

## CHAPTER 27

### MANUFACTURERS AND BOTTLERS OF NONALCOHOLIC BEVERAGES

#### SUBCHAPTER 1

#### GENERAL PROVISIONS

##### §1751. Definitions

As used in this chapter, the following terms shall have the following meanings:

**1. Beverage.** "Beverage" means any non-alcoholic flavored carbonated drink, soda water, non-alcoholic still drinks, diluted fruit or vegetable juices whether sweetened or unsweetened, seasoned or unseasoned with salt or spice, or still or carbonated mineral waters used as a drink. The term shall not include undiluted concentrated fruit or vegetable juice nor such juice when reconstituted to its original volume.

**2. Beverage plant.** "Beverage plant" means any place, premise or establishment, or any part thereof, where beverages are assembled, processed, manufactured, bottled or converted into form for distribution or sale and such rooms or premises where beverage product manufacturing equipment and containers are washed, sanitized and stored.

**3. Bottling.** "Bottling" means filling, capping, packaging and enclosing in bottles or other containers.

**4. Non-nutritive sweeteners.** "Non-nutritive sweeteners" mean saccharin, saccharin salt, sodium cyclamate, calcium cyclamate and such other artificial sweetening agents as may be permitted in regulations promulgated by the Commissioner of Agriculture, Conservation and Forestry. [PL 1979, c. 731, §19 (AMD); PL 2011, c. 682, Pt. W, §6 (REV).]

**4-A. Small beverage producer.** "Small beverage producer" means a person or beverage plant that manufactures or bottles no more than 10,000 gallons of beverages a year. [PL 2017, c. 113, §1 (NEW).]

**5. Sweetening ingredient.** "Sweetening ingredient" means cane sugar, beet sugar, dextrose, corn syrup, in liquid or dried form, honey or any syrup made from any such sugars or any combination of such sugars.

#### SECTION HISTORY

PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2017, c. 113, §1 (AMD).

##### §1752. Penalties

Any person, firm or corporation who shall violate this chapter, or shall neglect or refuse to comply with the provisions thereof, shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense.

#### SUBCHAPTER 2

#### COMMISSIONER OF AGRICULTURE

##### §1801. Rules and regulations

The Commissioner of Agriculture, Conservation and Forestry shall, in a manner consistent with the Maine Administrative Procedure Act, after investigation, adopt and promulgate rules and regulations to supplement and give full effect to this chapter. Such rules and regulations shall establish sanitary regulations for manufacture and bottling of beverages, including the construction, sanitary conditions of buildings, grounds and equipment, sanitary conditions of persons in direct contact with the beverage or its ingredients. Such rules and regulations shall, among other things, establish standards of identity and composition, including a maximum standard of content for any substance that may be deleterious and minimum standards of composition for the proper enforcement of this chapter and for the protection of the public health and welfare. Such rules and regulations shall have the force of law. [PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

It shall be unlawful to sell, offer for sale or have in possession with intent to sell any beverage not manufactured or bottled in a beverage plant located in this State and licensed by the commissioner or located without this State and approved by the commissioner pursuant to section 1851.

Beverages manufactured or bottled in a beverage plant not so licensed or approved shall be deemed to be a misbranded food within the meaning of Title 22, section 2157.

#### SECTION HISTORY

PL 1977, c. 694, §581 (AMD). PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

#### **§1802. Revocation of licenses**

The Commissioner of Agriculture, Conservation and Forestry shall have the power, in a manner consistent with the Maine Administrative Procedure Act, to refuse to renew, and the District Court, upon complaint of the commissioner or the Attorney General shall have the power, in a manner consistent with the Maine Administrative Procedure Act, to revoke or suspend any license issued under section 1851 when it is determined that any of the provisions of this chapter, or rules or regulations promulgated thereunder, have been violated. Any person, firm or corporation whose license has been so revoked or suspended shall discontinue the manufacture and sale within the State of beverages until said chapter has been complied with and a new license issued, or the suspension removed. The District Court may revoke or suspend such license temporarily until there is a compliance with this chapter or permanently for the unexpired period of such license. [PL 1979, c. 731, §19 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF); PL 2011, c. 657, Pt. W, §6 (REV).]

#### SECTION HISTORY

PL 1977, c. 694, §582 (AMD). PL 1979, c. 731, §19 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2011, c. 657, Pt. W, §6 (REV).

#### **§1803. -- notice; procedure; appeals**

**(REPEALED)**

#### SECTION HISTORY

PL 1977, c. 694, §583 (RP).

