (5-A) Glasses, stemware, china and devices designed to open containers of wine and beer;
- (6) A stock of foodstuffs and other consumable products used on the premises in the preparation of food for consumption on or off the premises; and
- (7) Other items equally compatible with a stock of malt liquor or wine; and [2005, c. 193, §1 (AMD).]

B. Does not include:

- (1) Gasoline and oil;
- (2) Used or new cars, parts or accessories; or
- (3) Other items of stock that may be equally incompatible in nature. [1987, c. 342, §104 (RPR).]

[2005, c. 193, §1 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§102-104 (AMD). 1993, c. 266, §21 (AMD). 1997, c. 373, §§105-107 (AMD). 2005, c. 193, §1 (AMD). 2009, c. 438, §3 (AMD). 2013, c. 368, Pt. V, §41 (AMD). 2013, c. 476, Pt. A, §26 (AMD).

§1201-A. TRANSFER OF SPIRITS AMONG CERTAIN LICENSEES

Notwithstanding section 606, subsection 1 and section 1201, subsection 3-A, if a business or corporation has multiple locations in the State licensed to sell spirits for consumption off the premises, spirits may be transferred from one of those licensed locations to another to facilitate the sale of those spirits. A licensee that transfers spirits from one location to another in accordance with this section must notify the bureau of all transfers in advance on a form determined by the bureau. The licensee shall maintain a record of all transfers made in accordance with this section. [2003, c. 208, §1 (NEW).]

SECTION HISTORY

2003, c. 208, §1 (NEW).

§1202. PAYMENT FOR SALES IN OFF-PREMISE RETAILERS

1. Employees under 17. No employee under 17 years of age may accept payment for the sale of malt liquor or wine at the check-out counter of an off-premise retail licensee's establishment.

[1993, c. 266, §22 (AMD) .]

2. Employees who are 17. An employee who is at least 17 years of age but less than 21 years of age may accept payment only in the presence of an employee who is at least 21 years of age and is in a supervisory capacity.

[1997, c. 373, §108 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1993, c. 266, §22 (AMD). 1997, c. 373, §108 (AMD).

§1203. LICENSE FOR FLORISTS AND FLORIST SHOPS

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §105 (RP).

§1204. SHIP CHANDLERS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of malt liquor and table wine to be consumed off the premises to ship chandlers, as defined in section 2, subsection 15, paragraph S.

[1997, c. 373, §109 (AMD) .]

2. Conditions on sales. Ship chandlers may sell malt liquor and wine only to ships which are:

A. Not licensed as retail licensees; and [1987, c. 342, §106 (NEW) .]

B. Registered in another state or another country. [1987, c. 342, §106 (NEW) .]

[1987, c. 342, §106 (NEW) .]

3. Exception to off-premise retail licensee requirements. Notwithstanding section 1201, a licensed ship chandler is not required to have or maintain a stock of groceries, compatible merchandise or combination of both.

[1987, c. 342, §106 (NEW) .]

SECTION HISTORY

1987, c. 342, §106 (NEW). 1997, c. 373, §109 (AMD).

§1205. TASTE TESTING OF WINE

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.

[2015, c. 129, §4 (AMD) .]

2. Conditions on taste-testing activities. The following conditions apply to taste-testing activities under this section:

A. Wine may not be served to persons who have not yet attained the age of 21 years; [2009, c. 459, §2 (AMD).]

B. 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; [2009, c. 459, §2 (AMD).]

C. A person may not be charged a fee for any wine served as part of a taste-testing activity; [2009, c. 459, §2 (AMD).]

D. A person may not be served who is visibly intoxicated; [2009, c. 459, §2 (AMD).]

E. Taste testing must be limited to a designated area; [2009, c. 459, §2 (AMD).]

F. Taste testing must be conducted within the hours of retail sale established in this Title; [2009, c. 459, §2 (AMD).]

G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity; [1997, c. 373, §111 (AMD).]

H. The retail licensee may conduct up to 3 tastings per month, including tastings conducted under sections 460 and 1207; [2011, c. 103, §2 (AMD).]

I. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5; [2009, c. 459, §2 (AMD).]

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; [2015, c. 129, §5 (AMD).]

K. The retail licensee must purchase all wine served at a taste testing from a wholesale licensee; [2009, c. 2, §79 (COR).]

L. Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event; and [2013, c. 368, Pt. V, §42 (AMD).]

M. An off-premise retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the off-premise retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L. [2009, c. 510, §6 (NEW).]

[2015, c. 129, §5 (AMD) .]

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

[2013, c. 476, Pt. A, §27 (AMD) .]

SECTION HISTORY

1989, c. 488, (NEW). 1995, c. 30, §§4-6 (AMD). 1997, c. 373, §§110,111 (AMD). 1997, c. 414, §§1-3 (AMD). 1997, c. 683, §A16 (AMD). 2005, c. 32, §1 (AMD). RR 2009, c. 2, §§79, 80 (COR). 2009, c. 459, §2 (AMD). 2009, c. 510, §§4-6 (AMD). 2011, c. 69, §§1, 2 (AMD). 2011, c. 103, §2 (AMD). 2013, c. 368, Pt. V, §§42, 43 (AMD). 2013, c. 476, Pt. A, §27 (AMD). 2015, c. 129, §§4, 5 (AMD).

§1206. CONSUMPTION PROHIBITED ON OFF-PREMISES RETAIL PREMISES

A person may not consume liquor on the premises of an off-premise retail licensee licensed under this chapter except as provided in sections 460, 1205, 1207, 1208, 1402-A and 1504. [2011, c. 629, §20 (AMD).]

SECTION HISTORY

1993, c. 266, §23 (NEW). 2009, c. 438, §4 (AMD). 2009, c. 459, §3 (AMD). 2009, c. 652, Pt. A, §42 (RPR). 2011, c. 629, §20 (AMD).

§1207. TASTE TESTING OF MALT LIQUOR

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.

[2015, c. 129, §6 (AMD) .]

2. Conditions on taste-testing activities. The conditions under this subsection apply to taste-testing activities under this section.

A. Malt liquor may not be served to persons who have not yet attained 21 years of age. [2009, c. 459, §4 (NEW).]

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. [2009, c. 459, §4 (NEW).]

C. A person may not be charged a fee for any malt liquor served as part of a taste-testing activity. [2009, c. 459, §4 (NEW).]

D. A person may not be served who is visibly intoxicated. [2009, c. 459, §4 (NEW).]

E. Taste testing must be limited to a designated area. [2009, c. 459, §4 (NEW).]

F. Taste testing must be conducted within the hours of retail sale established in this Title. [2009, c. 459, §4 (NEW).]

G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity. [2009, c. 459, §4 (NEW).]

H. The retail licensee may conduct up to 3 tastings per month, including tastings under section 460 or 1205. [2011, c. 103, §3 (AMD).]

I. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5. [2009, c. 459, §4 (NEW).]

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. [2015, c. 129, §7 (AMD).]

K. The retail licensee must purchase all malt liquor served at a taste testing from a wholesale licensee. [2009, c. 459, §4 (NEW).]

L. Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event. [2013, c. 368, Pt. V, §44 (AMD).]

M. An off-premise retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the off-premise retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L. [2009, c. 510, §11 (NEW).]

[2015, c. 129, §7 (AMD).]

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

§1207. Dual liquor license

(As enacted by PL 2009, c. 438, §5 is REALLOCATED TO TITLE 28-A, SECTION 1208)

[2013, c. 476, Pt. A, §28 (AMD).]

SECTION HISTORY

2009, c. 438, §5 (NEW). 2009, c. 459, §4 (NEW). 2009, c. 510, §§8-11 (AMD). 2009, c. 510, §7 (RAL). 2011, c. 103, §3 (AMD). 2013, c. 368, Pt. V, §§44, 45 (AMD). 2013, c. 476, Pt. A, §28 (AMD). 2015, c. 129, §§6, 7 (AMD).

§1208. DUAL LIQUOR LICENSE

(REALLOCATED FROM TITLE 28-A, SECTION 1207)

Notwithstanding any other provision of law, the bureau may issue a dual liquor license to a retail establishment to serve wine to be consumed on the premises in accordance with subsection 2 if that establishment is licensed to sell wine to be consumed off the premises and meets the criteria listed in subsection 1. [2009, c. 510, §7 (RAL).]

1. Minimum criteria. In order for the bureau to issue a dual liquor license in accordance with this section the following criteria must be met:

A. The licensee has submitted an application as prescribed by the bureau and the fee under subsection 3 to the bureau; [2009, c. 510, §7 (RAL).]

B. The licensee's establishment includes a full kitchen that prepares hot and cold meals to be consumed on the premises; [2009, c. 510, §7 (RAL).]

C. The licensee's establishment includes at least 2 restrooms available for use by patrons; [2009, c. 510, §7 (RAL).]

D. The licensee has dedicated an area of the establishment with table seating for a minimum of 16 people to sit and eat a meal prepared by the licensee; [2009, c. 510, §7 (RAL).]

E. The licensee carries a stock of at least \$35,000 of wine; [2009, c. 510, §7 (RAL).]

F. The licensee has not committed a violation of this chapter during the past 2 years; and [2009, c. 510, §7 (RAL).]

G. The licensee has received approval from the appropriate municipal officers prior to submitting an application to the bureau. [2009, c. 510, §7 (RAL).]

[2009, c. 510, §7 (RAL) .]

2. License requirements. The holder of a dual liquor license is governed by the following when serving wine to be consumed on the premises:

A. Each serving of wine must be dispensed by the licensee or an employee of the licensee who is at least 21 years of age from a stock of wine that is separated from the wine that is for sale for consumption off the premises; [2009, c. 510, §7 (RAL).]

B. The licensee shall ensure that at least 2 employees at least 21 years of age are present at all times when wine is being consumed on the premises with at least one whose primary responsibility is sales of wine and other items sold to be consumed off the premises; [2009, c. 510, §7 (RAL).]

C. Wine may be served only to be consumed on the premises when accompanied by a full meal. For the purposes of this paragraph, "full meal" means a diversified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking; [2009, c. 510, §7 (RAL).]

D. Patrons of the establishment may not consume any alcoholic beverage on the premises unless it is served in accordance with this section by the licensee or an employee of the licensee; and [2009, c. 510, §7 (RAL).]

E. A licensee may not serve wine to be consumed on the premises after 8:00 p.m. [2009, c. 510, §7 (RAL).]

[2009, c. 510, §7 (RAL) .]

3. License fee. The license fee for a dual liquor license is \$600 annually in addition to the license to sell malt liquor or wine for consumption off the premises.

[2009, c. 510, §7 (RAL) .]

4. Rules. The bureau shall adopt rules to implement this section. Rules adopted in accordance with this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[2009, c. 510, §7 (RAL) .]

SECTION HISTORY

2009, c. 510, §7 (RAL).

§1209. SALE OF PRIVATELY HELD WINE BY AUCTION

Notwithstanding any provision to the contrary in section 1201, chapter 55 or chapter 57, this section governs wine auctions. [2015, c. 366, §1 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Auction permittee" means a person licensed under Title 32, section 285 who is issued a permit pursuant to this section. [2015, c. 366, §1 (NEW).]

B. "Fine and rare wine" means a wine that is not available for purchase in this State through a licensed retailer or wholesaler. [2015, c. 366, §1 (NEW).]

C. "Privately held wine" means fine and rare wine owned for consumption or investment purposes by a person who is not licensed as a liquor manufacturer, retailer, distributor or wholesaler in any state or by the Federal Government. [2015, c. 366, §1 (NEW).]

D. "Wine auction" means an event at which an auction permittee auctions privately held wine owned by or consigned to the auction permittee. [2015, c. 366, §1 (NEW).]

[2015, c. 366, §1 (NEW) .]

2. Wine auctions. A wine auction may be held by an auction permittee only in accordance with this section. A person legally owning privately held wine may sell or commission for sale the privately held wine to an auction permittee by means of an auction pursuant to this section. Privately held wine may not be auctioned under this section to a person who holds a license under this subpart or subpart 3.

[2015, c. 366, §1 (NEW) .]

3. Permit; fee. Subject to the conditions in subsection 4, the bureau may issue a permit to conduct a wine auction to a person licensed under Title 32, section 285 who applies for a wine auction permit. A permit issued pursuant to this subsection is valid for the length of the auction, which may not exceed 2 days. The permit fee for a wine auction is \$250.

[2015, c. 366, §1 (NEW) .]

4. Conditions. The following conditions apply to a wine auction and a wine auction permit under this section.

A. The auction permittee shall submit to the bureau an inventory of the privately held wine to be sold at the auction on a form determined by the bureau. The inventory form must include the owner of the privately held wine and identifying information as to where the privately held wine was purchased by the owner. For the purposes of subsection 1, paragraph B, wine is considered fine and rare wine if it is not available for purchase in this State through a licensed retailer or wholesaler at the time the inventory is submitted to the bureau. [2015, c. 366, §1 (NEW).]

B. The auction permittee shall notify the bureau at least 30 days prior to the auction of the address, date and time scheduled for the wine auction. [2015, c. 366, §1 (NEW).]

C. The auction permittee shall obtain written verification of the identity of each successful bidder who purchases privately held wine at the wine auction. The information must include, at a minimum, the name and address of the person. [2015, c. 366, §1 (NEW).]

D. Privately held wine sold at the wine auction may not be opened or consumed on the premises of the wine auction. [2015, c. 366, §1 (NEW).]

E. The auction permittee shall notify the bureau of each sale of privately held wine at the wine auction. [2015, c. 366, §1 (NEW).]

F. The privately held wine to be sold at auction may not be stored on the premises where the wine auction is conducted except while the wine auction is being conducted. [2015, c. 366, §1 (NEW).]

G. The auction permittee shall ensure that each recipient of privately held wine sold at the wine auction is 21 years of age or older. [2015, c. 366, §1 (NEW).]

H. The auction permittee shall ensure that each bottle of privately held wine sold at the wine auction has a permanently affixed label stating that the wine is privately held wine. [2015, c. 366, §1 (NEW).]

[2015, c. 366, §1 (NEW) .]

5. Excise tax; sales tax. An auction permittee shall comply with the provisions of chapter 65 and Title 36, Part 3 including all requirements relating to the collection, reporting and remittance of the excise and sales and use taxes of the State on sales of privately held wine sold at a wine auction. The bureau may refuse to issue a wine auction permit to an auction permittee who has violated this subsection.

[2015, c. 366, §1 (NEW) .]

6. Beverage container deposit. A container of privately held wine auctioned under this section must comply with the provisions of Title 32, chapter 28.

[2015, c. 366, §1 (NEW) .]

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

[2015, c. 366, §1 (NEW) .]

SECTION HISTORY

2015, c. 366, §1 (NEW).

Subpart 3: NON-RETAIL SALES

Chapter 51: CERTIFICATE OF APPROVAL HOLDERS

Subchapter 1: GENERAL PROVISIONS

§1351. CERTIFICATE OF APPROVAL

1. Certificate of approval required. All in-state manufacturers, out-of-state manufacturers and out-of-state wholesalers must obtain a certificate of approval from the bureau.

[1997, c. 373, §112 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §112 (AMD).

Subchapter 2: MANUFACTURERS

§1355. MANUFACTURER LICENSES

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 248, (AMD). 1987, c. 342, §107 (RPR). 1987, c. 623, §15 (RPR). 1993, c. 60, §1 (AMD). 1993, c. 542, §§1,2 (AMD). 1993, c. 730, §46 (AMD). 1997, c. 373, §113 (AMD). 1999, c. 275, §2 (AMD). 1999, c. 535, §6 (AMD). 1999, c. 790, §A34 (AMD). 2001, c. 236, §§1,2 (AMD). 2001, c. 501, §§1,2 (AMD). 2005, c. 377, §1 (AMD). 2009, c. 167, §1 (AMD). 2011, c. 48, §1 (AMD). 2011, c. 62, §§1, 2 (AMD). 2011, c. 280, §2 (AMD). 2011, c. 629, §21 (RP).

§1355-A. MANUFACTURER LICENSES

1. Issuance of licenses. The bureau may issue manufacturer licenses to distill, rectify, brew or bottle spirits, wine or malt liquor to distillers, rectifiers, brewers, bottlers and wineries operating under federal law and federal supervision.

[2011, c. 629, §22 (NEW) .]

2. Manufacturers. The following provisions apply to brewery, small brewery, winery, small winery, distillery and small distillery licensees.

A. A licensee may permit sampling of the liquor product on the premises:

- (1) By employees for the purpose of quality control of the product;
- (2) By wholesalers for the purpose of determining whether to carry the product as a wholesale product if the holder of the license pays the excise tax on the product sampled according to section 1652; and
- (3) By the public if the holder of the license pays the excise tax on the product sampled according to section 1652. [2011, c. 629, §22 (NEW) .]

B. A licensee under this section may serve to the public complimentary samples of liquor produced by the licensee at the licensed premises where liquor is produced by the licensee. [2011, c. 629, §22 (NEW) .]

C. A licensee under this section may sell to nonlicensees during regular business hours from the licensed premises where liquor is produced by the licensee liquor produced by the bottle, by the case or in bulk for consumption off the licensed premises. Spirits sold by distillers and small distillers in accordance with this paragraph must be first sold to the State, subject to the listing, pricing and distribution provisions of this Title. [2011, c. 629, §22 (NEW) .]

D. A licensee under this section may sell from the licensed premises where liquor is produced by the licensee liquor produced by the licensee for consumption off the licensed premises. [2011, c. 629, §22 (NEW) .]

E. A licensee may serve complimentary samples of liquor on Sunday after the hour of 5 a.m. and may sell liquor on Sunday after the hour of 5 a.m. if the municipality in which the licensed premises is located has authorized the sale of liquor on Sunday for consumption off the premises under chapter 5. [2015, c. 74, §6 (AMD) .]

F. A licensee may charge for samples or shall otherwise comply with the conditions in paragraph E. Each sample poured is subject to a charge in an amount determined by the licensee and is subject to the sales tax on liquor under Title 36, section 1811. A licensee shall maintain a record of liquor samples subject to a charge and maintain those records for a period of 2 years. [2011, c. 629, §22 (NEW) .]

G. A licensee that is a brewery or small brewery may sell on the premises during regular business hours and within the hours of legal sale to nonlicensees liquor produced at the licensed premises. The volume of the package may not exceed 15.5 gallons and must be consumed off the premises. The sale of packages described in this paragraph must comply with keg tagging requirements provided in section 714. Each licensee shall submit a monthly report to its wholesaler detailing sales made directly from the premises. The wholesaler shall calculate the fees for any bottle deposit and submit an invoice to the licensee for expenses associated with the requirements prescribed in Title 38, chapter 33 including the retailer handling fee, state container deposit and a mutually agreed-upon pick-up fee. [2015, c. 166, §3 (AMD) .]

H. A small winery or small brewery licensee shall keep and maintain complete records on all sales to a retail licensee. [2011, c. 629, §22 (NEW) .]

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, paragraph E. [2011, c. 629, §22 (NEW).]

J. A licensee may display up to 25 bottles of liquor produced by the licensee in a window of the location under paragraph D where liquor is sold for consumption off the licensed premises. Locations licensed under subsection 4, paragraph B, subparagraph (2) or subsection 5, paragraph B, subparagraph (3) may also display up to 25 bottles of liquor produced by the licensee. [2011, c. 629, §22 (NEW).]

[2015, c. 74, §6 (AMD); 2015, c. 166, §3 (AMD) .]

3. Breweries; small breweries. Except as otherwise provided in this section, the following provisions apply to breweries and small breweries.

A. A holder of a brewery license may produce more than 50,000 gallons of malt liquor per year. [2011, c. 629, §22 (NEW).]

B. A holder of a small brewery license may produce not more than 50,000 gallons of malt liquor per year.

(1) Upon application by a holder of a small brewery license whose brewery has produced malt liquor in an amount that exceeds 50,000 gallons in one year, the bureau may renew that holder's small brewery license for only one additional year.

(2) A holder of a small brewery license may sell or deliver its products to licensed retailers or wholesalers. The licensee may sell, on the premises for consumption off the premises, malt liquor produced at the licensed premises by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding section 1361, the holder of a small brewery license may sell its products directly to a retail licensee under this paragraph without selling to a wholesale licensee. [2011, c. 629, §22 (NEW) .]

C. Notwithstanding any other provision of this Title, a brewery or small brewery licensed in accordance with this section may sell from the establishment at the site of the brewery licensed for the sale of alcoholic beverages to be consumed on the premises malt liquor to be consumed off the premises under the conditions specified in this paragraph.

(1) Only malt liquor brewed at the brewery where the on-premises establishment is licensed may be sold at the on-premises establishment.

(2) Malt liquor must be dispensed in bottles provided by and with labels unique to the brewery of 32 to 64 ounces in volume.

(3) No more than 6 bottles may be prefilled at any one time.

(4) A deposit may be charged per bottle. Bottles sold under this paragraph are not subject to Title 38, chapter 33.

(5) The bottle in which the malt liquor is dispensed must be sealed by the licensee with a seal that is tamper-evident.

(6) Malt liquor dispensed in accordance with this paragraph must be consumed off the premises.

(7) All sales of malt liquor from the on-premises establishment for off-premises consumption must be accompanied by a sales receipt with a time stamp that indicates time of purchase.

(8) Sale of malt liquor from the on-premises establishment for off-premises consumption may not be made after 10:00 p.m.

The bureau may adopt rules to enforce this paragraph. Rules adopted in accordance with this paragraph are routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A. [2015, c. 166, §4 (AMD) .]

[2015, c. 166, §4 (AMD) .]

4. Wineries; small wineries. Except as otherwise provided in this section, the following provisions apply to wineries and small wineries.

A. A holder of a winery license may produce more than 50,000 gallons per year of wines, sparkling wines and fortified wines. [2011, c. 629, §22 (NEW) .]

B. A holder of a small winery license may produce not more than 50,000 gallons per year of wines, sparkling wines and fortified wines.

(1) A holder of a small winery license may sell or deliver its products to licensed retailers or wholesalers. The licensee may sell, on the premises for consumption off the premises, wine produced at the licensed premises by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding section 1361, the licensee may sell its products directly to a retail licensee under this paragraph without selling to a wholesale licensee.

(2) A holder of a small winery license, upon application to and approval of the bureau and payment of the license fees, 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. [2011, c. 629, §22 (NEW) .]

C. A holder of a winery or small winery license may fortify wine produced by the winery license holder and import spirits solely for this purpose.

(1) If a small winery license holder produces fortified wine pursuant to this paragraph, the combined total of wine, sparkling wine and fortified wine produced at the small winery may not exceed 50,000 gallons per year. [2011, c. 629, §22 (NEW) .]

For purposes of this subsection, "fortified wine" means wine to which spirits have been added as long as the resulting liquor does not exceed 24% alcohol by volume.

[2011, c. 629, §22 (NEW) .]

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. [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.

(1) The small distillery off-premises license fee is \$100.

(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 the license fees, 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. [2011, c. 629, §22 (NEW).]

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. [2011, c. 629, §22 (NEW).]

D. 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. [2011, c. 629, §22 (NEW).]

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. [2011, c. 629, §22 (NEW).]

F. A distillery or small distillery may provide samples to the public of liquors produced by the distillery that have been sold to the State in accordance with paragraph D and repurchased by the distillery or small distillery. [2011, c. 629, §22 (NEW).]

G. Notwithstanding paragraph D, a holder of a small distillery license licensed under paragraph B, subparagraph (3) to operate a retail location for off-premises consumption may pay the bureau the difference between the distillery's price charged to the bureau and the discounted list price charged by the bureau when a distillery purchases its own spirits to be sold at retail from its off-premises location. A small distillery is not required to transport spirits that will be sold for off-premises consumption under paragraph B, subparagraph (3) to a warehouse operated by the bureau or by a wholesaler contracted by the bureau under section 90 for distribution to the location where the small distillery is authorized to sell spirits produced by the small distillery for off-premises consumption. 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. [2015, c. 440, §1 (AMD).]

H. Notwithstanding paragraph D, a holder of a small distillery license licensed under paragraph E to operate a location licensed under chapter 43 for on-premises consumption may pay the bureau the difference between the distillery's price charged to the bureau and the discounted list price charged by the bureau when a distillery purchases its own spirits to be sold at its on-premises location. A small distillery is not required to transport spirits that will be sold for on-premises consumption under paragraph E to a warehouse operated by the bureau or by a wholesaler contracted by the bureau under section 90 for distribution to the location where the small distillery is authorized to sell spirits produced by the small distillery for on-premises consumption. 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. [2015, c. 440, §2 (NEW).]

[2015, c. 440, §§1, 2 (AMD).]

6. Tenant brewer. Except as otherwise provided, the following provisions apply to a tenant brewer license under which the holder of a tenant brewer license may produce malt liquor at the manufacturing facility of another brewer, referred to in this subsection as "the host brewer," licensed by the bureau under subsection 3.

- A. To be eligible for a tenant brewer license, a person must submit an application to the bureau in a manner prescribed by the bureau and hold a brewer's notice approved by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, that authorizes a tenant brewer to use the facilities and equipment of a host brewer. [2013, c. 345, §4 (NEW).]
- B. A tenant brewer is subject to the same requirements regarding production of malt liquor as if the tenant brewer conducted its manufacturing on its own premises independently. [2013, c. 345, §4 (NEW).]
- C. A tenant brewer is not eligible for privileges provided in subsection 2 except for sampling described by paragraph A, subparagraphs (1) and (2). [2013, c. 345, §4 (NEW).]
- D. A tenant brewer is governed by the provisions of subsection 3 except for the privileges granted under paragraph C. [2013, c. 345, §4 (NEW).]
- E. A tenant brewer may not brew or produce malt liquor for another brewer or certificate of approval holder. [2013, c. 345, §4 (NEW).]
- F. A tenant brewer shall ensure that the tenant brewer maintains control of the raw ingredients used to manufacture the tenant brewer's product. [2013, c. 345, §4 (NEW).]
- G. [2015, c. 15, §1 (RP).]
- G-1. Licenses issued under subsection 3 may allow for up to 9 tenant brewers at a time at the manufacturing facility of a host brewer. [2015, c. 15, §2 (NEW).]
- H. The bureau may require a tenant brewer to maintain a record or log indicating which equipment is being used at any time by the tenant brewer in the production of malt liquor and which employees are working on production of the tenant brewer's product. [2013, c. 345, §4 (NEW).]
- I. The bureau shall require that reports from a tenant brewer be submitted in a manner similar to the manner in which a brewer licensed under subsection 3 submits reports. The bureau shall also require a tenant brewer to submit copies of reports required of holders of an approved brewer's notice issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the tenant brewer to engage in an alternating proprietorship. [2013, c. 345, §4 (NEW).]

[2015, c. 15, §§1, 2 (AMD).]

7. Tenant winery. Except as otherwise provided, the following provisions apply to a tenant winery license under which the holder of a tenant winery license may produce wine at the manufacturing facility of another winery, referred to in this subsection as "the host winery," licensed by the bureau under subsection 4. This subsection applies to hard cider produced by a manufacturer licensed as a winery or small winery under subsection 4.

- A. To be eligible for a tenant winery license, a person must submit an application to the bureau in a manner prescribed by the bureau and hold an approved application for an alternating proprietorship issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau that authorizes a tenant winery to use the facilities and equipment of a host winery. [2015, c. 185, §3 (NEW).]
- B. A tenant winery is subject to the same requirements regarding manufacture of its product as if the tenant winery conducted its manufacturing on its own premises independently. [2015, c. 185, §3 (NEW).]
- C. A tenant winery is not eligible for privileges provided in subsection 2 except for sampling described by paragraph A, subparagraphs (1) and (2). [2015, c. 185, §3 (NEW).]

D. A tenant winery may not produce wine or hard cider for another winery or certificate of approval holder. [2015, c. 185, §3 (NEW).]

E. A tenant winery shall ensure that the tenant winery maintains control of the raw ingredients used to manufacture the tenant winery's product. [2015, c. 185, §3 (NEW).]

F. A license issued under subsection 4 may allow for up to 9 tenant wineries at a time at the manufacturing facility of a host winery. [2015, c. 185, §3 (NEW).]

G. The bureau may require a tenant winery to maintain a record or log indicating which equipment is being used at any time by the tenant winery in the production of wine or hard cider and which employees are working on production of the tenant winery's product. [2015, c. 185, §3 (NEW).]

H. The bureau shall require that reports from a tenant winery be submitted in a manner similar to the manner in which a winery licensed under subsection 4 submits reports. The bureau shall also require a tenant winery to submit copies of reports required of holders of an approved application issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the tenant winery to engage in an alternating proprietorship. [2015, c. 185, §3 (NEW).]

[2015, c. 185, §3 (NEW) .]

SECTION HISTORY

2011, c. 629, §22 (NEW). 2013, c. 345, §4 (AMD). 2013, c. 359, §1 (AMD). 2015, c. 15, §§1, 2 (AMD). 2015, c. 74, §6 (AMD). 2015, c. 166, §§3, 4 (AMD). 2015, c. 185, §3 (AMD). 2015, c. 440, §§1, 2 (AMD).

§1355-B. RESEARCH MANUFACTURER LICENSE

The bureau may issue a research manufacturer license to distill, rectify or brew spirits, wine or malt liquor to a state-supported postsecondary educational institution operating under federal law and federal supervision to manufacture malt liquor, wine or spirits. A license issued under this section authorizes the licensee to manufacture spirits, wine or malt liquor for research, educational and business development purposes as described by this section. The bureau may issue a research manufacturer license for the manufacture of malt liquor, wine and spirits or for the manufacture of one or 2 of these 3 types of liquor as specified on the license. [2015, c. 149, §1 (NEW).]

1. Eligible licensees. The bureau may issue a research manufacturer license to a state-supported postsecondary educational institution, or its agent, that submits an application to the bureau in a manner prescribed by the bureau. The bureau may require appropriate approval documentation from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau that authorizes the educational institution, or its agent, to manufacture liquor. The Bureau of Alcoholic Beverages and Lottery Operations may issue a license under this section only to an educational institution, or its agent, that:

A. Offers a course or courses for a degree program related to food sciences or agricultural sciences; and [2015, c. 149, §1 (NEW).]

B. Offers, as an outreach component of the institution, education and consulting through the application of the institution's research regarding food science and food processing to assist businesses in the State, including, but not limited to, manufacturers licensed under section 1355-A. [2015, c. 149, §1 (NEW).]

[2015, c. 149, §1 (NEW) .]

2. Location. A research manufacturer licensee may manufacture liquor only at a facility, subject to approval by the bureau, on the campus of the educational institution where courses for the programs described in subsection 1, paragraphs A and B are offered.

[2015, c. 149, §1 (NEW) .]

3. Manufacture of liquor limited to certain purposes. A licensee under this section may not manufacture liquor for sale, distribution or any other commercial purpose other than to collect fees for educational, testing or consulting services provided by the licensee. A licensee may manufacture liquor for the following purposes:

- A. Business development consultation, including, but not limited to, recipe development and food health and safety practices; [2015, c. 149, §1 (NEW) .]
- B. General education about the manufacture of liquor for manufacturers licensed under section 1355-A, persons considering licensure and others who seek to manufacture liquor for their own personal use; or [2015, c. 149, §1 (NEW) .]
- C. Educational course work as part of the educational institution's curriculum for a degree program in food sciences or agricultural sciences. [2015, c. 149, §1 (NEW) .]

Nothing in this section prohibits a research manufacturer licensee from charging a fee for the production of liquor or the use of equipment for the purposes described in this section.

[2015, c. 149, §1 (NEW) .]

4. Consumption of liquor on premises; transport of liquor from premises. A research manufacturer licensee is governed by the provisions of this subsection regarding the consumption of liquor on the research manufacturer's facility premises and the transport of liquor from the facility premises.

A. A licensee may permit sampling of the liquor produced on the facility premises by a person at least 21 years of age who is:

- (1) A member of the faculty or staff of the institution who teaches or assists with course work and programs related to the liquor manufacturing, a student enrolled in a course in which manufacturing is included in the curriculum or a client of the outreach component described in subsection 1, paragraph B for the purpose of quality control of the product; or
- (2) A manufacturer licensed under section 1355-A who is receiving the consulting and educational services provided by the institution licensed under this section. [2015, c. 149, §1 (NEW) .]

B. Liquor manufactured at the facility premises may be transported from the facility premises:

- (1) By a person licensed under section 1355-A for whom the research manufacturer licensee manufactured the liquor in a quantity not to exceed 50 gallons; and
- (2) By a client at least 21 years of age who is registered with the outreach component described under subsection 1, paragraph B in a quantity not to exceed 32 ounces of malt liquor, 16 ounces of wine or 8 ounces of spirits per client for the duration of the course offered by the extension program. [2015, c. 149, §1 (NEW) .]

C. Liquor transported from the facility in accordance with paragraph B, subparagraph (2) must be clearly labeled with the research manufacturer's name and license number, the product contained in the bottle and the alcohol content of the product. This paragraph does not apply to liquor that is properly labeled and will be listed for distribution or sale by a person licensed under section 1355-A. [2015, c. 149, §1 (NEW) .]

[2015, c. 149, §1 (NEW) .]

5. Liquor manufactured for another licensee; amount limitation. The following limits apply to the amount of liquor a research manufacturer licensee may produce for a manufacturer licensed under section 1355-A:

- A. Fifty gallons of malt liquor per manufacturer per year; [2015, c. 149, §1 (NEW) .]
- B. Fifteen gallons of wine per manufacturer per year; and [2015, c. 149, §1 (NEW) .]

C. Ten gallons of spirits per manufacturer per year. [2015, c. 149, §1 (NEW).]

[2015, c. 149, §1 (NEW) .]

6. Reporting. A research manufacturer licensee shall submit reports in a manner prescribed by the bureau. A research manufacturer licensee shall also submit to the bureau copies of reports the licensee is required to file with the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau.

[2015, c. 149, §1 (NEW) .]

7. License fee. The annual fee for a research manufacturer license is \$100.

[2015, c. 149, §1 (NEW) .]

SECTION HISTORY

2015, c. 149, §1 (NEW).

§1356. ILLEGAL MANUFACTURE

1. Illegal manufacture; penalty. Any person not licensed by the bureau who manufactures for sale any liquor, and any person who sells any liquor manufactured by that person without a license in the State, commits a Class E crime.

[1997, c. 373, §114 (AMD) .]

2. Seizure and labeling of equipment and materials.

[1987, c. 342, §108 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §108 (AMD). 1997, c. 373, §114 (AMD).

Subchapter 3: MALT LIQUOR AND WINE

§1361. CERTIFICATE OF APPROVAL

1. Certificate of approval required. No manufacturer or foreign wholesaler of malt liquor or wine may hold for sale, sell or offer for sale in intrastate commerce, or transport or cause to be transported into the State for resale, any malt liquor or wine unless the manufacturer or foreign wholesaler has obtained from the bureau a certificate of approval.

[1997, c. 373, §115 (AMD) .]

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.

[2013, c. 531, §5 (AMD) .]

3. Conditions on certificate of approval. The certificate of approval is subject to the laws of the State and the rules of the bureau.

A. Any violation of the rules of the bureau is ground for suspension or revocation of the certificate at the discretion of the District Court Judge. [1997, c. 373, §115 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[1997, c. 373, §115 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

4. No sales of malt liquor or wine to person without wholesale license. No certificate of approval holder, except a small brewery or small winery licensee allowed to sell directly to retailers, may sell or cause to be transported into the State any malt liquor or wine to any person to whom a Maine wholesale license has not been issued by the bureau. Malt liquor or wine must be delivered to the place of business of the wholesaler as shown in the wholesaler's license, must be unloaded and inventoried at the wholesaler's premises upon the wholesaler's receipt of the shipment and must come to rest before delivery is made to any retailer to enable the bureau to inspect and inventory wholesale warehouses for the purpose of verifying taxes that are required to be paid on malt liquor and wine purchased by importers.

[2011, c. 629, §23 (AMD) .]

5. No exclusivity agreement. No certificate of approval holder may make it a condition in selling malt liquor or wine to any wholesale licensee that the wholesale licensee may not sell malt liquor or wine manufactured or sold by other manufacturers or foreign wholesalers.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1993, c. 507, §1 (AMD). 1997, c. 373, §§115,116 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 20, §1 (AMD). 2005, c. 683, §A46 (AMD). 2007, c. 539, Pt. QQQ, §1 (AMD). 2011, c. 629, §23 (AMD). 2013, c. 531, §5 (AMD).

§1362. DISPOSAL OF FEES

The bureau shall deposit the fees collected under section 1361 to the credit of the General Fund. [1997, c. 373, §117 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §117 (AMD).

§1363. MANUFACTURE OF MALT LIQUOR OR TABLE WINE; CREDIT; FURNISHING MATERIALS AND EQUIPMENT

1. Certificate of approval holder not interested in wholesale license. No officer, director or stockholder of a corporation which is the holder of a manufacturer's certificate of approval may be interested, either directly or indirectly, as a director, officer or stockholder in any other corporation which holds a wholesale license.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Loans by certificate of approval holder. Except as provided in paragraphs A and B, no manufacturer or certificate of approval holder may, either directly or indirectly, loan any money, credit or their equivalent to any wholesale licensee for equipping, fitting out, maintaining or conducting, either in whole or in part, a business establishment where malt liquor or wine is sold.

A. A certificate of approval holder may extend the usual and customary commercial credit for malt liquor or table wine sold and delivered. [1987, c. 45, Pt. A, §4 (NEW) .]

B. A manufacturer or holder of a certificate of approval may furnish a wholesale licensee materials and equipment for the use of the wholesale licensee or the wholesale licensee's employees, such as:

- (1) Painting the wholesale licensee's vehicles;
- (2) Supplying legal advertising signs used by the wholesale licensee in the course of the wholesale licensee's business; and
- (3) Supplying uniforms for the employees of the wholesale licensee. [1997, c. 373, §118 (AMD) .]

[1997, c. 373, §118 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §118 (AMD).

§1364. INVOICES AND REPORTS

1. Furnish invoices. All certificate of approval holders shall promptly file with the bureau a copy of every invoice sent to wholesale licensees and the original copy of the Maine purchase order. The invoice must include the licensee's name and the purchase number.

[1997, c. 373, §119 (AMD) .]

2. File monthly reports. All certificate of approval holders shall furnish a monthly report on or before the 15th day of each calendar month in the form prescribed by the bureau.

[2011, c. 147, §1 (AMD) .]

3. Certification that excise tax paid. A certificate of approval holder may not ship or cause to be transported into the State any malt liquor or wine until the bureau has certified that:

- A. The excise tax has been paid; or [1987, c. 45, Pt. A, §4 (NEW) .]
- B. The Maine wholesale licensee, to whom shipment is to be made, has filed a bond to guarantee payment of the excise tax as provided in section 1405. [1987, c. 45, Pt. A, §4 (NEW) .]

[2011, c. 147, §1 (AMD) .]

4. Reports of low-alcohol spirits products. Each certificate of approval holder that manufactures low-alcohol spirits products shall submit to the bureau, on or before the 15th day of each calendar month, a form specifying the number of gallons of low-alcohol spirits product sold to wholesale licensees in the State with a copy of each invoice relating to each such sale.

[2011, c. 147, §1 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 528, §VV5 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §VV5 (AMD). 1997, c. 373, §119 (AMD). 2011, c. 147, §1 (AMD).

§1365. LOW-ALCOHOL SPIRITS PRODUCT TAX

In addition to any tax paid under section 1652, each certificate of approval holder that manufactures low-alcohol spirits products shall pay a tax of 30¢ on each gallon of low-alcohol spirits product sold to a wholesale licensee in the State. In addition to the forms filed pursuant to section 1364, a certificate of approval holder that manufactures low-alcohol spirits products shall file with the bureau a monthly report on

the number of gallons of low-alcohol spirits product sold to wholesale licensees in the State. The certificate of approval holder must enclose payment for the tax due under this section on the reported sales. [2013, c. 368, Pt. XXXX, §2 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

SECTION HISTORY

1991, c. 528, §VV6 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §VV6 (NEW). 1997, c. 373, §120 (AMD). 2013, c. 368, Pt. XXXX, §2 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF).

§1366. RETAIL SALES AT FARMERS' MARKET

1. Retail sales at farmers' market. A licensee under section 1355-A, subsection 3, paragraph B or subsection 4, paragraph B or an employee of the licensee who is at least 21 years of age may sell wine or malt liquor manufactured in the State by the licensee at a farmers' market pursuant to this section.

[2011, c. 629, §24 (AMD) .]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Farmer" means a natural person who sells, with or without processing, agricultural products raised by the person on land in the State owned or leased by the person. [2011, c. 280, §3 (NEW) .]

B. "Farmers' market" has the same meaning as in Title 7, section 415, subsection 1, paragraph B. [2011, c. 280, §3 (NEW) .]