#### **§1804. Disposal of fines and fees**

All fees received by the Commissioner of Agriculture, Conservation and Forestry under this chapter, and all money and fines received by him under this chapter, by virtue of Title 7, sections 13 and 15, shall be paid by him to the Treasurer of State for deposit in the General Fund. [PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

#### SECTION HISTORY

PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

**SUBCHAPTER 3****LICENSING AND OPERATION****§1851. License required; fee; expiration and renewal**

No person within this State may manufacture or bottle for sale any beverage without first having filed with the Commissioner of Agriculture, Conservation and Forestry an application for a license accompanied with the fee specified in this section and having been issued a license to operate a beverage plant. Upon receipt of such application containing information required by the commissioner and being satisfied that the applicant has complied with this chapter and rules adopted under this chapter, the commissioner shall issue the applicant a license to manufacture and sell beverages. [PL 1993, c. 410, Pt. S, §4 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

No person manufacturing or bottling any beverage outside of the State for retail sale within the State may sell or offer to sell the same within the State unless that person has made application and secured a license to sell beverages from the commissioner upon the payment of the fee specified in this section. The commissioner may issue a license to sell beverages manufactured or bottled outside of the State upon being satisfied from inspection by an inspector of the department or from a statement from the agency having enforcement of the beverage law in the state where the beverage establishment is located, that the establishment complies with the requirements of this chapter and rules adopted under this chapter, and upon the commissioner's approval of the establishment on the basis of the inspection or statement. [PL 1993, c. 410, Pt. S, §4 (AMD).]

Beginning August 1, 2000, each license or license renewal issued expires on the 31st day of December following the date of issuance or on the date provided by the provisions of the Maine Administrative Procedure Act as to license expiration, whichever date is later, unless sooner revoked as provided in section 1802, and must be renewed annually thereafter subject always to such revocation. When an initial license is issued or when a license is renewed between August 1, 2000 and December 31, 2001, the license fee is prorated based on the number of months the license is valid and the annual license fee. [PL 1999, c. 598, §2 (AMD); PL 1999, c. 598, §3 (AFF).]

The fee for a license issued under this section is based on the number of persons employed by the manufacturer or bottler. The commissioner shall adopt rules to establish a schedule of fees for licenses issued under this subchapter. Fees must be appropriate to the size of the beverage plant. Notwithstanding Title 5, section 8071, subsection 3, paragraph B, rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 539, Pt. GGGG, §8 (AMD).]

**SECTION HISTORY**

PL 1977, c. 694, §584 (AMD). PL 1993, c. 410, §S4 (AMD). PL 1999, c. 598, §2 (AMD). PL 1999, c. 598, §4 (AFF). PL 2007, c. 539, Pt. GGGG, §8 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

**§1852. Plant requirements**

Every beverage plant used for the preparation, manufacture and bottling of any beverage must be adequately lighted and ventilated and all floors must be constructed of cement, concrete or tile laid in cement or other material impervious to water, and must have sufficient pitch to ensure drainage; walls and ceilings must be varnished or painted in light color and kept clean; doors, windows and other openings of any room in which beverages or the ingredients of such beverages are prepared must be screened. Wash basins, sinks and toilets must be provided for employees. A toilet may not open directly into any room used for the preparation or bottling of any beverage. The syrup room must be separately enclosed, well ventilated and lighted, provided with sinks and taps for hot and cold water, thoroughly

protected against vermin, flies, dirt and dust and so constructed as to be easily cleaned. [PL 2017, c. 113, §2 (AMD).]

Except for a small beverage producer, every beverage plant must be equipped with mechanical container-washing apparatus and machinery, and with mechanical and sanitary machines for bottling and for carbonating, if carbonated beverages are manufactured. A small beverage producer may wash and fill glass beverage containers by hand and carbonate beverages by hand if all other requirements of this section are met. [PL 2017, c. 113, §2 (AMD).]

All machines, apparatus, vessels, fountains, tanks or other equipment, caps and ingredients used in the manufacture of beverages must be kept in a sanitary condition. No vessels or tanks may be used for syrup mixing or for storing such mixed syrup unless they are of glass or stainless steel, porcelain lined, block tin lined or made of some other suitable impervious material. [RR 2017, c. 1, §29 (COR).]

Beverage plants must be located in buildings so constructed that the bottling operation is performed in separate rooms, but such construction must allow for modern practices in the loading or unloading of trucks in the same rooms, and for modern practices in the use of conveyor systems or other means of mechanical handling. [PL 2017, c. 113, §2 (AMD).]

#### SECTION HISTORY

RR 2017, c. 1, §29 (COR). PL 2017, c. 113, §2 (AMD).

#### §1853. Labeling

Whenever artificial colors or flavors are used in the manufacture of a beverage, the bottle or other container or the crown thereof shall be distinctly labeled "Artificially colored and flavored." Whenever artificial coal tar colors are used, nothing but certified colors as approved by the United States Food and Drug Administration shall be allowed.

All open containers or receptacles that contain artificial color or artificial flavor shall be so labeled, and said labels shall be prominently displayed on container or suitable location so as to be likely to be read by the purchaser.

#### §1854. Cleaning of containers

All reusable glass containers used in the manufacture of beverages must, before being filled or refilled, be thoroughly cleaned and sanitized by washing in a solution of not less than 3% caustic alkali at a temperature not lower than 110° Fahrenheit to be followed by a rinsing in potable water. All other reusable and all single service containers must be cleaned and sanitized before being filled or refilled by suitable means approved by the Commissioner of Agriculture, Conservation and Forestry. [PL 2017, c. 113, §3 (AMD).]

#### SECTION HISTORY

PL 1977, c. 696, §242 (AMD). PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2017, c. 113, §3 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Special Session of the 130th Maine Legislature and is current through October 31, 2021. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.