[2011, c. 280, §3 (NEW) .]

3. Conditions. A licensee under subsection 1 may sell wine or malt liquor at a farmers' market under the following conditions:

A. The licensee shall apply for and must have received authorization to sell at farmers' markets from the bureau and paid an annual fee of \$75. The application pursuant to this paragraph must be in a form determined by the bureau. The licensee shall submit the application at least 30 days prior to the date when wine or malt liquor is to be sold at a farmers' market; [2011, c. 280, §3 (NEW) .]

B. Prior to each month during which the licensee wishes to sell at a farmers' market, the licensee shall provide to the bureau a list of the date, time and location of each farmers' market at which the licensee intends to sell and must receive approval from the bureau for that month; [2011, c. 280, §3 (NEW) .]

C. The farmers' market must consist of at least 6 separate stalls or booths that sell farm or food products, not including alcoholic beverages, and must be authorized by the bureau under subsection 4; [2011, c. 280, §3 (NEW) .]

D. The stall or booth operated by the licensee at the farmers' market is considered part of the licensed premises of the licensee for purposes of this chapter; [2011, c. 280, §3 (NEW) .]

E. All wine and malt liquor must be prepackaged and sold by the bottle or case; and [2011, c. 280, §3 (NEW) .]

F. Taste testing or sampling of wine and malt liquor is not permitted at the farmers' market. [2011, c. 280, §3 (NEW) .]

[2011, c. 280, §3 (NEW) .]

4. Farmers' market authorization. At least 30 days prior to the sale of wine or malt liquor, a farmers' market must obtain municipal approval to sell wine and malt liquor under this section and apply for and receive authorization from the bureau for a licensee authorized under subsection 3, paragraph A to sell wine

or malt liquor at the farmers' market. If the farmers' market is held on private property, the application must include a written statement signed by the owner of the property permitting the sale of wine or malt liquor in accordance with this section. The bureau may request a diagram of the layout of the farmers' market. An application required by this subsection must be in a form determined by the bureau.

[2011, c. 280, §3 (NEW) .]

5. Rules. The bureau may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2011, c. 280, §3 (NEW) .]

SECTION HISTORY

2011, c. 280, §3 (NEW). 2011, c. 629, §24 (AMD).

Subchapter 4: SPECIAL WAREHOUSES

§1371. SPECIAL WAREHOUSE STORAGE FACILITIES CONTROLLED BY CERTIFICATE OF APPROVAL HOLDER

1. Certificate of approval for special storage facilities. Notwithstanding the importation restrictions of sections 2073 and 2077, the bureau may issue certificates of approval authorizing the direct importation of malt liquor, wine or spirits from suppliers located in foreign countries or other states into special warehouse storage facilities located within the State that are under the direct supervision and control of the certificate of approval holder or into a public warehouse with the approval of the bureau.

[1997, c. 373, §121 (AMD) .]

2. Fee. The fee for a certificate of approval under this subsection is \$600 a year for malt liquor only, \$600 a year for wine only and \$600 a year for spirits only.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Stored liquor not subject to state liquor tax until withdrawn. Liquor stored in special warehouse storage facilities is not subject to state liquor taxes until it is withdrawn from the special warehouse storage facilities.

A. Malt liquor and wine withdrawn from the special warehouse storage facilities by Maine wholesale licensees immediately become subject to the same tax as malt liquor and wine imported into the State from out-of-state certificate of approval holders. The wholesale licensee shall withdraw the malt liquor and wine to be distributed in the State by the procedure established in sections 1404 and 1405. [2013, c. 368, Pt. XXXX, §3 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

B. The bureau may withdraw spirits from special warehouse storage facilities. [1997, c. 373, §122 (AMD); 2013, c. 368, Pt. V, §61 (REV).]

C. Out-of-state purchasers authorized by the bureau may withdraw spirits, wine and malt liquor from special warehouse storage facilities. The authorization allows the out-of-state purchasers to directly transport the spirits, wine and malt liquor to the state border for delivery out-of-state. Products withdrawn by authorized out-of-state purchasers for delivery outside of the State are not subject to the state excise tax or premium. [1997, c. 373, §122 (AMD).]

[2013, c. 368, Pt. V, §61 (REV); 2013, c. 368, Pt. XXXX, §3 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 183, (AMD). 1997, c. 373, §§121,122 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2013, c. 368, Pt. XXXX, §3 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF).

Chapter 55: MALT LIQUOR AND WINE WHOLESALE LICENSEES

§1401. WHOLESALE LICENSES

1. Issuance of licenses. The bureau may issue licenses under this section for the sale and distribution of malt liquor, wine and fortified wine at wholesale.

[2013, c. 476, Pt. A, §29 (AMD) .]

2. Fees. Except as provided in subsection 4, the fee for a wholesale license is:

A. Six hundred dollars for the principal place of business; and [1987, c. 45, Pt. A, §4 (NEW) .]

B. Six hundred dollars for each additional warehouse maintained by the wholesale licensee, but not located at the principal place of business. [1987, c. 342, §109 (AMD) .]

[1987, c. 342, §109 (AMD) .]

3. Term of wholesale license. Except as provided in subsection 4, a wholesale license is effective for one year from the date of issuance.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Temporary permits. The bureau may issue special permits, upon application in writing, for the temporary storage of malt liquor or wine under terms and upon conditions prescribed by the bureau.

[1997, c. 373, §123 (AMD) .]

5. Qualifications. The bureau may not issue a wholesale license to an applicant unless:

A. If the applicant is a person, the applicant has been a resident of the State for at least 6 months; or [1987, c. 45, Pt. A, §4 (NEW) .]

B. If the applicant is a corporation, the applicant has conducted business in this State for at least 6 months. [1987, c. 45, Pt. A, §4 (NEW) .]

[1997, c. 373, §123 (AMD) .]

6. License transferrable to other premises. A wholesale license may be transferred from the premises in the town originally specified to premises in another town.

[1987, c. 45, Pt. A, §4 (NEW) .]

7. Warehouses and sales representatives. A wholesale licensee shall maintain a warehouse or warehouses within the State and employ one or more sales representatives, licensed under chapter 59, for the purpose of soliciting orders. For the purposes of this subsection, "sales representative" means an employee of a wholesale licensee whose primary duty is soliciting orders from or making sales to retail licensees.

[2015, c. 387, §1 (AMD) .]

8. Franchise or agreement with certificate of approval holder. A wholesale licensee shall operate under a franchise or agreement for the resale of malt liquor or wine within an allocated territory by a certificate of approval holder.

[1987, c. 45, Pt. A, §4 (NEW) .]

9. Sales to licensees only. A licensee under this section may sell or distribute malt liquor, wine and fortified wine only to persons licensed for the retail sale of malt liquor, wine or fortified wine for consumption on or off the licensed premises in accordance with this Title.

[2013, c. 476, Pt. A, §30 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §109 (AMD). 1997, c. 373, §123 (AMD). 2013, c. 476, Pt. A, §§29, 30 (AMD). 2015, c. 387, §1 (AMD).

§1402. TASTE TESTING OF WINE AND MALT LIQUOR PRODUCTS

1. Taste testing on wholesale licensee's premises. With the bureau's written permission, a wholesale licensee may designate a special area or room on the wholesale licensee's premises for the specific purpose of taste testing wine or malt liquor products.

[1997, c. 373, §124 (AMD) .]

2. Taste testing on retail licensee's premises. With the bureau's written permission, a wholesale licensee may rent or lease an area or room from an on-premise retail licensee for the purpose of inviting retail licensees to taste test wine or malt liquor products.

[1997, c. 373, §124 (AMD) .]

3. Conditions on taste-testing activity. The following conditions apply to all taste testings.

A. The wholesale licensee or a certificate of approval holder may provide the products for taste testing only if all taxes required by this Title have been paid. [2013, c. 368, Pt. XXXX, §4 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

B. Taste-testing activity must be conducted only within the special designated area or room. [1987, c. 45, Pt. A, §4 (NEW).]

C. Taste-testing activity must be open only to invited retail licensees or their authorized agents and not to their family members, guests or the general public. [1987, c. 45, Pt. A, §4 (NEW).]

D. After the taste-testing activity is concluded, the wholesale licensee shall remove all products supplied for the taste-testing activity from the retail licensee's premises. [1987, c. 45, Pt. A, §4 (NEW) .]

[2013, c. 368, Pt. XXXX, §4 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §110 (AMD). 1997, c. 373, §124 (AMD). 2013, c. 368, Pt. XXXX, §4 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF).

§1402-A. SAMPLES OF PRODUCTS

A person licensed as a manufacturer of malt liquor or wine under section 1355-A or licensed as a wholesaler may give a retail licensee samples of products under the following conditions: [2015, c. 386, §1 (AMD) .]

1. Invoice required. The products must be accompanied by an invoice;

[1997, c. 228, §1 (NEW) .]

2. Product registered. The product must be registered with the bureau and clearly labeled as a sample;

[1997, c. 228, §1 (NEW) .]

3. Taxes paid. Taxes must be paid on each item;

[1997, c. 228, §1 (NEW) .]

3-A. Partial-bottle wine samples. Partial-bottle wine samples may be provided to licensees licensed for on-premises consumption and off-premises sales if the person receiving a sample is 21 years of age or older and is in a supervisory or managerial position;

[2011, c. 629, §26 (AMD) .]

4. Full-bottle samples. The maximum amount of unopened full-bottle samples given to a retail licensee may not exceed 9 gallons of malt beverage and 9 liters of wine annually. A full-bottle sample is an unopened bottle of wine or malt beverage given to a retail licensee, which may be consumed by a retail licensee on or off the premises; and

[2011, c. 629, §27 (AMD) .]

5. Samples removed.

[2011, c. 629, §28 (RP) .]

6. Records maintained. Records must be maintained for a 2-year period by the licensee giving or receiving samples.

[1997, c. 228, §1 (NEW) .]

SECTION HISTORY

1997, c. 228, §1 (NEW). 2003, c. 69, §§1,2 (AMD). 2011, c. 629, §§25-28 (AMD). 2015, c. 386, §1 (AMD).

§1403. INTERSTATE PURCHASE OR TRANSPORTATION

1. No purchases other than from certificate of approval holder. No wholesale licensee may purchase or cause to be transported into the State any malt liquor or wine from any person to whom the bureau has not issued a certificate of approval.

[1997, c. 373, §125 (AMD) .]

1-A. Wholesale licensee may purchase from wholesale licensee. The bureau may give written permission to a wholesale licensee to purchase malt liquor or wine from another wholesale licensee.

[1997, c. 373, §126 (AMD) .]

2. Sale of malt liquor or wine not purchased from a certificate of approval holder prohibited.

No wholesale licensee may sell to another wholesale licensee any malt liquor or wine which has not been purchased from a brewery, winery or foreign wholesaler holding a certificate of approval.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. License revoked if it requires wholesale license to not sell other brands. The District Court Judge shall revoke the license of any wholesale licensee, who requires as a condition of selling malt liquor or wine to another wholesale licensee, that the purchasing wholesale licensee may not sell other brand names of malt liquor or wine.

[1987, c. 45, Pt. A, §4 (NEW); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

4. Monthly report. By the 10th day of each calendar month, each wholesale licensee shall furnish to the bureau, in the form prescribed by the bureau, a monthly report of all malt liquor or wine purchased and sold during the preceding month.

[1997, c. 373, §127 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §111 (AMD). 1997, c. 373, §§125-127 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF).

§1403-A. DIRECT SHIPMENT OF WINE

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Direct shipper" means a winery that has obtained a wine direct shipper license under subsection 2. [2009, c. 373, §1 (NEW).]

B. "Outside the State" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country. [2009, c. 373, §1 (NEW).]

[2009, c. 373, §1 (NEW) .]

2. Direct shipment of wine. A small winery or other winery holding a federal basic wine manufacturing permit located within or outside the State may obtain a wine direct shipper license by filing with the bureau an application in a form determined by the bureau accompanied by an application fee of not more than \$200, a copy of the applicant's current federal basic wine manufacturing permit and a list of wine labels to be shipped in accordance with this section.

[2013, c. 368, Pt. V, §46 (AMD) .]

3. Direct shipper application. Before sending a shipment to a resident of this State, a direct shipper must file an application for a wine direct shipper license under subsection 2 with the bureau on a form issued by the bureau along with a true copy of its current alcoholic beverage license issued in this State or another state and a \$100 registration fee.

[2009, c. 373, §1 (NEW) .]

4. Direct shipment requirements. A direct shipper may only ship wine that was produced by the direct shipper in accordance with the direct shipper's federal basic wine manufacturing permit to a recipient for personal use and not for resale. A direct shipper may not ship wine products commonly known as "wine coolers." A direct shipper shall label each package to be shipped in accordance with this section so that it conspicuously reads "CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

[2009, c. 373, §1 (NEW) .]

5. Common carrier. Shipments made in accordance with this chapter must be made by a common carrier and must be accompanied by a shipping label that clearly indicates the name of the direct shipper and the name and address of the recipient. The common carrier shall obtain the signature of a person 21 years of age or older at the address listed on the shipping label prior to delivery of the shipment. The common carrier shall request photographic identification from the person signing for the shipment and verify that the person is 21 years of age or older.

[2009, c. 373, §1 (NEW) .]

6. Bottle size and case limit. A direct shipper may not ship a container of wine of less than 750 milliliters and may ship no more than 12 cases, each of which may contain no more than 9 liters or an equivalent volume, to any one recipient address in a calendar year.

[2009, c. 373, §1 (NEW) .]

7. Prohibited shipping areas. A direct shipper may not ship to any address in an area identified by the bureau as a prohibited shipping area or a local option area.

[2009, c. 373, §1 (NEW) .]

8. License renewal. A direct shipper may annually renew its wine direct shipper license with the bureau by paying a \$50 renewal fee and providing the bureau with a true copy of its current alcoholic beverage license issued in this State or another state.

[2009, c. 373, §1 (NEW) .]

9. Sales tax registration and payment required. As a condition of receiving a certificate of approval, a shipper located outside the State shall comply with the provisions of Title 36, Part 3, including all requirements relating to registration as a seller and the collection, reporting and remittance of the sales and use taxes of the State, and shall agree to be subject to the jurisdiction of the State for purposes of the enforcement of those obligations. The requirements of this subsection apply notwithstanding any other provision of law of the State.

[2009, c. 373, §1 (NEW) .]

10. Payment of excise taxes. A direct shipper located outside the State shall annually pay to the bureau all excise taxes due on sales to residents of the State in the preceding year, the amount of such taxes to be calculated as if the sales were in the State.

[2013, c. 368, Pt. XXXX, §5 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

11. Report. A direct shipper shall submit a report to the bureau annually in a manner and form prescribed by the bureau that includes the total number of cases of wine shipped to recipients in the State and, for a direct shipper located in the State, shipments made outside the State, the name and residence address of shipment recipients in the State, the common carrier used to deliver the shipments and the date, quantity and purchase price of each shipment.

[2013, c. 476, Pt. A, §31 (AMD) .]

12. Audit. The bureau may perform an audit of a direct shipper's records relevant to compliance with this section. A direct shipper shall provide copies of any records requested by the bureau within 10 business days of that request.

[2009, c. 373, §1 (NEW) .]

13. Violation. A person, including a common carrier, who knowingly causes a direct shipment in violation of this section is subject to a fine up to \$500 for a first offense and up to \$1,000 for any subsequent violation of this section. A direct shipper or common carrier who knowingly delivers wine to a person under 21 years of age is subject to a fine up to \$5,000. The bureau may suspend or revoke a wine direct shipper license for failure to comply with the shipping limits and reporting requirements required by this section. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rules adopted by the bureau.

[2009, c. 373, §1 (NEW) .]

14. Jurisdiction. A direct shipper, as a condition of licensure, is subject to the jurisdiction and enforcement authority of the State for the purposes of enforcement of this section.

[2009, c. 373, §1 (NEW) .]

15. Not subject to beverage container law. Notwithstanding Title 38, chapter 33, wine shipped pursuant to this section does not require a refund value for beverage container control purposes.

[2015, c. 166, §5 (AMD) .]

16. Rules. The bureau shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 373, §1 (NEW) .]

SECTION HISTORY

2009, c. 373, §1 (NEW). 2011, c. 629, §§29, 30 (AMD). 2013, c. 368, Pt. V, §46 (AMD). 2013, c. 368, Pt. XXXX, §5 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF). 2013, c. 476, Pt. A, §31 (AMD). 2015, c. 166, §5 (AMD).

§1404. UNBONDED WHOLESALE LICENSEES

1. Procedure for unbonded wholesale licensees. Unbonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The bureau shall furnish all purchase order forms. [1997, c. 373, §128 (AMD).]

B. The unbonded wholesale licensee shall complete the forms in quintuplicate. [1997, c. 373, §128 (AMD).]

C. The unbonded wholesale licensee ordering malt liquor or wine shall mail 3 copies of the form to the bureau with a check for the amount of excise taxes required to cover the amount of the order. [1997, c. 373, §128 (AMD).]

D. The unbonded wholesale licensee may mail the original copy of the order to the brewery or winery or wholesaler with whom the licensee wishes to place the order. [1997, c. 373, §128 (AMD).]

E. On receipt of the 3 copies and a check for excise taxes, the bureau shall promptly process the copies and return one copy to the wholesale licensee and send one to the brewery, winery or foreign wholesaler designated to receive the order. The bureau shall keep the 3rd copy on file. [1997, c. 373, §128 (AMD).]

F. No brewery, winery or foreign wholesaler may ship or release malt liquor or wine for delivery in Maine until notified by the bureau that the excise tax has been paid in accordance with this section. [1997, c. 373, §128 (AMD).]

[1997, c. 373, §128 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §128 (AMD).

§1405. BONDED WHOLESALE LICENSEES

1. Procedures for bonded wholesale licensees. Bonded wholesale licensees shall order and purchase malt liquor and wine under the following procedures.

A. The bureau shall furnish all purchase order forms. [1997, c. 373, §129 (AMD).]

B. The bonded wholesale licensee shall complete the forms in triplicate. [1987, c. 45, Pt. A, §4 (NEW).]

C. The bonded wholesale licensee shall submit the original copy to the brewery, winery or foreign wholesaler with whom he wishes to place the order. [1987, c. 45, Pt. A, §4 (NEW).]

D. The bonded wholesale licensee shall then mail to the bureau one copy of the form and retain one copy for the licensee's files. [1997, c. 373, §129 (AMD).]

[1997, c. 373, §129 (AMD) .]

2. Corporate security bond. To secure payment of the excise tax, each wholesale licensee shall file with the bureau a corporate surety bond guaranteeing payment of the proper excise tax due the State.

A. The bureau shall fix the amount and terms of the bond, subject to the following restrictions.

(1) The bond must be equal to the highest monthly excise tax paid by the wholesale licensee during the period of the prior year license, plus 10% of the highest month.

(2) New licensees desiring to furnish bond under this section shall furnish a corporate surety bond in an amount to be determined by the bureau.

(3) All bonds must be provided and effective only for each licensed year. [2013, c. 368, Pt. XXXX, §6 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

B. Failure to pay the excise tax when due is grounds for suspension of the license of the wholesale licensee. [2013, c. 368, Pt. XXXX, §6 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

[2013, c. 368, Pt. XXXX, §6 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

3. Payment of excise tax. By filing the bond required in subsection 2, a wholesale licensee may pay monthly the excise tax imposed by section 1652 on all malt liquor or wine shipped into the State as shown by invoice of the shipment by the out-of-state wholesaler or certificate of approval holder.

A. The wholesale licensee shall pay the excise tax by the 15th day of the calendar month following the month in which shipment occurs. [2013, c. 368, Pt. XXXX, §7 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

B. At the time of payment of the excise tax, each Maine wholesale licensee shall file with the bureau in the form prescribed by the bureau:

(1) A verified monthly report of all malt liquor or wine purchased or imported based on the date of shipment invoice during the preceding calendar month; and

(2) Any additional information the bureau requires to compute and ensure the accuracy of the excise tax payment accompanying the report. [2013, c. 368, Pt. XXXX, §7 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

[2013, c. 368, Pt. XXXX, §7 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §§129-131 (AMD). 2011, c. 147, §2 (AMD). 2013, c. 368, Pt. XXXX, §§6, 7 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF).

§1406. REPORT OF CHANGES IN WHOLESALE LICENSEES AND CERTIFICATE OF APPROVAL HOLDERS TO BUREAU

1. Certificate of approval holders must list wholesale licensees with bureau; changes. Each certificate of approval holder shall:

A. File with the bureau a list of the wholesale licensees who distribute their products in the State; and [1997, c. 373, §132 (AMD).]

B. Give written notice to the bureau and the wholesale licensee affected at least 90 days before any change in:

(1) Its wholesale licensees; or

(2) The territory of its wholesale licensee in the State. [1997, c. 373, §132 (AMD).]

[1997, c. 373, §132 (AMD) .]

2. Wholesale licensees must list certificate of approval holders with bureau; changes. Each wholesale licensee shall:

A. File with the bureau:

(1) A list of the certificate of approval holders for whom it distributes malt liquor or wine in the State; and

(2) A statement of the boundaries of its territories; and [1997, c. 373, §132 (AMD).]

B. Give written notice to the bureau and the certificate of approval holder affected at least 90 days before any change in:

(1) Its territory; or

(2) The distribution of its products. [1997, c. 373, §132 (AMD).]

[1997, c. 373, §132 (AMD) .]

3. Shortened waiting period before change. The bureau may shorten the waiting period before a change is made in the following situations.

A. A certificate of approval holder or a wholesale licensee may request a hearing before the bureau to shorten the waiting period before a change is made. The bureau may, for cause, shorten the waiting period before approving a change in either the wholesale licensee or the wholesale licensee's territory. [1997, c. 373, §132 (AMD).]

B. If both the certificate of approval holder and the wholesale licensee affected waive the 90-day waiting period by giving the bureau written notice, then the bureau may immediately approve a change in either the wholesale licensee or the wholesale licensee's territory. [1997, c. 373, §132 (AMD).]

[1997, c. 373, §132 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §132 (AMD).

§1407. EXCLUSIVE DISTRIBUTORS OF CERTIFICATE OF APPROVAL HOLDERS' PRODUCTS

1. Exclusive distributors. Except as provided in section 1454, the wholesale licensee appointed by the certificate of approval holder to be the exclusive distributor for specific brands of liquor cannot be terminated as exclusive distributor of those specific brands upon the voluntary or involuntary termination or transfer of the same brands of liquor by the certificate of approval holder who registered the specific labels and established prices with the bureau. The certificate of approval holder acquiring these brands shall take the place of the certificate of approval holder who appointed the distributors and shall comply with section 1406.

[1987, c. 342, §112 (AMD) .]

2. Unfair trade practice. A violation of this section shall be considered a violation of the Maine Unfair Trade Practices Act and all remedies provided by that Act are available for a violation of this section.

[1993, c. 1, §72 (COR) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §112 (AMD). RR 1993, c. 1, §72 (COR).

§1408. POSTING OF PRICES

1. Posting by certificate of approval holders and bottlers. Certificate of approval holders and all licensed bottlers must post with the bureau the F.O.B. shipping point prices for which they are selling malt liquor or wine to wholesale licensees.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Posting by wholesale licensees. Wholesale licensees must post with the bureau the delivered prices for which they are selling malt liquor or wine to licensees and all other entities or instrumentalities.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Posted prices must include deposits. All prices posted must include deposits required on returnable items, including kegs.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Price changes. Except as provided in paragraph A, certificate of approval holders and manufacturer's shall give written notice of price changes to the bureau and their respective wholesale licensees at least 30 days before the effective date. Wholesale licensees shall give written notice of their price changes to the bureau at least 15 days before the effective date. All price changes are effective on the first day of the month.

A. The bureau may give written permission to certificate of approval holders, manufacturers or wholesale licensees to reduce the notice period for price changes in specific instances. [1997, c. 373, §133 (AMD).]

[1997, c. 373, §133 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §113 (AMD). 1997, c. 373, §133 (AMD).

Chapter 57: CERTIFICATE OF APPROVAL HOLDER AND MAINE WHOLESALE LICENSEE AGREEMENT ACT

§1451. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1987, c. 45, Pt. A, §4 (NEW).]

1. Agreement. "Agreement" means a commercial relationship, not required to be evidenced in writing, of definite or indefinite duration, between a certificate of approval holder and a wholesale licensee, under which the wholesale licensee is authorized to distribute one or more of the certificate of approval holder's brands of malt liquor, wine or beverages. The performance or accomplishment of any of the following acts shall constitute prima facie evidence of an "agreement" within the meaning of this definition:

A. The shipment, preparation for shipment or acceptance of any order by any certificate of approval holder or its agents for any malt liquor, wine or beverages to a wholesale licensee within the State; and [1987, c. 45, Pt. A, §4 (NEW).]

B. The payment by a wholesale licensee and the acceptance of payment by any certificate of approval holder or its agent or the shipment of an order for malt liquor or beverages intended for sale in Maine. [1987, c. 45, Pt. A, §4 (NEW).]

2. Person. Notwithstanding section 2, subsection 23, "person" means a natural person, corporation, partnership, trust, agency or other entity as well as the individual officer, directors or persons in active control of the activities of that entity. "Person" also includes heirs, assigns, personal representatives and guardians.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Primary source of supply. "Primary source of supply" means the distiller, the bottler, the brewer, the winery, the brand owner or the designated agent of any distiller, brewer, winery or brand owner.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Territory or sale territory. "Territory" or "sale territory" means the area of primary sales responsibility expressly or implicitly designated by any agreement between a wholesale licensee and a certificate of approval holder for the brand or label of a certificate of approval holder.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Wholesale licensee. Notwithstanding section 2, subsection 34, "wholesale licensee" means any person holding a wholesale malt liquor or wine license within the State, offering malt liquor or wine for sale or resale to retailers, without regard to whether the business of the person is conducted under the terms of an agreement with a certificate of approval holder.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1452. NO INDUCEMENT OR COERCION

1. Certificate of approval holder. No certificate of approval holder may:

A. Induce or coerce, or attempt to induce or coerce, any wholesale licensee to accept delivery of any liquor or any other commodity which has not been ordered by the wholesale licensee; [1987, c. 45, Pt. A, §4 (NEW) .]

B. Induce or coerce, or attempt to induce or coerce, any wholesale licensee to do any illegal act or thing by threatening to amend, cancel, terminate or refuse to renew any agreement existing between a certificate of approval holder and a wholesale licensee; or [1987, c. 45, Pt. A, §4 (NEW) .]

C. Require a wholesale licensee to assent to any condition, stipulation or provision limiting the wholesale licensee in his right to sell the product of any other certificate of approval holder anywhere in the State if the acquisition of the product of another certificate of approval holder does not materially impair the quality of service or quantity of sales of the existing brand or brands of the certificate of approval holder seeking to impose the condition, stipulation or provision. [1987, c. 45, Pt. A, §4 (NEW) .]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1453. NO DUAL DISTRIBUTORSHIP

1. Dual distributorship prohibited. No certificate of approval holder who designates a sales territory for which a wholesale licensee is primarily responsible may enter into any agreement with any other wholesale licensee for the purpose of establishing an additional agreement for its brand or label in the same territory.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Certificate of approval holder to file list. Each certificate of approval holder shall file with his application for certificate of approval a list giving the name and address of each bottler and wholesale licensee authorized to distribute products of that certificate of approval holder and designating the exclusive territory assigned to each wholesale licensee within the State. Unless authorized by the bureau, wholesale licensees may not sell those products to licensees outside of the exclusive territory allocated and designated.

A. Sales of wine to retail licensees at the wholesale licensee's warehouse shall be considered a sale within the wholesale licensee's exclusive territory. [1987, c. 45, Pt. A, §4 (NEW) .]

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Primary source of supply. No wholesale licensee may purchase liquor from anyone other than the primary source of supply within the United States.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1454. CANCELLATION

1. Good cause. Notwithstanding the terms, provisions or conditions of any agreement, no certificate of approval holder may amend, cancel, terminate or refuse to continue or renew any agreement, or cause a wholesale licensee to resign from an agreement, unless good cause can be established or proven for amendment, termination, cancellation, nonrenewal, noncontinuation or causing a resignation. "Good cause" does not include the sale or purchase of a certificate of approval holder. "Good cause" includes, but is not limited to, the following:

A. Revocation of the wholesale licensee's license to do business in the State; [1987, c. 45, Pt. A, §4 (NEW) .]

B. Bankruptcy or insolvency of the wholesale licensee; [1987, c. 45, Pt. A, §4 (NEW) .]

C. Assignment for the benefit of creditors or similar disposition of the assets of the wholesale licensee; and [1987, c. 45, Pt. A, §4 (NEW) .]

D. Failure by the wholesale licensee to substantially comply, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him by the certificate of approval holder. [1987, c. 45, Pt. A, §4 (NEW) .]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1455. NOTICE OF INTENT TO TERMINATE

1. Written notice. Before any termination procedure initiated by the certificate of approval holder, the certificate of approval holder shall give the wholesale licensee written notice of any claimed deficiency existing in his territory and shall give the wholesale licensee reasonable time to correct the claimed deficiency or deficiencies. After this reasonable time has elapsed, the certificate of approval holder shall provide the wholesale licensee at least 90 days prior written notice of any intent to amend, terminate, cancel or not renew any agreement. The notice must state all the reasons for the intended amendment, termination, cancellation or nonrenewal. The notice provisions of this section do not apply if the reason for the amendment, termination, cancellation or nonrenewal is:

A. The bankruptcy or insolvency of the wholesale licensee; [1987, c. 45, Pt. A, §4 (NEW) .]

B. An assignment for the benefit of creditors or similar disposition of the assets of the wholesale licensee's business; [1987, c. 45, Pt. A, §4 (NEW) .]

C. Revocation of the wholesale licensee's license; or [1987, c. 45, Pt. A, §4 (NEW) .]

D. Conviction or a plea of guilty or no contest to a charge of violating a law relating to the business that materially affects the wholesale licensee's ability to remain in business. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1456. ASSIGNMENT, TRANSFER OR SALE OF BUSINESS

No certificate of approval holder may unreasonably withhold consent to any assignment, transfer or sale of the wholesale licensee's business whenever the wholesale licensee to be substituted meets the material and reasonable qualifications and standards required of its wholesale licensees. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1457. COMPENSATION

1. Reasonable compensation. Any certificate of approval holder which amends, cancels, terminates or refuses to continue or renew any agreement, or causes a wholesale licensee to resign, unless for good cause shown, as defined in section 1454, from an agreement or unreasonably withholds consent to any assignment, transfer or sale of a wholesale licensee's business, shall pay the wholesale licensee reasonable compensation for the value of the wholesale licensee's business related to the terminated brand or brands. The value of the wholesale licensee's business includes inventory and other tangible assets and its good will.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Neutral arbitrator. If the certificate of approval holder and the wholesale licensee are unable to agree on the reasonable compensation to be paid for the value of the wholesale licensee's business, as defined in subsection 1, they shall submit the matter to a neutral arbitrator selected by the parties, or, if they cannot agree, by the Chief Justice of the Supreme Judicial Court. The costs of the arbitration shall be paid 1/2 by the wholesale licensee and 1/2 by the certificate of approval holder or otherwise the arbitration proceeding shall be governed by the Maine Uniform Arbitration Act.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1458. JUDICIAL REMEDIES

1. Suit against certificate of approval holder. If a certificate of approval holder engages in conduct prohibited under this chapter, a wholesale licensee may maintain a suit against the certificate of approval holder.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Equitable relief. The court may grant equitable relief necessary to remedy the effects of conduct which it finds to exist and which is prohibited under this chapter, including, but not limited to, declaratory judgment and injunctive relief.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Punitive damages, costs and fees. If the court finds that the certificate of approval holder has acted in bad faith in invoking the amendment, termination, cancellation or nonrenewal provisions of this chapter or has unreasonably withheld its consent to any assignment, transfer or sale of the wholesale licensee's agreement, the court may award punitive damages, as well as actual damages, costs and attorneys fees.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1459. PRICE OF PRODUCT

No certificate of approval holder, whether by means of a term or condition of an agreement or otherwise, may fix or maintain the price at which the wholesale licensee sells any product. [1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1460. RETALIATORY ACTION PROHIBITED

1. Retaliatory action prohibited. A certificate of approval holder may not take retaliatory action against a wholesale licensee who files or indicates an intention to file a complaint of alleged violation of state or federal law or regulation by the certificate of approval holder with the appropriate state or federal regulatory authority.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Retaliatory action described. Retaliatory action includes, but is not limited to:

A. Refusal without good cause to continue the agreement; or [1987, c. 45, Pt. A, §4 (NEW) .]

B. A material reduction in the quality of service or quantity of products available to the wholesale licensee under the agreement. [1987, c. 45, Pt. A, §4 (NEW) .]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1461. MANAGEMENT AND PERSONNEL OF WHOLESALE LICENSEE

No certificate of approval holder may require or prohibit any change in management or personnel of any wholesale licensee unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the certificate of approval holder. [1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1462. NO WAIVER; GOOD FAITH SETTLEMENTS

No certificate of approval holder may require any wholesale licensee to waive compliance with any provisions of this chapter. Nothing in this chapter limits or prohibits good faith settlements of disputes voluntarily entered into between the parties. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1463. SALE OF CERTIFICATE OF APPROVAL HOLDER

1. Purchaser obligated. The purchaser of a certificate of approval holder is obligated to all of the terms and conditions of the agreement in effect on the date of purchase.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Purchase defined. "Purchase," as defined for the purposes of this chapter, includes, but is not limited to:

- A. Sale of stock; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Sale of assets; [1987, c. 45, Pt. A, §4 (NEW).]
- C. Merger; [1987, c. 45, Pt. A, §4 (NEW).]
- D. Lease; [1987, c. 45, Pt. A, §4 (NEW).]
- E. Transfer; or [1987, c. 45, Pt. A, §4 (NEW).]
- F. Consolidation. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1464. COVERAGE

The provisions of this chapter apply to agreements between certificate of approval holders and wholesale licensees in existence on September 16, 1979, and those entered into after that date. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§1465. RIGHT OF FREE ASSOCIATION

No certificate of approval holder or wholesale licensee may restrict or inhibit, directly or indirectly, the right of free association of certificate of approval holders or wholesale licensees for any lawful purpose. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

Chapter 59: SALES REPRESENTATIVES

§1501. LISTS OF OFFICERS, PARTNERS AND SALES REPRESENTATIVES

All persons selling liquor 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. [2015, c. 129, §8 (AMD); 2015, c. 184, §4 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §134 (AMD). 2013, c. 588, Pt. B, §5 (AMD). 2015, c. 129, §8 (AMD). 2015, c. 184, §4 (AMD).

§1502. LICENSE; FEE; RENEWALS

Sales representatives, including those described in section 1401, subsection 7, shall apply to the bureau for a license disclosing the person, firm or corporation represented. [2015, c. 387, §2 (AMD).]

1. Fee. The annual license fee is \$50.

[1991, c. 376, §54 (AMD) .]

2. Term of license. The license expires on the last day of December of the year in which it is obtained. It may be renewed annually on payment of the fee.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 376, §54 (AMD). 1997, c. 373, §135 (AMD). 2015, c. 387, §2 (AMD).

§1503. REVOCATION OF LICENSE

Licenses issued by the bureau under this chapter must be revoked for the violation of the liquor laws or any rule adopted by the bureau. [1997, c. 373, §136 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §136 (AMD).

§1504. SAMPLES OF PRODUCTS

A person licensed under section 1502 as a sales representative for a distilled spirits manufacturer or supplier may give a retail licensee samples of distilled spirits under the following conditions. [2007, c. 113, §1 (NEW).]

1. Invoice required. The distilled spirits must be accompanied by an invoice.

[2007, c. 113, §1 (NEW) .]

2. Product registered. The distilled spirits must be listed by the commission for sale in this State and clearly labeled as a sample.

[2007, c. 113, §1 (NEW) .]

3. Taxes paid. Taxes must be paid on each item and the distilled spirits must be purchased from the State's wholesale liquor provider.

[2007, c. 113, §1 (NEW) .]

3-A. Partial-bottle distilled spirits samples. Samples must be decanted from the distilled spirits product bottle and provided to licensees licensed for on-premises consumption. The agent providing the sample shall maintain a log stating the names of the licensees who sampled the product and the amount sampled. Partial-bottle samples must be properly sealed between tastings.

[2007, c. 695, Pt. E, §1 (NEW) .]

4. Sampling record. The sales representative who provides the sample shall maintain a log stating the names of the retail licensees who sampled the distilled spirits and the amount sampled.

[2007, c. 113, §1 (NEW) .]

5. Full-bottle samples. The maximum amount of unopened full-bottle samples of distilled spirits given to a retail licensee by a sales representative may not exceed 3 liters per year per distiller represented by that sales representative. Individual samples may not exceed one liter. A full-bottle sample is an unopened bottle of spirits provided to an agency liquor store or an on-premises retail licensee licensed to sell spirits.

[2011, c. 629, §31 (AMD) .]

6. Retail sampling. Samples poured from a bottle of spirits designated for retail sampling may be provided to an on-premises licensee licensed to serve spirits and to an agency liquor store on the premises of the agency liquor store if the person receiving the sample is 21 years of age or older and is in a supervisory or managerial position with the agency liquor store. Bottles of spirits designated for retail sampling must be properly sealed between samplings.

[2011, c. 629, §32 (RPR) .]

7. Records maintained. Records of samples given or received under this section must be maintained for a 2-year period by the retail licensee giving or receiving samples.

[2007, c. 113, §1 (NEW) .]

SECTION HISTORY

2007, c. 113, §1 (NEW). 2007, c. 695, Pt. E, §1 (AMD). 2011, c. 629, §§31, 32 (AMD).

§1505. PARTICIPATION IN TASTING EVENTS

A sales representative holding a license under section 1502 may participate in a tasting event permitted under section 460; section 1051, subsection 8; section 1205; or section 1207 subject to the provisions of this section. [2015, c. 329, Pt. D, §4 (AFF); 2015, c. 329, Pt. D, §2 (RPR).]

1. Educational presentations. A sales representative participating in a tasting event pursuant to this section may provide written or oral educational presentations and materials relating to the brands and products being offered for tasting at the event, as long as no cost is imposed for the presentations or materials on the licensee or the consumer.

[2009, c. 459, §5 (NEW) .]

2. Complimentary food or snacks. A sales representative participating in a tasting event pursuant to this section may provide and distribute, at no cost to the consumer or the licensee, complimentary food or snacks to be offered and consumed in conjunction with the products to be tasted, as long as the total

cost for the food or snacks does not exceed \$200 per event. Any remaining food or snacks provided in conjunction with a tasting event must be removed from the licensee's premises by the sales representative at the conclusion of the tasting event.

[2009, c. 459, §5 (NEW) .]

3. Records and invoices. A sales representative participating in a tasting event pursuant to this section shall keep and maintain records and invoices showing the costs for any food, snacks or educational or informational materials provided at any approved tasting event.

[2009, c. 459, §5 (NEW) .]

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. A sales representative may purchase spirits for a consumer tasting event in compliance with section 460 if the sales representative has successfully completed an alcohol server education course approved by the commissioner.

[2015, c. 329, Pt. D, §4 (AFF); 2015, c. 329, Pt. D, §3 (RPR) .]

The bureau may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2013, c. 476, Pt. A, §32 (AMD) .]

SECTION HISTORY

2009, c. 459, §5 (NEW). 2013, c. 368, Pt. V, §47 (AMD). 2013, c. 476, Pt. A, §32 (AMD). 2015, c. 129, §§9, 10 (AMD). 2015, c. 184, §§5, 6 (AMD). 2015, c. 329, Pt. D, §§2, 3 (AMD). 2015, c. 329, Pt. D, §4 (AFF) .

Chapter 61: NONRETAIL LICENSES AND FEES

§1551. FEES FOR NONRETAIL LICENSES

1. Certificate of approval. The license fees for certificates of approval are:

A. For malt liquor (one year)..... \$1,000; and [2007, c. 539, Pt. QQQ, §2 (AMD) .]

B. For wine (one year)..... \$1,000. [2007, c. 539, Pt. QQQ, §2 (AMD) .]

[2007, c. 539, Pt. QQQ, §2 (AMD) .]

2. Wholesale licenses. The license fees for wholesale licenses are:

A. For the sale of malt liquor (one year)....\$600; [1987, c. 342, §114 (NEW) .]

B. For the storage of malt liquor (one month).....\$50; [1987, c. 342, §114 (NEW) .]

C. For the sale of wine (one year)..... \$600; and [1987, c. 342, §114 (NEW) .]

D. For the storage of wine (one month)..... \$50. [1987, c. 342, §114 (NEW).]

[1987, c. 342, §114 (NEW) .]

3. In-state manufacturers. The license fees for in-state manufacturer licenses are:

A. Distiller, includes bottling (one year).....\$1,000; [1987, c. 342, §114 (NEW).]

B. Brewery, includes bottling (one year).....\$1,000; [1987, c. 342, §114 (NEW).]

C. Rectifier, includes bottling (one year).....\$1,000; [1987, c. 342, §114 (NEW).]

D. Bottler only (one year).....\$1,000; [1987, c. 342, §114 (NEW).]

E. Winery, includes bottling (one year).....\$1,000; [1987, c. 342, §114 (NEW).]

F. Small winery, includes bottling (one year).....\$50; [2011, c. 629, §33 (AMD).]

G. Small brewery, includes bottling (one year).....\$50; and [2011, c. 629, §34 (AMD).]

H. Small distiller, includes bottling (one year).....\$100. [2011, c. 629, §35 (AMD).]

[2011, c. 629, §§33-35 (AMD) .]

4. Sales representatives. The fees for sales representatives are as follows:

A. Sales representative of manufacturer or certificate of approval holder (one year).....\$50. [1991, c. 376, §55 (AMD).]

[1991, c. 376, §55 (AMD) .]

5. Other fees. The fees for the following are:

A. Filing fee for license application.....\$10; and [1987, c. 342, §114 (NEW).]

B. Filing fees for registering label:

(1) Original registration.....\$10;

(2) Change of label.....\$1; and

(3) Annual renewal of label registration.....\$1. [1987, c. 342, §114 (NEW).]

[1987, c. 342, §114 (NEW) .]

SECTION HISTORY

1987, c. 342, §114 (NEW). 1991, c. 376, §55 (AMD). 2005, c. 377, §§2,3 (AMD). 2005, c. 683, §B21 (AMD). 2007, c. 539, Pt. QQQ, §2 (AMD). 2011, c. 629, §§33-35 (AMD).

§1552. BOTTLE CLUB FEES

1. Bottle club registration. The fee for bottle club registration is (one year)..... \$50.

[1987, c. 342, §114 (NEW) .]

SECTION HISTORY

1987, c. 342, §114 (NEW).

Part 4: TAXES AND ALCOHOL PREMIUM

Chapter 65: TAXES

§1651. CONSUMERS' TAX

1. State liquor tax. Except as provided in subsection 2, the commission shall determine and set the list price at which to sell all spirits that will produce an aggregate state liquor tax sufficient to pay all liquor-related expenses of the Bureau of Alcoholic Beverages and Lottery Operations and to return to the General Fund an amount substantially equal to the amount of state liquor tax collected in the previous fiscal year.

A. [1993, c. 615, §5 (RP).]

B. [1993, c. 615, §5 (RP).]

C. The commission shall add any cost to the State related to handling containers returned for refund pursuant to Title 38, section 3103 to the established price without markup. [2015, c. 166, §6 (AMD).]

[2015, c. 166, §6 (AMD) .]

2. Special pricing situations. The bureau may set prices at different levels than those established by the commission in the following special situations.

A. [1993, c. 462, §6 (RP).]

B. [1993, c. 615, §6 (RP).]

C. Notwithstanding the other provisions of this section, with approval of the Commissioner of Administrative and Financial Services, the bureau may reduce the price of liquor that, as determined by the bureau by rule, is unlikely to be sold for the list price. Rules adopted to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. [2011, c. 693, §3 (AMD); 2013, c. 368, Pt. V, §61 (REV).]

D. [1993, c. 615, §6 (RP).]

E. Notwithstanding the other provisions of this section, the bureau may establish special prices on certain listed liquor items to be made available to the consumer at all agency stores. [2013, c. 368, Pt. V, §48 (AMD).]

F. Spirits sold under section 606 may be sold at prices established under section 606. [1987, c. 45, Pt. A, §4 (NEW).]

G. Notwithstanding the other provisions of this section, the bureau may reduce, at the expense of the broker or supplier, the price of those test-market items that fail to meet set minimum gross profit standards after a 3-month period. [2005, c. 539, §9 (AMD); 2013, c. 368, Pt. V, §61 (REV).]

[2013, c. 368, Pt. V, §48 (AMD); 2013, c. 368, Pt. V, §61 (REV) .]

3. Applicability of tax. Taxes on spirits imposed by the State do not apply to sales of spirits by manufacturers, bottlers and rectifiers holding licenses from the commission:

A. To any instrumentality of the United States; [1987, c. 45, Pt. A, §4 (NEW).]

B. To any vessel of foreign registry; [1987, c. 45, Pt. A, §4 (NEW).]

C. To industrial establishments for use as an ingredient in the manufacture of food products; or [1987, c. 45, Pt. A, §4 (NEW).]

D. For use as an ingredient in the manufacture of commodities which by reason of their nature cannot be used for beverage purposes. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Net revenue deposited to General Fund. All net revenues derived from the tax under this section must be credited to the General Fund.

[2005, c. 539, §10 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §115 (AMD). 1989, c. 585, §§D1,D11 (AMD). 1989, c. 869, §C12 (AMD). 1991, c. 780, §Y130 (AMD). 1991, c. 819, §1 (AMD). 1993, c. 462, §6 (AMD). 1993, c. 615, §§5,6 (AMD). 1995, c. 181, §§1,2 (AMD). 1997, c. 24, §L5 (AMD). 1999, c. 166, §1 (AMD). 2005, c. 539, §§9,10 (AMD). 2011, c. 693, §3 (AMD). 2013, c. 269, Pt. C, §12 (AMD). 2013, c. 269, Pt. C, §13 (AFF). 2013, c. 368, Pt. V, §48 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2015, c. 166, §6 (AMD).

§1652. EXCISE TAX ON MALT LIQUOR AND WINE; DEFICIENCY ACCOUNT; CREDITS; REFUNDS

1. Excise tax on malt liquor. An excise tax is imposed on the privilege of manufacturing and selling malt liquor in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of 35¢ per gallon on all malt liquor sold in the State.

[2013, c. 368, Pt. XXXX, §8 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

1-A. Excise tax on low-alcohol spirits products and fortified wines. An excise tax is imposed on the privilege of manufacturing and selling low-alcohol spirits products and fortified wines in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of \$1.24 per gallon on all low-alcohol spirits products and fortified wines manufactured in or imported into the State.

[2013, c. 368, Pt. XXXX, §8 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

2. Excise tax on wine; hard cider. An excise tax is imposed on the privilege of manufacturing and selling wine in the State. The Maine manufacturer or importing wholesale licensee shall pay an excise tax of 60¢ per gallon on all wine other than sparkling wine manufactured in or imported into the State, \$1.24 per gallon on all sparkling wine manufactured in or imported into the State and 35¢ per gallon on all hard cider manufactured in or imported into the State.

A. [1987, c. 623, §16 (RP).]

[2013, c. 368, Pt. XXXX, §8 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

2-A. Payment due. On the 15th day of each month, every brewery and winery shall pay the excise taxes and premium due on malt liquor and wine that that brewery or winery removed from areas required to be bonded by the Federal Government.

[2011, c. 147, §3 (AMD) .]

2-B. Failure to make payments. If a winery or brewery that has not filed an excise tax surety bond fails to make tax payments as required by this section, the bureau may immediately take back its license issued pursuant to section 1355-A, having the effect of voiding the license.

[2011, c. 629, §36 (AMD) .]

3. General Fund. The bureau shall immediately deposit all money received under this section to be credited to the General Fund.

[1997, c. 373, §137 (AMD) .]

4. Excise tax accounts and adjustments. The bureau shall open an excise tax account with all manufacturers, wholesale licensees and certificate of approval holders and make the following adjustments when appropriate.

A. The bureau may grant credits and make tax adjustments that it determines the wholesale licensee or certificate of approval holder is entitled to upon the filing of affidavits in the form prescribed by the bureau. [1997, c. 373, §138 (AMD).]

B. The bureau shall refund all excise tax paid by the wholesale licensee or certificate of approval holder on all malt liquor or wine caused to be destroyed by a supplier as long as the quantity and size are verified by the bureau and the destruction is witnessed by an authorized representative of the bureau. [2013, c. 368, Pt. XXXX, §8 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

C. If a wholesale licensee's inventories are destroyed by fire, flood or other natural disaster, the bureau may refund the excise tax on the wholesale licensee's inventories. [2013, c. 368, Pt. XXXX, §8 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

D. Any wholesale licensee selling malt liquor or wine to an instrumentality, a licensee for resale to an airline, a training site or a ship chandler shall present proof of that sale to the bureau. The bureau shall grant to the wholesale licensee a credit of all state excise tax paid in connection with that sale under the following conditions.

(1) The bureau shall grant a credit for the excise tax on malt liquor or wine sold by wholesale licensees to any instrumentality of the United States or any Maine National Guard state training site exempted by the bureau.

(2) The bureau shall grant a credit for the excise tax on malt liquor or wine sold to any ship chandler as long as the malt liquor and wine are resold to vessels of foreign registry for consumption after that vessel has left port or are resold for consumption on board vessels of United States registry that are destined for a foreign port.

(3) The bureau shall grant a credit for the excise tax on malt liquor and table wine sold to a licensee registered with the bureau for resale to licensed airlines or to unlicensed airlines for their international flights. [2013, c. 368, Pt. XXXX, §8 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF).]

[2013, c. 368, Pt. XXXX, §8 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

5. Appropriation for substance abuse prevention and treatment. Notwithstanding any provision of law to the contrary, the amount of funds appropriated from the General Fund to the Department of Health and Human Services for substance abuse prevention and treatment may not be less than an amount equal to 31% of the excise tax collected or received by the bureau under this section.

[2013, c. 368, Pt. XXXX, §8 (NEW); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 236, (AMD). 1987, c. 342, §116 (AMD). 1987, c. 623, §§16,17 (AMD). 1991, c. 528, §§VV7,8 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§VV7,8 (AMD). 1991, c. 791, §3 (AMD). 1993, c. 462, §7 (AMD). 1997, c. 373, §§137,138 (AMD). 1997, c. 501, §4 (AMD). 1997, c. 767, §4 (AMD). 2011, c. 147, §3 (AMD). 2011, c. 629, §36 (AMD). 2013, c. 368, Pt. XXXX, §8 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF).

Chapter 67: ALCOHOLISM PREVENTION, EDUCATION, TREATMENT AND RESEARCH

§1701. FINDINGS AND INTENT

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 934, §C3 (RP).

§1702. ALCOHOLISM PREVENTION, EDUCATION, TREATMENT AND RESEARCH FUND

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 934, §C3 (RP).

§1703. PREMIUMS; COLLECTION

1. Spirits. The bureau shall sell all spirits at a price that will produce, in addition to any other tax or charge imposed under state or federal law, a premium in the amount specified in subsection 3.

[1997, c. 373, §139 (AMD); 2013, c. 368, Pt. V, §61 (REV) .]

2. Malt liquor, wine, low-alcohol spirits products, fortified wines and hard cider.

[2013, c. 368, Pt. XXXX, §13 (AFF); 2013, c. 368, Pt. XXXX, §9 (RP) .]

3. Amount of premium. The premium is:

A. [2013, c. 368, Pt. XXXX, §13 (AFF); 2013, c. 368, Pt. XXXX, §10 (RP).]

B. [2013, c. 368, Pt. XXXX, §13 (AFF); 2013, c. 368, Pt. XXXX, §10 (RP).]

C. [2013, c. 368, Pt. XXXX, §13 (AFF); 2013, c. 368, Pt. XXXX, §10 (RP).]

D. One dollar and twenty-five cents per proof gallon as the term proof gallon is defined in the United States Code, Title 26, Section 5002, on all spirits sold in the State. [1987, c. 45, Pt. A, §4 (NEW).]

[2013, c. 368, Pt. XXXX, §10 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

4. Payment to General Fund. The bureau shall immediately pay all premiums collected under this section to the Treasurer of State to be credited to the General Fund.

[2013, c. 368, Pt. V, §61 (REV); 2013, c. 368, Pt. XXXX, §11 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

5. Appropriation. The amount of funds appropriated from the General Fund to the Department of Health and Human Services for substance abuse prevention and treatment may not be less than the dollar amount collected or received by the bureau under this section.

[2013, c. 368, Pt. V, §61 (REV); 2013, c. 368, Pt. XXXX, §12 (AMD); 2013, c. 368, Pt. XXXX, §13 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 934, §§C4,5 (AMD). 1991, c. 528, §§VV9,10 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §§VV9,10 (AMD). 1993, c. 462, §8 (AMD). 1993, c. 462, §9 (AMD). 1997, c. 373, §§139-144 (AMD). 1997, c. 767, §§5,6 (AMD). 2011, c. 657, Pt. AA, §75 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2013, c. 368, Pt. XXXX, §§9-12 (AMD). 2013, c. 368, Pt. XXXX, §13 (AFF).

§1704. ALLOCATIONS PROCEDURE

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 700, §A116 (AMD). 1989, c. 934, §C6 (RP). 1997, c. 373, §145 (RP).

Part 5: NONBEVERAGE USE OF LIQUOR

Chapter 75: SALE OF FOOD PRODUCTS WITH A HIGH ALCOHOL CONTENT

§1901. RESTRICTIONS ON SALE OF FOOD CONTAINING LIQUOR

1. Sales of food containing liquor restricted. No person other than a licensee may sell at retail food products with an alcohol content greater than 1/2 of 1% by volume.

[1987, c. 342, §117 (AMD) .]

2. Minors as purchasers or consumers. No person may sell to minors food products with an alcohol content greater than 1/2 of 1% by volume. No minor may consume such food products except in the presence of a parent, legal guardian or custodian, as defined in Title 22, section 4002.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Food flavorings with high alcohol content. This section does not apply to the sale of food flavorings, such as vanilla extract or lemon extract, or other similar articles commonly used for cooking or flavoring which contain alcohol, but are not intended to be consumed as beverages.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §117 (AMD).

§1902. PENALTIES

Any person who violates a provision of this chapter is guilty of a Class E crime. [1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

Part 6: PROHIBITED ACTS AND PENALTIES

Chapter 81: PROHIBITED ACTS BY MINORS

§2051. PROHIBITED ACTS BY MINORS

1. Prohibited acts. A minor may not:

A. Purchase liquor or imitation liquor. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; [2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

B. Consume liquor or imitation liquor, except in a home in the presence of the minor's parent, legal guardian or custodian, as defined in Title 22, section 4002. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; [2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

C. Have on the minor's person liquor or imitation liquor in any premises licensed for the sale of liquor to be consumed on the premises. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; [2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

D. Present or offer to a licensee, the licensee's agent or employee any written or oral evidence of age that is false, fraudulent or not actually the minor's own, for the purpose of:

(1) Ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure the serving of any liquor or imitation liquor. The following penalties apply to violations of this subparagraph.

- (a) A minor who violates this subparagraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.
- (b) A minor who violates this subparagraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which must be suspended except as provided in subsection 2, paragraph B.
- (c) A minor who violates this subparagraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; or

(2) Gaining access to a licensed premise when minors are not allowed. The following penalties apply to violations of this subparagraph.

- (a) A minor who violates this subparagraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.
- (b) A minor who violates this subparagraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which must be suspended except as provided in subsection 2, paragraph B.
- (c) A minor who violates this subparagraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; [2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

D-1. Have in the minor's possession a false identification card. The following penalties apply to violations of this paragraph.

- (1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.
- (2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.
- (3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; [2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

D-2. Sell, furnish or give a false identification card to a minor. The following penalties apply to violations of this paragraph.

- (1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.
- (2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.
- (3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; [2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

E. [2003, c. 452, Pt. P, §4 (RP); 2003, c. 452, Pt. X, §2 (AFF).]

E-1. Except as provided in subsection 5, have any liquor or imitation liquor in the minor's possession. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B; or [2003, c. 452, Pt. P, §4 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

F. [2003, c. 452, Pt. P, §4 (RP); 2003, c. 452, Pt. X, §2 (AFF).]

F-1. Except as provided in subsection 5, have in the minor's possession equipment specifically constructed, manufactured or marketed for the purpose of brewing malt liquor or fermenting or making wine. The following penalties apply to violations of this paragraph.

(1) A minor who violates this paragraph commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be adjudged.

(2) A minor who violates this paragraph after having previously violated this section commits a civil violation for which a fine of not less than \$300 and not more than \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B.

(3) A minor who violates this paragraph after having previously violated this section 2 or more times commits a civil violation for which a fine of \$600 must be adjudged, none of which may be suspended except as provided in subsection 2, paragraph B. [2003, c. 452, Pt. P, §4 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Penalties. The following apply to the penalties imposed for violations of this section.

A. When a person is adjudged to have committed a first offense under this section, the judge shall inform that person that the fines for the 2nd and subsequent offenses are mandatory and cannot be suspended except as provided in paragraph B. Failure to inform the first offender that subsequent fines are mandatory is not a ground for suspension of any subsequent fine. [2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

B. The judge, as an alternative to or in addition to the civil fines required by this subsection, may assign the minor to perform specified work for the benefit of the State, the municipality or other public entity or charitable institution. [2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

[2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

3. Minor can not be charged with more than one offense. A minor may not be charged with more than one offense under this section in any given instance in which the same set of facts is involved.

[2003, c. 452, Pt. P, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

4. Illegal possession and illegal transportation. If a minor is charged with illegal possession under this section, the minor may not be charged with illegal transportation under section 2052.

[1997, c. 373, §147 (AMD) .]

5. Exceptions. A minor is not in violation of subsection 1, paragraph E-1 or F-1 if the minor possesses:

A. Liquor or imitation liquor or equipment described in subsection 1, paragraph F-1 in the scope of the minor's employment; [2003, c. 452, Pt. P, §4 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Liquor or imitation liquor in a home in the presence of the minor's parent, guardian or custodian, as defined in Title 22, section 4002; or [2003, c. 452, Pt. P, §4 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. Equipment described in subsection 1, paragraph F-1 in the minor's own home under the supervision of the minor's parent, guardian or custodian, as defined in Title 22, section 4002. [2003, c. 452, Pt. P, §4 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. P, §4 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

6. Defense. It is a defense to prosecution under subsection 1 if in a situation that involved risk to the minor or to another person of overdose from the consumption of alcohol, including but not limited to extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania or death from the consumption of alcohol:

A. The minor in good faith sought medical or emergency treatment or assistance for the minor or the other person; or [2015, c. 154, §1 (NEW).]

B. The minor was the person for whom medical or emergency treatment or assistance was sought and the evidence of the violation of this section is obtained as a result of a person contacting emergency medical services or law enforcement. [2015, c. 154, §1 (NEW).]

This subsection does not provide a defense to a charge of operating a motor vehicle while under the influence of alcohol.

[2015, c. 154, §1 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§118,119 (AMD). 1987, c. 426, (AMD). 1993, c. 266, §24 (AMD). 1997, c. 373, §§146,147 (AMD). 1999, c. 103, §§1-3 (AMD). 2001, c. 9, §§1,2 (AMD). 2001, c. 160, §1 (AMD). 2003, c. 452, §P4 (AMD). 2003, c. 452, §X2 (AFF). 2015, c. 154, §1 (AMD).

§2052. ILLEGAL TRANSPORTATION BY MINORS

1. Minor may not transport liquor; exception.

[2003, c. 452, Pt. P, §5 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

1-A. Minor may not transport liquor. Except as provided in subsection 1-B, a minor may not knowingly transport or knowingly permit to be transported liquor in a motor vehicle under the minor's control. The following penalties apply to violations of this subsection.

A. A minor who violates this subsection commits a civil violation for which a fine of not more than \$500 may be adjudged. [2003, c. 452, Pt. P, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A minor who violates this subsection after having previously violated this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 must be adjudged, none of which may be suspended. [2003, c. 452, Pt. P, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A minor who violates this subsection after having previously violated this section 2 or more times commits a civil violation for which a fine of not less than \$400 and not more than \$500 must be adjudged, none of which may be suspended. [2003, c. 452, Pt. P, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. P, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

1-B. Permitted transportation. A minor may transport liquor or permit liquor to be transported in a motor vehicle if in the scope of the minor's employment or at the request of the minor's parent, guardian or custodian, as defined in Title 22, section 4002.

[2003, c. 452, Pt. P, §5 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. No conviction if liquor not within minor's section. A minor may not be found in violation of any offense under this section if liquor is found outside the passenger's or driver's section of a motor vehicle under the minor's control, unless the minor has actual knowledge of the presence of the liquor. The trunk or locked glove compartment of any vehicle may not be construed under this section to be within the passenger's or driver's section of the motor vehicle.

[2003, c. 452, Pt. P, §5 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

3. Violation.

[2003, c. 452, Pt. P, §5 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

4. Minor can not be charged with both illegal transportation and illegal possession. A minor charged with illegal transportation under this section may not be charged with illegal possession under section 2051. A minor who possesses or consumes liquor in a motor vehicle under the terms of this section must be charged under this section, rather than under section 2051. This subsection does not preclude charges under Title 15, section 3103, subsection 1, paragraph F, when appropriate.

[2003, c. 452, Pt. P, §5 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1991, c. 337, §1 (AMD). 1991, c. 549, §8 (AMD). 1991, c. 549, §17 (AFF). 1993, c. 93, §3 (AMD). 1997, c. 373, §§148,149 (AMD). 2003, c. 452, §P5 (AMD). 2003, c. 452, §X2 (AFF).

§2053. SUSPENSION OF MINOR'S OPERATOR'S LICENSE FOR VIOLATIONS

1. Court shall suspend license. The court shall suspend the operator's license or right to operate, or right to obtain a license, of a minor found in violation of section 2052 as follows:

A. Thirty days for the first offense; [1993, c. 93, §4 (NEW).]

B. Ninety days for the 2nd offense; and [1993, c. 93, §4 (NEW).]

C. One year for any subsequent offense. [1993, c. 93, §4 (NEW).]

The court shall immediately forward the license to the Secretary of State together with the record of adjudication on the form furnished for reporting convictions and adjudications for violations of Title 29-A.

[1995, c. 65, Pt. A, §80 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

1-A. Suspend license. The court may suspend the operator's license, or right to operate a motor vehicle or right to obtain a license, of a minor found in violation of section 2051, subsection 1, paragraph D for 30 days for the first offense. The court shall suspend the operator's license, or right to operate a motor vehicle or right to obtain a license, of a minor found in violation of section 2051, subsection 1, paragraph D as follows:

A. Ninety days for the 2nd offense; and [2001, c. 160, §2 (NEW).]

B. One year for any subsequent offense. [2001, c. 160, §2 (NEW).]

The court shall immediately forward the operator's license to the Secretary of State together with the record of adjudication on the form furnished for reporting convictions and adjudications for violations of Title 29-A.

[2001, c. 160, §2 (NEW) .]

2. Additional suspension by court.

[1993, c. 93, §5 (RP) .]

3. Secretary of State shall suspend license. Immediately upon receipt of the record, the Secretary of State shall suspend the license, or right to operate, or right to obtain a license, of the minor for the required period, without further hearing. The Secretary of State shall also assign demerit points according to Title 29-A, section 2458, subsection 3.

[1995, c. 65, Pt. A, §81 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

4. Penalty. The penalties provided in this section and section 2052 are not in conflict with Title 15, Part 6.

[1991, c. 337, §2 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §120 (AMD). 1991, c. 337, §2 (AMD). 1993, c. 93, §§4-6 (AMD). 1995, c. 65, §§A80,81 (AMD). 1995, c. 65, §§A153,C15 (AFF). 2001, c. 160, §2 (AMD).

§2054. EXECUTION OF SUSPENSION STAYED DURING APPEAL

If any person adjudicated to be in violation of section 2052 appeals from the judgment of the trial court, the execution of any suspension imposed on that person's license, right to obtain a license, and right to operate a motor vehicle in the State is stayed pending appeal and begins when and if the judgment is upheld or the appeal is withdrawn. [1997, c. 373, §150 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §150 (AMD).

Chapter 83: PROHIBITED ACTS IN GENERAL

§2071. FAILURE TO APPEAR BEFORE THE BUREAU

1. Failure to appear when summoned. It is illegal for a person who is summoned as a witness by the bureau to appear before the bureau, to fail to appear without reasonable cause at the time and place designated in the subpoena or summons.

[1997, c. 373, §152 (AMD) .]

2. Penalties. A person who violates this section commits a Class E crime.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §§151,152 (AMD).

§2072. ILLEGAL DEPOSIT OR POSSESSION WITH INTENT TO SELL

1. Illegal deposit or possession. No person may deposit or have in that person's possession any liquor:

A. With intent to sell the liquor in the State in violation of law; [1987, c. 45, Pt. A, §4 (NEW) .]

B. With intent that the liquor be sold in the State in violation of law by any person; or [1997, c. 373, §153 (AMD) .]

C. With intent to aid or assist any person in an illegal sale. [1987, c. 45, Pt. A, §4 (NEW) .]

[1997, c. 373, §153 (AMD) .]

2. Penalties. A person who violates this section commits a Class E crime.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §153 (AMD).

§2073. IMPORTATION AND TRANSPORTATION OF LIQUOR WITHIN THE STATE

1. Illegal transportation of liquor within the State. No person may knowingly transport within the State any liquor:

A. With intent to sell the liquor in the State in violation of law; [1987, c. 45, Pt. A, §4 (NEW) .]

B. With intent that the liquor be illegally sold by any person; or [1987, c. 45, Pt. A, §4 (NEW) .]

C. With intent to aid any person in illegal sale of liquor. [1987, c. 45, Pt. A, §4 (NEW) .]

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Penalties. A person who knowingly violates this section commits a Class E crime.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Legal importation into and transportation of liquor within the State. Liquor may be legally imported into and transported within the State in the following situations.

A. Upon application, the bureau may grant to an individual a permit to transport liquor purchased for that person's own personal use. [2013, c. 476, Pt. A, §33 (AMD) .]

B. For-hire carriers and contract carriers, authorized by the Department of Public Safety, may transport liquor to liquor warehouses, to licensees, from manufacturers to liquor warehouses and to the state line for transportation outside the State. [2013, c. 476, Pt. A, §33 (AMD) .]

C. [2013, c. 368, Pt. V, §49 (RP).]

C-1. Reselling agents may transport spirits to licensees who are licensed for the sale of spirits for on-premises consumption. [2013, c. 476, Pt. A, §33 (NEW).]

D. Manufacturers may transport liquor within the State to liquor warehouses, to persons authorized under paragraph E and to the state line for transportation outside the State. [2013, c. 476, Pt. A, §33 (AMD).]

E. The bureau may permit in writing the importation of liquor into the State and the transportation of liquor from place to place within the State to the following destinations for the specified purposes:

- (1) To hospitals and state institutions, for medicinal purposes only, liquor made available to them from stocks of liquor seized by the Federal Government;
- (2) To industrial establishments in the State for industrial uses;
- (3) To schools, colleges and state institutions for laboratory use only;
- (4) To any licensed pharmacist in the State for use in the compounding of prescriptions and other medicinal use, but not for sale by pharmacists unless compounded with or mixed with other substances; or
- (5) To any physician, surgeon, osteopath, chiropractor, optometrist, dentist or veterinarian for medicinal use only. [2013, c. 476, Pt. A, §33 (AMD).]

F. The bureau may authorize hospitals and state institutions to purchase spirits, for medicinal purposes only, from agency liquor stores. This authorization must be in writing. [2013, c. 476, Pt. A, §33 (AMD).]

[2013, c. 476, Pt. A, §33 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §154 (AMD). 2013, c. 368, Pt. V, §49 (AMD). 2013, c. 476, Pt. A, §33 (AMD).

§2074. ILLEGAL TRANSPORTATION OF LIQUOR ON OR OFF LICENSED PREMISES

1. Transportation on-premises or off-premises. Except as provided in section 1051, any person who transports liquor onto or off of the premises of an on-premise retail licensee is guilty of a Class E crime.

[1997, c. 306, §2 (AMD) .]

2. Defense. It is a defense to a prosecution under this section that the transportation was authorized or permitted by the licensee, the licensee's agent or the licensee's employee.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 306, §2 (AMD).

§2074-A. ILLEGAL STORAGE, PURCHASE OR SALE OF SPIRITS BY AN ON-PREMISES LICENSEE; PENALTY

A person licensed for the sale of spirits for consumption on the licensed premises who violates section 606, subsection 1-A or violates state rules or federal regulations governing the storage, purchase and sale of spirits, including but not limited to the prohibition against reusing or refilling liquor bottles, and the disposition of empty liquor bottles, is subject to suspension or revocation of the license under chapter 33 as follows. [2011, c. 693, §4 (NEW).]

1. Suspension of privilege to sell spirits. A person who commits a violation described by this section is subject to a 90-day suspension for a first offense, a 180-day suspension for a 2nd offense and a one-year suspension for a 3rd or subsequent offense.

[2011, c. 693, §4 (NEW) .]

2. Revocation. The bureau may recommend revocation of a license to sell spirits for consumption on the premises if a licensee commits more than 3 violations as described by this section.

[2011, c. 693, §4 (NEW) .]

SECTION HISTORY

2011, c. 693, §4 (NEW).

§2075. IMPORTATION AND TRANSPORTATION OF SPIRITS

1. Only the commission may import spirits; exception.

[2003, c. 452, Pt. P, §6 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

1-A. Only bureau may import spirits. Except as provided in subsection 1-B, a person other than the bureau may not import spirits into the State.

A. A person who illegally imports or causes to be shipped into the State spirits in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged. [2003, c. 452, Pt. P, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who illegally imports or causes to be shipped into the State spirits in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. P, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

[2003, c. 452, Pt. P, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF); 2013, c. 368, Pt. V, §61 (REV) .]

1-B. Permitted importation. An individual may transport into the State and may transport from place to place within the State spirits for the individual's personal use in a quantity not greater than 4 quarts.

[2003, c. 452, Pt. P, §6 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Transportation of spirits within State. A person may not transport or cause to be transported any spirits within the State in a quantity greater than 4 quarts unless the spirits were purchased from an agency liquor store.

[2013, c. 368, Pt. V, §50 (AMD) .]

2-A. Evidence. The possession of more than 8 quarts of spirits in one or more containers that are not labeled in accordance with Title 38, section 3105 is prima facie evidence of a violation of this section.

[2015, c. 166, §7 (AMD) .]

3. Importation and transportation of spirits for special purposes. The bureau may, in writing, permit and authorize the importation of spirits into the State and the transportation of spirits from place to place within the State to the following destinations for the specified purposes:

A. To industrial establishments for use as an ingredient in the manufacture of food products, or for use as an ingredient in the manufacture of commodities that by reason of their nature can not be used for beverage purposes, or for use in the manufacture of commodities unfit for beverage purposes; [1993, c. 730, §47 (AMD).]

B. To licensed distillers and manufacturers of spirits in the State for use as an ingredient in distilling or manufacturing spirits and other spirituous products that are authorized by 27 Code of Federal Regulations; and [1993, c. 730, §47 (AMD).]

C. To churches or to the pastor of any church for sacramental purposes or similar religious rites. [1987, c. 45, Pt. A, §4 (NEW).]

[1993, c. 730, §47 (AMD) .]

4. Penalties.

[2003, c. 452, Pt. P, §6 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

5. Forfeiture of spirits. Notwithstanding section 2221-A, if a person fails to appear in court on the date and time specified in response to a Uniform Summons and Complaint issued for a violation of this section, either in person or by counsel, the court shall order the spirits imported or transported in excess of that allowed by subsection 1-A or 2 to be forfeited to the State. As part of every adjudication and forfeiture imposed under this section the court shall order the spirits imported or transported in excess of that allowed by subsection 1-A or 2 to be forfeited to the State. Spirits forfeited under this subsection must be disposed of as prescribed in section 2229.

[2003, c. 452, Pt. P, §6 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 817, §1 (AMD). 1993, c. 266, §§25,26 (AMD). 1993, c. 730, §§47,48 (AMD). 1997, c. 373, §155 (AMD). 2003, c. 452, §P6 (AMD). 2003, c. 452, §X2 (AFF). 2013, c. 368, Pt. V, §50 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2015, c. 166, §7 (AMD).

§2076. ILLEGAL DELIVERY OF LIQUOR

1. Delivery of liquor. Except with the bureau's written permission or except as provided in section 2073, subsection 3, paragraph C-1 for reselling agents, a person may not knowingly transport to or cause to be delivered to any person other than the bureau any spirits not purchased from an agency liquor store.

[2013, c. 476, Pt. A, §34 (AMD) .]

2. Penalties. Any person who violates this section commits a Class E crime.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §156 (AMD). 2013, c. 368, Pt. V, §51 (AMD). 2013, c. 476, Pt. A, §34 (AMD).

§2077. IMPORTATION AND TRANSPORTATION OF MALT LIQUOR AND WINE

1. Importation of malt liquor or wine into the State.

[2003, c. 452, Pt. P, §7 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

1-A. Importation of malt liquor or wine into State. Except as provided in section 1403-A, a person other than a wholesale licensee, small brewery licensee or small winery licensee may not transport or cause to be transported malt liquor or wine into the State in a quantity greater than 3 gallons for malt liquor or 4 quarts for wine, unless it was legally purchased in the State. The following penalties apply to violations of this subsection.

A. A person who illegally transports into the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged. [2003, c. 452, Pt. P, §7 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

B. A person who illegally transports into the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. P, §7 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

[2011, c. 629, §37 (AMD) .]

1-B. Invoice required. Each shipment of malt liquor or wine transported or caused to be transported by a wholesale licensee, small brewery licensee or small winery licensee into the State must be accompanied by an invoice that includes the wholesale licensee's, small brewery licensee's or small winery licensee's name and purchase number.

[2011, c. 629, §38 (AMD) .]

2. Transportation of malt liquor and wine within State. Except as provided in section 1403-A, a person other than a licensee may not transport malt liquor, in a quantity greater than 3 gallons, or wine, in a quantity greater than 4 quarts, within the State unless it was purchased from an off-premise retail licensee.

A. A person who illegally transports within the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged. [2003, c. 452, Pt. P, §7 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

B. A person who illegally transports within the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. P, §7 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

[2009, c. 373, §3 (AMD) .]

2-A. Evidence. The possession of more than 6 gallons of malt liquor or 8 quarts of wine in one or more containers that are not labeled in accordance with Title 38, section 3105 is prima facie evidence of a violation of this section.

[2015, c. 166, §8 (AMD) .]

3. For-hire carriers and contract carriers may import and transport within State. For-hire carriers and contract carriers, authorized by the Department of Public Safety, may transport malt liquor or wine into and within the State to licensees, to purchasers of malt liquor or wine from licensees and to the state line for transportation outside the State.

[2013, c. 476, Pt. A, §35 (AMD) .]

4. Penalties.

[2003, c. 452, Pt. P, §7 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

5. Forfeiture of malt liquor or wine. Notwithstanding section 2221-A, if a person fails to appear in court on the date and time specified in response to a Uniform Summons and Complaint issued for a violation of this section, either in person or by counsel, the court shall order the malt liquor or wine imported or transported in excess of that allowed by subsection 1-A or 2 to be forfeited to the State. As part of every adjudication and fine imposed under this section, the court shall order the malt liquor or wine imported or transported in excess of that allowed by subsection 1-A or 2 to be forfeited to the State. Malt liquor or wine forfeited under this subsection must be disposed of as prescribed in section 2229.

[2003, c. 452, Pt. P, §7 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §121 (AMD). 1989, c. 817, §§2,4 (AMD). 1993, c. 266, §§27,28 (AMD). 1993, c. 730, §§49,50 (AMD). 2003, c. 452, §P7 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 373, §§2, 3 (AMD). 2011, c. 629, §§37, 38 (AMD). 2013, c. 368, Pt. V, §52 (AMD). 2013, c. 476, Pt. A, §35 (AMD). 2015, c. 166, §8 (AMD).

§2077-A. INTERSTATE RECIPROCAL SHIPPING OF MALT LIQUOR AND WINE

(REPEALED)

SECTION HISTORY

1993, c. 60, §2 (NEW). 1993, c. 60, §3 (AMD). 1997, c. 373, §§157,158 (AMD). 1997, c. 501, §5 (RP). 2005, c. 683, §B22 (RP).

§2077-B. INTERSTATE SHIPPING OF LIQUOR PROHIBITED

1. Prohibition. Except as provided in section 1403-A, a person may not sell, furnish, deliver or purchase liquor from an out-of-state company by mail order.

[2009, c. 373, §4 (AMD) .]

2. Penalty. A person who violates this section is subject to penalties listed in section 2075, subsection 1-A.

[2003, c. 452, Pt. P, §8 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1997, c. 501, §6 (NEW). 2003, c. 452, §P8 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 373, §4 (AMD).

§2078. ILLEGAL SALE OF LIQUOR

1. Sale of liquor without a valid license. Any person who, or any person whose employee or agent, sells liquor within the State without a valid license commits a Class E crime and, notwithstanding Title 17-A, section 4-A, shall be punished:

A. For the first offense, by a fine of not less than \$300 plus costs nor more than \$500 plus costs, which fine and costs may not be suspended, and an additional penalty of not more than 30 days imprisonment at the discretion of the court; [1987, c. 45, Pt. A, §4 (NEW).]

B. For a 2nd offense, by a fine of not less than \$500 plus costs nor more than \$1,000 plus costs, which fine and costs may not be suspended, and an additional penalty of not more than 60 days imprisonment at the discretion of the court; and [1987, c. 45, Pt. A, §4 (NEW).]

C. For all subsequent offenses, by a fine of not less than \$1,000 plus costs and 60 days imprisonment, which fine and costs and sentence may not be suspended, and an additional penalty of 4 months imprisonment at the discretion of the court. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Employee or agent equally guilty. Any agent or other person in the employment of or on the premises of another, who violates or in any manner assists in violating any law relating to liquor, is equally guilty with the principal and is subject to the same penalties.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2079. AIDING CHILDREN IN ILLEGAL POSSESSION OR SALE

Any person who personally or by that person's employee or agent, directly or indirectly, employs or permits any child under the age of 16 years to assist that person in the illegal possession or the illegal sale of liquor commits a Class E crime, and must be punished accordingly in addition to the penalties otherwise provided against the illegal possession for sale or illegal sale of liquor. [1997, c. 373, §159 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §122 (AMD). 1997, c. 373, §159 (AMD).

§2080. COMMON SELLERS

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §123 (RP).

§2081. FURNISHING OR ALLOWING CONSUMPTION OF LIQUOR BY CERTAIN PERSONS PROHIBITED

1. Offense. Except as provided in subsection 2, a person may not knowingly:

A. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver liquor for or to a minor. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a Class D crime.

(2) A person who violates this paragraph commits a Class D crime for which a fine of not less than \$500 may be imposed, none of which may be suspended, if the violation involves a minor who is less than 18 years of age.

(3) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph B within a 6-year period commits a Class D crime for which a fine of not less than \$1,000 may be imposed, none of which may be suspended.

(4) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph B 2 or more times within a 6-year period commits a Class D crime for which a fine of not less than \$1,500 may be imposed, none of which may be suspended.

(5) A person who violates this paragraph commits a Class C crime if the consumption of liquor by the minor in fact causes serious bodily injury to or death of the minor or any other individual. For purposes of this subsection, "serious bodily injury" has the same meaning as set out in Title 17-A, section 2, subsection 23; [2005, c. 292, §1 (AMD) .]

B. Allow a minor under that person's control or in a place under that person's control to possess or consume liquor. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a Class D crime.

(2) A person who violates this paragraph commits a Class D crime for which a fine of not less than \$1,000 may be imposed, none of which may be suspended, if the violation involves a minor who is less than 18 years of age.

(3) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph A within a 6-year period commits a Class D crime for which a fine of not less than \$2,000 may be imposed, none of which may be suspended.

(5) A person who violates this paragraph commits a Class C crime if the consumption of liquor by the minor in fact causes serious bodily injury to or death of the minor or any other individual. For purposes of this subsection, "serious bodily injury" has the same meaning as set out in Title 17-A, section 2, subsection 23; [2005, c. 292, §1 (AMD) .]

C. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver liquor to a visibly intoxicated person. Violation of this paragraph is a Class E crime, except notwithstanding Title 17-A, section 1301, the fine may not be more than \$500; or [2003, c. 452, Pt. P, §9 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

D. Procure, or in any way assist in procuring, furnish, give, sell or deliver imitation liquor for or to a minor, or allow a minor under that person's control or in a place under that person's control to possess or consume imitation liquor. Violation of this paragraph is a Class E crime, except notwithstanding Title 17-A, section 1301, the fine may not be more than \$500. [2003, c. 452, Pt. P, §9 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

[2005, c. 292, §1 (AMD) .]

2. Exceptions. This section does not apply to a person who serves liquor or imitation liquor to a minor in a home in the presence of the minor's parent, guardian or custodian, as defined in Title 22, section 4002.

[2003, c. 452, Pt. P, §9 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

3. Penalties.

[2003, c. 452, Pt. P, §9 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

4. Application. This section does not apply to licensees or agents of licensees in the scope of their employment.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Aggravated offense.

[2003, c. 452, Pt. P, §9 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §124 (AMD). 1987, c. 576, (AMD). 1989, c. 293, §§1-4 (AMD). 1991, c. 797, §13 (AMD). 1993, c. 266, §§29-31 (AMD). 2001, c. 395, §§1,2 (AMD). 2003, c. 452, §P9 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 292, §1 (AMD).

§2082. SALE OF IMITATION LIQUOR

1. Sale of imitation liquor to minor prohibited. No person may sell or offer for sale or exchange to any minor any imitation liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Applicability. This section does not apply to the following products:

A. Products commonly known as "root beer," "ginger ale," "cider" and all soft drinks; and [1987, c. 45, Pt. A, §4 (NEW) .]

B. Beverages containing more than 1/2 of 1% alcohol by volume. [1987, c. 45, Pt. A, §4 (NEW) .]

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Violation. Any person who violates this section commits a civil violation for which a forfeiture of not more than \$500 may be adjudged.

[1993, c. 266, §32 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1993, c. 266, §32 (AMD).

§2083. SALE OR DELIVERY OF LIQUOR TO PRISONERS

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2005, c. 329, §6 (RP).

§2084. SALES BY AGENT OF LICENSEE TO MINORS

(REPEALED)

SECTION HISTORY

1987, c. 254, (NEW). 1987, c. 623, §18 (AMD). 1993, c. 266, §33 (RP).

§2085. FALSE STATEMENT BY RETAIL EMPLOYEE

Notwithstanding Title 17-A, section 453, a person who makes a false statement in the affidavit required under section 703-A commits a Class E crime. [1989, c. 526, §§25, 28 (NEW).]

SECTION HISTORY

1989, c. 526, §§25,28 (NEW). RR 1991, c. 1, §37 (COR).

§2086. SALE OR FURNISHING OF BREWING OR WINE-MAKING EQUIPMENT PROHIBITED

1. Violation. A person who knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a minor equipment that is specifically constructed, manufactured or marketed for the purpose of brewing malt liquor or fermenting or making wine is guilty of a civil violation.

[1999, c. 103, §4 (NEW) .]

2. Exception. This section does not apply to a minor's parent, legal guardian or custodian, as defined in Title 22, section 4002, who furnishes the equipment to the minor for use in a supervised manner.

[1999, c. 103, §4 (NEW) .]

SECTION HISTORY

1999, c. 103, §4 (NEW).

§2087. REFUSAL TO PROVIDE PROPER IDENTIFICATION

1. Refusal to provide proper identification prohibited. A person may not intentionally refuse to provide a law enforcement officer proper identification if:

A. The person is present on licensed premises at a time when minors are not permitted to be on the premises; [1999, c. 413, §2 (NEW).]

B. The officer has a reasonable and articulable suspicion that a violation of law has taken place or is taking place because a minor is present on licensed premises; [1999, c. 413, §2 (NEW).]

C. The officer has a reasonable and articulable suspicion that the person is a minor; and [1999, c. 413, §2 (NEW).]

D. The officer has informed the person that the officer is investigating a possible liquor violation involving the presence of minors on the licensed premises and that the officer believes that the person is a minor. [1999, c. 413, §2 (NEW).]

For purposes of this section, "proper identification" means a person's correct name, address and date of birth except that, if a person has in the person's possession an identification card issued under Title 29-A, section 1410, or a motor vehicle operator's license bearing the photograph of the operator and issued under Title 29-A, chapter 11, proper identification means that identification card or motor vehicle operator's license.

[1999, c. 413, §2 (NEW) .]

2. Penalties. A violation of this section is a civil violation for which a forfeiture of not more than \$500 may be adjudged.

[1999, c. 413, §2 (NEW) .]

3. Defense. It is a defense to prosecution under subsection 1 if in a situation that involved risk to the minor or to another person of overdose from the consumption of alcohol, including but not limited to extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania or death from the consumption of alcohol:

A. The minor in good faith sought medical or emergency treatment or assistance for the minor or the other person; or [2015, c. 154, §2 (NEW).]

B. The minor was the person for whom medical or emergency treatment or assistance was sought and the evidence of the violation of this section is obtained as a result of a person contacting emergency medical services or law enforcement. [2015, c. 154, §2 (NEW).]

This subsection does not provide a defense to a charge of operating a motor vehicle while under the influence of alcohol.

[2015, c. 154, §2 (NEW) .]

SECTION HISTORY

1999, c. 413, §2 (NEW). 2015, c. 154, §2 (AMD).

§2088. VAPORIZED ALCOHOL

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alcohol vaporizing device" means any device, machine or process that mixes an alcoholic product with pure oxygen or another gas to produce vaporized alcohol for the purpose of consumption through inhalation. [2005, c. 259, §1 (NEW).]

B. "Vaporized alcohol" means an alcoholic product created by mixing alcohol with pure oxygen or another gas to produce a vaporized product for the purpose of consumption through inhalation. [2005, c. 259, §1 (NEW).]

[2005, c. 259, §1 (NEW) .]

2. Use prohibited. A person may not use vaporized alcohol or an alcohol vaporizing device.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$250 and not more than \$500 must be adjudged. [2005, c. 259, §1 (NEW).]

B. A person who violates this subsection after having been previously adjudicated as violating this subsection commits a civil violation for which a fine of not less than \$500 and not more than \$3,000 must be adjudged. [2005, c. 259, §1 (NEW).]

In addition to a fine imposed under this subsection, a court may make additional orders as described in Title 22, section 2383-C, subsection 6.

[2005, c. 259, §1 (NEW) .]

3. Selling or furnishing prohibited. A person may not sell, furnish or give away or offer for sale or offer to furnish or give away vaporized alcohol or an alcohol vaporizing device.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$500 and not more than \$1,000 must be adjudged. [2005, c. 259, §1 (NEW).]

B. A person who violates this subsection after having been previously adjudicated as violating this subsection commits a Class E crime for which a fine of not less than \$1,000 and, notwithstanding Title 17-A, section 1301, not more than \$5,000 must be imposed. In addition to a fine imposed under this

subsection, if the person is a licensee under chapter 19, 43 or 45, the court may suspend that person's license for up to one year. A violation under this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2005, c. 259, §1 (NEW).]

[2005, c. 259, §1 (NEW) .]

4. Exceptions. This section does not apply to vaporized alcohol or alcohol vaporizing devices used for medical or scientific research.

[2005, c. 259, §1 (NEW) .]

SECTION HISTORY

2005, c. 259, §1 (NEW).

§2089. POWDERED ALCOHOL

1. Possession and use prohibited. A person may not possess or use alcohol in a powdered or crystalline form.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$250 and not more than \$500 must be adjudged. [2015, c. 205, §1 (NEW).]

B. A person who violates this subsection after having been previously adjudicated as violating this subsection commits a civil violation for which a fine of not less than \$500 and not more than \$3,000 must be adjudged. [2015, c. 205, §1 (NEW).]

[2015, c. 205, §1 (NEW) .]

2. Selling or furnishing prohibited. A person may not sell, furnish or give away or offer for sale or offer to furnish or give away alcohol in a powdered or crystalline form.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$500 and not more than \$1,000 must be adjudged. [2015, c. 205, §1 (NEW).]

B. A person who violates this subsection after having been previously adjudicated as violating this subsection commits a Class E crime for which a fine of not less than \$1,000 and, notwithstanding Title 17-A, section 1301, not more than \$5,000 must be imposed. In addition to a fine imposed under this subsection, if the person is a licensee under chapter 19, 43, 45, 51 or 55, the court may suspend that person's license for up to one year in accordance with chapter 33. A violation under this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2015, c. 205, §1 (NEW).]

[2015, c. 205, §1 (NEW) .]

SECTION HISTORY

2015, c. 205, §1 (NEW).

Part 7: ENFORCEMENT

Chapter 91: ENFORCEMENT AND JURISDICTION

Subchapter 1: GENERAL

§2201. JURISDICTION OF COURTS

In prosecutions under this Title, except when otherwise expressly provided, the District Court shall have, by complaint, jurisdiction concurrent with the Superior Court. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2202. BAIL AFTER FAILURE TO COMPLY WITH TERMS OF BOND

In any prosecution for violation of the laws relating to manufacture or sale of liquor, a defendant who has failed to comply with the term of any bond entered into by the defendant in that case may not again be admitted to bail in that case or upon arrest on any warrant issued in that case, except by a justice of the court in which that prosecution is pending. [1997, c. 373, §160 (AMD).]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §160 (AMD).

§2203. EVIDENCE OF ILLEGAL SALE

1. Evidence of illegal sale. Whenever an illegal sale is alleged and a delivery proved, the delivery is sufficient evidence of sale and it is not necessary to prove a payment.

[1987, §125 (RPR) .]

2. Former conviction. In actions, complaints, indictments or other proceedings for a violation of this Title, other than for a first offense, it is not necessary to set forth particularly the record of a former conviction, but it is sufficient to allege briefly that the person has been convicted of a violation of a particular provision.

[1987, c. 342, §125 (RPR) .]

3. Prosecution of bond when municipality interested.

[1987, c. 342, §126 (RP) .]

4. Enforcement by municipality.

[1987, c. 342, §126 (RP) .]

5. Former conviction.

[1987, c. 342, §126 (RP) .]

6. Amendment of allegation and process.

[1987, c. 342, §126 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §125 (RPR).

**§2204. PERSONS IN ILLEGAL LIQUOR TRAFFIC DISQUALIFIED FROM JURY
(REPEALED)**

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §126 (RP).

**§2205. APPEALS; DISCHARGE OF SURETIES
(REPEALED)**

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §126 (RP).

**§2206. CONTINUANCE FOR SENTENCE
(REPEALED)**

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §126 (RP).

Subchapter 2: OFFICIALS AND THEIR DUTIES

**§2211. POWER OF LAW ENFORCEMENT OFFICERS TO STOP VEHICLES;
RESTRICTIONS**

If a law enforcement officer has probable cause to believe that a violation of the liquor laws has taken or is taking place, the officer may, at any time, stop any motor vehicle or other conveyance to arrest or question its operator or occupant or to search the motor vehicle or conveyance. [1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

**§2212. STATE LIQUOR ENFORCEMENT OFFICERS' VEHICLES
(REPEALED)**

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 644, §1 (AMD). 1995, c. 65, §A82 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1999, c. 29, §1 (RP).

Subchapter 3: SEARCH AND SEIZURE

**§2221. SEIZURE AND FORFEITURE OF VEHICLES CONTAINING LIQUOR
(REPEALED)**

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §127 (RP).

§2221-A. FORFEITURE OF LIQUOR AND PROPERTY USED IN ILLEGAL MANUFACTURE, TRANSPORTATION AND SALE OF LIQUOR

1. Property forfeited. The following property shall be subject to forfeiture to the State and all property rights in the property shall be in the State:

A. All materials, products and equipment of any kind which are used, or intended for use, in manufacturing, transporting or selling liquor in violation of this Title; and [1987, c. 342, §128 (NEW) .]

B. All conveyances, including aircraft, watercraft, vehicles and vessels, which are used, or are intended for use, to transport, conceal or otherwise to facilitate the manufacturing, transporting or selling of liquor in violation of this Title. [1987, c. 342, §128 (NEW) .]

[1987, c. 342, §128 (NEW) .]

2. Jurisdiction. Property subject to forfeiture under subsection 1, paragraph A, shall be declared forfeited by any court having jurisdiction over the property or having final jurisdiction over any related criminal proceeding brought under this chapter.

[1987, c. 342, §128 (NEW) .]

3. Exceptions. The court shall order forfeiture of all conveyances subject to forfeiture under subsection 1, paragraph B, except as follows.

A. No conveyance used by any person as a for-hire carrier in the transaction of business as a for-hire carrier shall be forfeited unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of this Title. [1987, c. 342, §128 (NEW) .]

B. No conveyance shall be forfeited by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while the conveyance was illegally in the possession of a person other than the owner in violation of the criminal laws of the United States, the State or of any State. [1987, c. 342, §128 (NEW) .]

C. No conveyance shall be subject to forfeiture unless the owner knew or should have known that the conveyance was used in and for the illegal manufacturing, transporting or selling of liquor in violation of this Title. [1987, c. 342, §128 (NEW) .]

[1987, c. 342, §128 (NEW) .]

4. Forfeiture procedure. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of property subject to forfeiture under subsection 1, paragraph B. The petition must be filed in the court having jurisdiction over the property. [1987, c. 342, §128 (NEW) .]

B. The proceeding shall be deemed a civil suit, in which the State shall have the burden of proving all material facts by a preponderance of the evidence. The owner of the property, or other person claiming under the owner, shall have the burden of proving all the exceptions set forth in subsection 3 by a preponderance of the evidence. [1987, c. 342, §128 (NEW) .]

C. The court shall order the State to give notice by certified or registered mail or hand delivered by a deputy sheriff to the owner of the property and to any other person who appears to have an interest in the property. [1987, c. 342, §128 (NEW) .]

D. The court shall hold a hearing on the petition. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law. [2011, c. 559, Pt. A, §33 (AMD).]

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order shall provide for disposition of the property by the State or any subdivision of the State in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, sale at public auction or by competitive bidding.

(1) The proceeds of any sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice and to pay any bona fide mortgage on the property. The balance, if any, shall be deposited in the State Treasury, or the treasury of the county or municipality making the seizure. [1987, c. 342, §128 (NEW).]

[2011, c. 559, Pt. A, §33 (AMD) .]

5. Records. Any officer, department or agency having custody of property subject to forfeiture under subsection 1, or having disposed of the property, shall keep and maintain full and complete records concerning the property.

A. The records must show:

- (1) From whom it received the property;
- (2) Under what authority it held, received or disposed of the property;
- (3) To whom it delivered the property;
- (4) The date and manner of destruction or disposition of the property; and
- (5) The exact kinds, quantities and forms of the property. [1987, c. 342, §128 (NEW).]

B. The records shall be open to inspection by all federal and state officers charged with enforcement of federal and state liquor laws. [1987, c. 342, §128 (NEW).]

C. Persons making final disposition or destruction of the property under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition. [1987, c. 342, §128 (NEW).]

D. The bureau shall maintain a centralized record of property seized, held by an order to the bureau. If requested, the bureau shall provide a report of the disposition of property previously held by the bureau as required by this section to any governmental entity to the commissioner or to the Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized. [2013, c. 368, Pt. V, §53 (AMD).]

[2013, c. 588, Pt. A, §36 (AMD) .]

6. Preliminary order. At the request of the State ex parte, the court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property shall issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process shall be subject to the provisions of applicable Maine law. [1987, c. 342, §128 (NEW).]

B. Any property subject to forfeiture under this section may be seized upon process, except that seizure without process may be made when:

- (1) The seizure is incident to:
 - (a) An arrest with probable cause;
 - (b) A search under a valid search warrant; or

- (c) An inspection under a valid administrative inspection warrant;
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a forfeiture proceeding under this section;
- (3) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
- (4) There is probable cause to believe the property has been used or is intended to be used in violation of this Title. [1987, c. 342, §128 (NEW).]

[1987, c. 342, §128 (NEW) .]

SECTION HISTORY

1987, c. 342, §128 (NEW). 1997, c. 373, §161 (AMD). 2011, c. 559, Pt. A, §33 (AMD). 2013, c. 368, Pt. V, §53 (AMD). 2013, c. 588, Pt. A, §36 (AMD).

§2222. CLAIM OF OWNER THAT ILLEGAL USE OF VEHICLE OR BOAT WAS WITHOUT KNOWLEDGE OR CONSENT

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §129 (RP).

§2223. DUMPING OF EVIDENCE; PRIMA FACIE EVIDENCE

1. Destruction of liquor is prima facie evidence that liquor was intended for illegal sale. The pouring out or other destruction of fluids by any person on or about the premises which are about to be or are being searched, for the purpose of preventing the seizure of those fluids by officers authorized to make the search and seizure, is prima facie evidence that the fluids poured out or destroyed were liquor intended for illegal sale.

[1987, c. 342, §130 (RPR) .]

2. Penalties. Any person who violates this section commits a Class E crime.

[1987, c. 342, §130 (RPR) .]

3. Destruction of liquor is prima facie evidence that liquor was intended for illegal sale.

[1987, c. 342, §130 (RP) .]

4. Penalties.

[1987, c. 342, §130 (RP) .]

5. Notice is prima facie evidence that person is a common seller and premises are a common nuisance.

[1987, c. 342, §130 (RP) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §130 (RPR).

§2224. DUTY OF OFFICER ON SEIZURE; PROCEEDINGS*(REPEALED)*

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §131 (RP).

§2225. WARRANT FOR CLAIMANT*(REPEALED)*

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §131 (RP).

§2226. DESTRUCTION TO PREVENT SEIZURE; ARREST OF OWNER; APPLIANCES AND EVIDENCES SEIZED*(REPEALED)*

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §131 (RP).

§2227. REPLEVY PENDING PROCEEDING PROHIBITED*(REPEALED)*

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §131 (RP).

§2228. RECOVERY OF LIQUOR AND DAMAGES UPON FINAL JUDGMENT

Final judgment in proceedings under this chapter shall be in all cases a bar to any civil action for the recovery of any liquors seized or of their value, or for damages alleged to have been sustained by reason of the seizure and detention. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2229. DISPOSAL OF FORFEITED LIQUORS

1. Court or judge to order forfeited liquor to be turned over to the bureau. All spirits declared forfeited by a court under this Title must, by order of the court rendering the final judgment, be turned over to the bureau. All malt liquor or wine declared forfeited by a court under this Title must, by order of the court rendering final judgment, be turned over to the bureau. Liquor forfeited under this section must be disposed of in the same manner as abandoned liquor under section 2230.

[1997, c. 373, §162 (AMD); 2013, c. 368, Pt. V, §61 (REV) .]

2. Sale of forfeited spirits by bureau. Except as provided in paragraph A, the bureau or an entity awarded a contract under section 90 shall restock and resell forfeited spirits at agency liquor stores throughout the State.

A. If any spirits are determined by the court to be unfit or unsatisfactory for consumption or retail sale, the court may order the spirits to be destroyed by any officer competent to serve the process on which they were forfeited. The officer shall make the return accordingly to the court.

(1) The spirits must be destroyed by being poured upon the ground or into a public sewer. [2013, c. 476, Pt. B, §5 (AMD); 2013, c. 476, Pt. B, §6 (AFF).]

[2013, c. 476, Pt. B, §5 (AMD); 2013, c. 476, Pt. B, §6 (AFF) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §162 (AMD). 2013, c. 368, Pt. V, §54 (AMD). 2013, c. 368, Pt. V, §61 (REV). 2013, c. 476, Pt. B, §5 (AMD). 2013, c. 476, Pt. B, §6 (AFF).

§2230. ABANDONMENT OF LIQUOR

The following provisions govern the procedures for handling abandoned liquor. [1993, c. 730, §51 (NEW).]

1. Bureau as repository. Notwithstanding any other provisions of law, the bureau acts as a repository for all liquor found abandoned in this State.

[1993, c. 730, §51 (NEW) .]

2. Procedure. A law enforcement agency that takes custody of abandoned liquor shall:

A. Notify the bureau that the agency has taken custody of the abandoned liquor and forward to the bureau the reason for taking custody and a complete list of the quantities and types of liquor in the agency's custody the day the law enforcement agency takes custody or the next regular business day; and [1993, c. 730, §51 (NEW).]

B. Secure the liquor for a period of 30 days, after which time the agency shall transfer the liquor to the bureau for disposal. [2013, c. 368, Pt. V, §55 (AMD).]

[2013, c. 368, Pt. V, §55 (AMD) .]

3. Filing a claim. A person who wishes to file a claim for abandoned liquor must notify the bureau in writing within the 30-day period prescribed in subsection 2, paragraph B and identify the abandoned liquor. If a claim is not made within the 30-day period, the abandoned liquor becomes the property of the State.

[1993, c. 730, §51 (NEW) .]

SECTION HISTORY

1993, c. 730, §51 (NEW). 1997, c. 373, §163 (AMD). 2013, c. 368, Pt. V, §55 (AMD).

Part 8: LIQUOR LIABILITY

Chapter 100: MAINE LIQUOR LIABILITY ACT

§2501. SHORT TITLE

This Act shall be known and may be cited as the "Maine Liquor Liability Act." [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2502. PURPOSES

1. Primary legislative purpose. The primary legislative purpose of this Act is to prevent intoxication-related injuries, deaths and other damages among the State's population.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Secondary purposes. The secondary legislative purposes are to:

A. Establish a legal basis for obtaining compensation for those suffering damages as a result of intoxication-related incidents in accordance with this Act; [1987, c. 45, Pt. A, §4 (NEW).]

B. Allocate the liability for payment of damages fairly among those responsible for the damages, which will encourage liquor liability insurance availability; and [1987, c. 45, Pt. A, §4 (NEW).]

C. Encourage all servers of alcohol to exercise responsible serving practices. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2503. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1987, c. 45, Pt. A, §4 (NEW).]

1. Intoxicated individual. "Intoxicated individual" means an individual who is in a state of intoxication as defined by this Act.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Intoxication. "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or liquor use.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Licensee. Notwithstanding section 2, subsection 14, "licensee" means any person to whom a license of any kind is issued by the bureau and any person who is required to be licensed to serve liquor.

[2005, c. 539, §11 (AMD) .]

4. Nonlicensee. "Nonlicensee" means any person who is neither a licensee nor an employee or agent of a licensee and is not required to be licensed under this Title.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Server. "Server" means a person who sells, gives or otherwise provides liquor to an individual.

[1987, c. 45, Pt. A, §4 (NEW) .]

6. Service of liquor. "Service of liquor" means any sale, gift or other furnishing of liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

7. Visibly intoxicated. "Visibly intoxicated" means a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual which clearly demonstrates a state of intoxication.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2005, c. 539, §11 (AMD).

§2504. PLAINTIFFS

1. Persons who may bring suit. Except as provided in subsection 2, any person who suffers damage, as provided in section 2508, may bring an action under this Act, against a server for negligently or recklessly serving liquor to an individual.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Persons who may not bring suit. The following may not bring an action under this Act against a server for negligently serving liquor to an individual:

A. The intoxicated individual if he is at least 18 years of age when served by the server; [1987, c. 45, Pt. A, §4 (NEW).]

B. The estate of the intoxicated individual if the intoxicated individual was at least 18 years of age when served by the server; and [1987, c. 45, Pt. A, §4 (NEW).]

C. Any person asserting claims arising out of the personal injury or death of the intoxicated individual if the intoxicated individual was at least 18 years of age when served by the server. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2505. DEFENDANTS

1. Licensee as a defendant. Any server who is a licensee or employee or agent of a licensee who commits an act giving rise to liability, as provided in sections 2506 and 2507, may be made a defendant to a claim under this Act.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Nonlicensee as a defendant. Any server who is a nonlicensee who commits an act giving rise to liability, as provided in section 2506, subsection 1, and section 2507, may be made a defendant to a claim under this Act.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2506. NEGLIGENT SERVICE OF LIQUOR; LIABILITY

1. Negligent service to a minor. A server who negligently serves liquor to a minor is liable for damages proximately caused by that minor's consumption of the liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Negligent service to a visibly intoxicated individual. A server who negligently serves liquor to a visibly intoxicated individual is liable for damages proximately caused by that individual's consumption of the liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Negligent conduct. Service of liquor to a minor or to an intoxicated individual is negligent if the server knows or if a reasonable and prudent person in similar circumstances would know that the individual being served is a minor or is visibly intoxicated.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Server's knowledge of individual's consumption. A server is not chargeable with knowledge of an individual's consumption of liquor or other drugs off the server's premises, unless the individual's appearance and behavior, or other facts known to the server, would put a reasonable and prudent person on notice of such consumption.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2507. RECKLESS SERVICE OF LIQUOR; LIABILITY

1. Reckless service to a minor. A server who recklessly provides liquor to a minor is liable for damages proximately caused by that minor's consumption of the liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Reckless service to a visibly intoxicated individual. A server who recklessly serves liquor to a visibly intoxicated individual is liable for damages proximately caused by that individual's consumption of the liquor.

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Reckless conduct. Service of liquor is reckless if a server intentionally serves liquor to an individual when the server knows that the individual being served is a minor or is visibly intoxicated and the server consciously disregards an obvious and substantial risk that serving liquor to that individual will cause physical harm to the drinker or to others.

For purposes of this Act, the disregard of the risk, when viewed in light of the nature and purpose of the server's conduct and the circumstances known to the server, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation.

[1997, c. 373, §164 (AMD) .]

4. Evidence of reckless conduct. Specific serving practices that are admissible as evidence of reckless conduct include, but are not limited to, the following:

A. Active encouragement of intoxicated individuals to consume substantial amounts of liquor; [1987, c. 45, Pt. A, §4 (NEW).]

B. Service of liquor to an individual who is under 18 years of age when the server has actual or constructive knowledge of the individual's age; and [1987, c. 45, Pt. A, §4 (NEW).]

C. Service of liquor to an individual that is so continuous and excessive that it creates a substantial risk of death by alcohol poisoning. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §164 (AMD).

§2508. DAMAGES

1. Damages. Damages may be awarded for property damage, bodily injury or death proximately caused by the consumption of the liquor served by the server.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Damages under wrongful death and survival laws. Except as otherwise provided in this Act, damages may be recovered under Title 18-A, sections 2-804 and 3-817, as in other tort actions, subject to the damage limit of section 2509.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2509. LIMIT ON AWARDS

1. Limitation on damages for losses other than expenses for medical care and treatment. In actions for damages permitted by this Act, the claim for and award of damages for all losses, except expenses for medical care and treatment, including devices or aids, against both a server and the server's employees and agents, may not exceed \$350,000 for any and all claims arising out of a single accident or occurrence.

[2009, c. 247, §1 (AMD) .]

2. Multiple claimants. When the amount for all losses, except expenses for medical care and treatment, including devices and aids, awarded to or settled for multiple claimants, exceeds the limit imposed by this section, any party may apply to the Superior Court for the county where the server is located to allocate each claimant his equitable share of the total, limited as required by this section.

A. Any award by the court in excess of the maximum liability limit specified by subsection 1 shall be automatically abated by operation of this section to the maximum limit of liability. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 2009, c. 247, §1 (AMD).

§2510. COMMON LAW DEFENSES

Defenses applicable to tort actions based on negligence and recklessness in this State may be asserted in defending actions brought under this Act. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2511. EXCLUSIVE REMEDY

This Act is the exclusive remedy against servers who may be made defendants under section 2505, for claims by those suffering damages based on the servers' service of liquor. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2512. NAMED AND RETAINED; SEVERAL LIABILITY

1. Named and retained. No action against a server may be maintained unless the minor, the intoxicated individual or the estate of the minor or intoxicated individual is named as a defendant in the action and is retained in the action until the litigation is concluded by trial or settlement.

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Several but not joint liability. The intoxicated individual and any server, as described in section 2505, are each severally liable and not jointly liable for that percentage of the plaintiff's damages which corresponds to each defendant's percentage of fault as determined by the court or a jury.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2513. NOTICE REQUIRED

Every plaintiff seeking damages under this Act must give written notice to all defendants within 180 days of the date of the server's conduct creating liability under this Act. The notice must specify the time, place and circumstances of the server's conduct creating liability under this Act and the time, place and circumstances of any resulting damages. No error or omission in the notice voids the effect of the notice, if otherwise valid, unless the error or omission is substantially material. Failure to give written notice within the

time specified is grounds for dismissal of a claim, unless the plaintiff provides written notice within the limits of section 2514 and shows good cause why notice could not have reasonably been filed within the 180-day limit. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2514. STATUTE OF LIMITATIONS

Any action under this Act against a server alleging negligent or reckless conduct must be brought within 2 years after the cause of action accrues. [1987, c. 45, Pt. A, §4 (NEW).]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2515. EVIDENCE OF RESPONSIBLE SERVING PRACTICES

1. Responsible practices. Proof of the server's responsible serving practices is admissible as evidence that the server was not negligent or reckless. Responsible serving practices include, but are not limited to:

- A. The server's and server's employees attendance at an approved server education training course; and [1999, c. 519, §1 (AMD).]
- B. The server's implementation, at the time of service, of responsible management policies, procedures and actions. [1987, c. 45, Pt. A, §4 (NEW).]

[1999, c. 519, §1 (AMD) .]

2. Neither proof nor disproof of negligence or recklessness. Proof or disproof that the server was adhering to responsible serving practices is not by itself proof or disproof of negligence or recklessness.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1999, c. 519, §1 (AMD).

§2516. PRIVILEGES

1. Refusal to serve. No licensee is liable for damages resulting from a good faith refusal to serve liquor to any individual who:

- A. Fails to show proper identification of age; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Reasonably appears to be a minor; or [1987, c. 45, Pt. A, §4 (NEW).]
- C. Is refused service in a good faith effort to prevent him from becoming visibly intoxicated. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Holding identification documents. No licensee is liable for retaining identification documents presented to the licensee as proof of the individual's age for the purpose of receiving liquor provided that:

- A. Retention is for a reasonable length of time in a good faith effort to determine whether the individual is of legal age; and [1987, c. 45, Pt. A, §4 (NEW).]

B. The licensee informs the individual why he is retaining the identification documents. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

3. Other defenses not limited. This section does not limit a licensee's right to assert any other defense provided by law.

[1987, c. 45, Pt. A, §4 (NEW) .]

4. Failure to exercise privileges. A licensee may not be held liable under this Act for failing to exercise any privilege provided in this section. This section does not provide immunity from liability under sections 2506 and 2507.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2517. INSURANCE RECORDS

1. Superintendent shall keep records. The Superintendent of Insurance shall collect and maintain records on the following statistics concerning liquor liability insurance in this State:

A. The number and names of companies writing liquor liability insurance, either as a separate line or in a large policy; [1987, c. 45, Pt. A, §4 (NEW).]

B. The number and dollar amount of premiums collected for liquor liability insurance policies; and [1987, c. 45, Pt. A, §4 (NEW).]

C. The number and dollar amount of claims incurred under liquor liability insurance. [1987, c. 45, Pt. A, §4 (NEW).]

[1987, c. 45, Pt. A, §4 (NEW) .]

2. Superintendent shall make records available. The Superintendent of Insurance shall make available to the Legislature the information collected and maintained under subsection 1.

[1987, c. 45, Pt. A, §4 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW).

§2518. INFORMAL EVALUATION

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1997, c. 373, §165 (RP).

§2519. APPROVAL OF ALCOHOL SERVER EDUCATION COURSES

1. Approval of alcohol server education courses. The commissioner or the commissioner's designee shall approve alcohol server education courses for a period of 2 years that meet the criteria developed under this section. The commissioner may renew approval provided the course meets the criteria applicable at the time of renewal.

Course providers may request renewal by submitting current course material at least 60 days prior to the date of expiration.

[2001, c. 502, §1 (AMD) .]

2. Advisory committee; appointment. The commissioner shall appoint the Server Education Advisory Committee consisting of 8 members, to include:

A. A representative of the faculty at the Maine Criminal Justice Academy; [1987, c. 45, Pt. A, §4 (NEW) .]

B. A liquor enforcement officer; [1995, c. 140, §8 (AMD) .]

C. A representative of the Department of the Attorney General; [1987, c. 45, Pt. A, §4 (NEW) .]

D. A representative of the Department of Health and Human Services; [2011, c. 657, Pt. AA, §76 (AMD) .]

E. A representative of the education community; [1999, c. 519, §3 (AMD) .]

F. A representative of a statewide liquor licensee organization; [2005, c. 539, §12 (AMD) .]

G. A representative of a statewide trial lawyers organization; and [2005, c. 539, §12 (AMD) .]

H. A representative of the bureau. [2005, c. 539, §12 (NEW); 2013, c. 368, Pt. V, §61 (REV) .]

[2011, c. 657, Pt. AA, §76 (AMD); 2013, c. 368, Pt. V, §61 (REV) .]

3. Advisory committee; course criteria. The advisory committee shall determine specific criteria that an alcohol server education course must contain to receive approval. The specific criteria must be based on and include the following.

A. The instructors of the program or the advisor pursuant to subsection 9 possess the relevant skills to provide instruction. [2001, c. 502, §2 (AMD) .]

B. The course provides instruction and the development of skills in the following subject matters:

- (1) Identification of intoxicated individuals and minors;
- (2) Intervention to prevent excessive consumption of alcohol by such methods as serving food and encouraging the consumption of nonalcoholic beverages;
- (3) Making consumers aware of their condition and their responsibility for driving in an intoxicated condition and providing alternate transportation when available;
- (4) Knowledge of state laws relating to the sale and distribution of alcohol and the legal responsibilities of servers and consumers;
- (5) Knowledge of the effect of alcohol by volume and timing of intake in relation to an individual's weight;
- (6) Examination of proof of age identification and methods of detecting false or altered age identification documents;
- (7) Policies and practices to prevent the sale or service of alcohol to minors and visibly intoxicated individuals; and
- (8) The effects of alcohol on the human body, including the disease concept of alcoholism. [1987, c. 45, Pt. A, §4 (NEW) .]

C. Participants are evaluated before taking the course and after completion of the course. [1987, c. 45, Pt. A, §4 (NEW) .]

D. Participants who successfully complete the course and the final evaluation are awarded certificates recognizing that they have successfully completed an approved alcohol server education course. [1987, c. 45, Pt. A, §4 (NEW).]

[2001, c. 502, §2 (AMD) .]

3-A. Precourse evaluation waiver. After review of a course, the advisory committee may exempt that course from evaluating its participants prior to taking the course.

[1999, c. 519, §4 (NEW) .]

4. Advisory committee; review and recommendation. The advisory committee shall review each alcohol server education course submitted to the commissioner and recommend that the commissioner either approve or not approve the course based on whether the course meets the criteria the advisory committee developed under subsection 3.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Fee. The fee for enrollment in a bureau alcohol server education course is \$28 per participant. The fees collected must be retained by the bureau to cover the costs related to alcohol server education training.

[1999, c. 519, §5 (AMD) .]

6. Instructor training. Each instructor providing instruction in an approved alcohol server education course shall biennially attend a seminar on the liquor laws of the State provided by an officer of the bureau. The instructor shall attend the seminar prior to teaching an approved alcohol server education course in this State. If the instructor meets the requirements of subsection 6-A, the instructor must receive an alcohol server instructor's certificate. There is a \$10 fee for the seminar to offset expenses incurred in carrying out this subsection.

[1999, c. 519, §6 (AMD) .]

6-A. Instructor qualifications. In order to qualify for an alcohol server instructor's certificate, an instructor shall:

- A. Attend a seminar biennially as provided in subsection 6; [1999, c. 519, §7 (NEW) .]
- B. Apply for a certificate for each approved course to be instructed; and [1999, c. 519, §7 (NEW) .]
- C. Provide a letter from the administrator of the course approved by the advisory committee to train instructors acknowledging that the instructor is in good standing with the approved course. [2001, c. 502, §3 (AMD) .]

In addition to the requirements of paragraphs A to C, an instructor seeking recertification shall conduct a minimum of 4 courses during the previous certification term for the course for which the instructor is seeking recertification.

[2001, c. 502, §3 (AMD) .]

6-B. Suspension of certificate. The commissioner or the commissioner's designee may suspend or revoke an alcohol server instructor's or advisor's certificate upon the recommendation of the advisory committee. The following are grounds for an action to suspend or revoke a certificate:

- A. Repeated instances of failure to provide timely, accurate or legible information required by subsection 7; [1999, c. 519, §7 (NEW) .]

B. Repeated instances of failure to follow the course outline or cover the course criteria that were used to gain approval; or [1999, c. 519, §7 (NEW).]

C. Receipt of a request to suspend or revoke a certificate from the administrator of the course approved by the advisory committee to train instructors. [1999, c. 519, §7 (NEW).]

[2001, c. 502, §4 (AMD) .]

6-C. Advisor training. Each advisor, pursuant to subsection 9, must be certified under subsection 6-D prior to providing advisory assistance in an approved Internet-based alcohol server education course and shall biennially attend a seminar on the liquor laws of the State provided by an officer of the bureau. The fee for the seminar is the same as in subsection 6.

[2001, c. 502, §5 (NEW) .]

6-D. Advisor qualifications. In order to qualify for an alcohol server advisor's certificate an advisor shall:

A. Attend a seminar biennially as provided in subsection 6; [2001, c. 502, §5 (NEW).]

B. Apply for a certificate for each approved course that the advisor offers services for; and [2001, c. 502, §5 (NEW).]

C. Provide a letter from the administrator of the course approved by the advisory committee to train advisors acknowledging that the advisor is in good standing with the approved course. [2001, c. 502, §5 (NEW).]

[2001, c. 502, §5 (NEW) .]

7. Course accountability. The chief may appoint an officer of the bureau to monitor each alcohol server education course to ensure that the course presents proper training and meets the approved criteria. The bureau shall maintain a record of the participants who have completed an alcohol server training course. Each instructor of an approved course shall provide the chief with the names, addresses, dates of birth and the driver's license numbers, state identification card numbers or social security numbers of students who complete the course and the date of completion. The instructors shall forward \$3 to the bureau for every name submitted. The amounts collected must be retained by the bureau to cover costs related to alcohol server education training.

[1999, c. 519, §8 (AMD) .]

8. Alcohol server education courses; approval; suspension; revocation. The commissioner or the commissioner's designee may refuse to issue or renew approval for an alcohol server education course. The commissioner or the commissioner's designee may suspend or revoke approval for an alcohol server education course upon the recommendation of the advisory committee after reviewing the report of the monitor. The following are grounds for an action to refuse to issue or renew approval or to suspend or revoke approval.

A. The advisory committee finds that an alcohol server education course does not meet the criteria listed in subsection 3 or specific criteria determined by the committee. [1993, c. 266, §36 (NEW).]

B. The course, when presented, does not follow specific criteria determined by the advisory committee before issuance of approval. [1993, c. 266, §36 (NEW).]

C. The instructor of the course does not provide information or access to the monitor as required by subsection 7. [1993, c. 266, §36 (NEW).]

D. Fraud or deceit is used to obtain course approval or in providing the course or issuing certificates. [1993, c. 266, §36 (NEW).]

A person aggrieved by a decision of the commissioner or the commissioner's designee to refuse to issue or renew approval or to suspend or revoke approval for an alcohol server education course may, within 30 days of receipt of that decision, appeal the decision to the District Court.

[2001, c. 502, §6 (AMD) .]

9. Approval of Internet-based alcohol server education courses. The commissioner or the commissioner's designee may approve an Internet-based alcohol server education course if the course meets the criteria developed under this section. An approved Internet-based alcohol server education course must have an advisor, certified under subsection 6-D, available to answer questions for persons using the Internet-based alcohol server education course.

[2001, c. 502, §7 (NEW) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1989, c. 700, §A117 (AMD). 1991, c. 528, §L8 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §L8 (AMD). 1993, c. 266, §§34-36 (AMD). 1993, c. 730, §52 (AMD). 1995, c. 140, §8 (AMD). 1997, c. 373, §§166-169 (AMD). 1999, c. 519, §§2-8 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 502, §§1-7 (AMD). 2005, c. 539, §12 (AMD). 2011, c. 657, Pt. AA, §76 (AMD). 2013, c. 368, Pt. V, §61 (REV).

§2519-A. RULES

The bureau may adopt rules for the purpose of waiving the fee for the alcohol server education course in the event of demonstrated need and inability to pay. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. [1999, c. 519, §9 (NEW).]

SECTION HISTORY

1999, c. 519, §9 (NEW).

§2520. LIQUOR SERVICE EDUCATION

The bureau shall provide educational services regarding retail liquor sales as follows. [1997, c. 373, §170 (AMD).]

1. Seminars. The bureau shall, from time to time, conduct seminars throughout the State to provide retailers and their employees with information on changes in the laws governing retail sales of liquor.

[1997, c. 373, §170 (AMD) .]

2. Informational signs. The bureau shall develop informational signs which may be located in retail establishments. These signs must outline requirements of state law regarding proper identification for retail sales and other information to enhance compliance with state liquor laws.

[1997, c. 373, §170 (AMD) .]

3. Legal pamphlet. The bureau shall prepare a pamphlet summarizing state laws governing retail liquor sales. The bureau shall make single copies of this pamphlet available to retailers.

[1997, c. 373, §170 (AMD) .]

4. Legislative review.

[1991, c. 837, Pt. A, §60 (RP) .]

SECTION HISTORY

1989, c. 526, §§26,28 (NEW). 1991, c. 837, §A60 (AMD). 1997, c. 373, §170 (AMD).

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