

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: April 2, 2021

To: Veterans and Legal Affairs Committee

From: Janet Stocco, Legislative Analyst

LD 591 **An Act Regarding Agency Liquor Store Licensing** (*Rep. Caiazzo*)

SUMMARY

As shown in the chart below, this bill would add one more potential agency liquor store license to the maximum number of licenses permitted by law in municipalities with a population of more than 20,000:

Municipal Population	Current maximum number of licenses	LD 591 maximum number of licenses	Municipalities affected by LD 591 (based on 2010 Census data)
> 60,000	11	<i>12</i>	Portland
45,001 to 60,000	10	<i>11</i>	None
30,001 to 45,000	9	<i>10</i>	Bangor, Lewiston
20,001 to 30,000	8	<i>9</i>	Brunswick, Sanford, Biddeford, Auburn, South Portland
15,001 to 20,000	7	Same	None
10,001 to 15,000	6	Same	None
5,001 to 10,000	4*	Same	None
2,000 to 5,000	3*	Same	None
< 2,000	1*	Same	None

* Under current law and LD 591, BABLO *may* issue one additional license in a municipality with a population < 10,000 after considering the impact of the seasonal population or tourism as well as other related information provided by the municipality requesting the license.

ADDITIONAL INFORMATION:

Recent legislation. Through [Public Law 2019, ch. 74](#), the 129th Legislature increased the maximum number of agency liquor store licenses in the following ways:

- It created a new category of municipalities with a population over 60,000 for which up to 11 agency liquor stores may be licensed. Previously, these municipalities were subject to the 10-license-maximum applicable to all municipalities with a population exceeding 45,000.
- It authorized the issuance of up to 7 agency liquor store licenses in municipalities with populations between 15,001 and 20,000 and up to 6 agency liquor store licenses in municipalities with populations between 10,001 and 15,000. Prior to the law, only 5 agency liquor store licenses could be issued in these municipalities.

Agency liquor store licensing under current law. BABLO may not issue agency liquor store licenses in a municipality or unincorporated place unless that jurisdiction has voted in favor of allowing the sale

of spirits for off-premises consumption. [§453\(1\)](#). The statutory process for issuing an agency liquor store license is as follows:

1. BABLO must give public notice that an agency liquor store license is available in a particular municipality or unincorporated place and invite all interested parties to apply. [§453-A\(2\)](#)
2. After receiving the applications, BABLO must (1) notify the municipality of the proposed location of each applicant and (2) conduct an investigation to determine the feasibility of the location and type of facility—taking into consideration the factors listed below. [§453-A\(4\)](#), [\(5\)](#).
3. BABLO must receive testimony and deliberate on the applications at a hearing. Notice must be given to all agency liquor stores located within 5 miles of a proposed store. [§453-A\(5-A\)](#).
4. Factors BABLO is required by statute to consider when evaluating applications, [§453\(2-C\)](#) and [§453-A\(5\)](#):
 - Whether applicant has violated Title 28-A while licensed to sell malt liquor or wine.
 - Whether applicant “will be able to stock” the following upon issuance of a license, purchased from the State using a bank check or other certified financial instrument:

Municipal population	Stock requirements by statute	# SKUs required by rule
$\geq 1,000$	$\geq \$10,000$ worth of spirits	100
≤ 999	$\geq \$5,000$ worth of spirits	Not stated in the rules, but BABLO requires 50 SKUs

- Whether applicant demonstrates likelihood of being “a responsible licensee.”
 - The absence of an existing agency liquor store with $< 3,000$ ft² of retail space in a downtown location (note: BABLO is not required to consider the availability of parking space for a store with $< 3,000$ ft² of retail space in a downtown location).
 - The proximity of the applicant to and potential impact the applicant’s location may have on existing agency liquor stores. (By statute, the bureau may deny a license if it determines the proposed location is too close in proximity to an existing agency liquor store.)
 - Any other factors BABLO considers appropriate, which would likely include the following additional statutory requirements: licensees must maintain a stock of at least \$1,000 in groceries/other non-liquor merchandise, [28-A M.R.S. §1201\(6\)](#), and licensees generally may not be located within 300 feet of any public or private school or church, [28-A M.R.S. §351](#).
5. BABLO must notify every applicant who has been denied a license and provide reasons for the denial by certified mail; appeals may be brought within 30 days in District Court. [§453-A\(7\)](#).

Municipal population determinations. BABLO uses decennial Census Data, rather than interim population estimates, to establish the population of a municipality for purpose of determining the number of available agency liquor store licenses. The State Economist does not anticipate receiving the new 2020 Census Data until September 2021; until then, 2010 census data will be used. In addition, according to [information on BABLO’s website](#) (see attached), BABLO has the “sole authority to determine which municipalities to open” for applications for additional agency liquor store licenses when the maximum statutory number of licenses is not met. In making this decision, BABLO considers several factors, including, whether there is an opportunity to increase sales for the State’s spirits business; whether the municipality’s population is underserved regarding access to spirits; whether any

business has shown interest in obtaining an agency liquor store license; and the type of businesses already licensed in the municipality. BABLO generally announces the availability of agency liquor store licenses “twice annually in the January/February and July/August timeframes.”

AMENDMENTS PROPOSED AT PUBLIC HEARING

RSVP Discount Beverage proposed amending the bill (on p.1, line 5) to remove the provision that would increase from 10 to 11 the number of agency liquor store licenses available in municipalities with populations exceeding 60,000.

TECHNICAL ISSUES

None.

FISCAL IMPACT

Not yet determined.

Attachment: BABLO Information on Agency Liquor Store Selection Process



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0008

How to Become an Agency Liquor Store in Maine

The licensing process for agency liquor stores is different from licensing to sell beer and/or wine for off premises consumption.

Based on a population formula found in Title 28-A, section 453, every municipality that has voted to allow the sale of spirits for off premises consumption, the bureau may issue at least one (1) and up to eleven (11) licenses. The population formula is as follows:

- Eleven (11) agency liquor store licenses in a municipality with a population over 60,000
- Ten (10) agency liquor store licenses in a municipality with a population over 45,000 but less than 60,001
- Nine (9) agency liquor stores in a municipality with a population over 30,000 but less than 45,001
- Eight (8) agency liquor stores in a municipality with a population over 20,000 but less than 30,001
- Seven (7) agency liquor stores in a municipality with a population of at least 15,000 but less than 20,001
- Six (6) agency liquor stores in a municipality with a population of at least 10,000 but less than 15,001
- Four (4) agency liquor stores in a municipality with a population of at least 5,000 but less than 10,001
- Three (3) agency liquor stores in a municipality with a population of at least 2,000 but less than 5,001
- One (1) agency liquor store in a municipality where the population is less than 2,000

The Bureau has the sole authority to determine which municipalities to open to seek applicants to fill available agency liquor store licensing slots. Generally, the Bureau announces the opening of municipalities twice annually in the January/February and July/August timeframes. In determining whether to open a municipality, the Bureau reviews at the following:

- Does the municipality have a strategic opportunity to increase sales for the State's spirits business?
- Is the municipality's population underserved relative to access to the sale of spirits?
- Has any business shown interest in becoming licensed as an agency liquor store?
- What is the mix of types of businesses of the existing agency liquor stores in the municipality and is the municipality missing a type of business needed to meet consumers' needs in that municipality?

The process after a municipality is opened for licensing consists of completing the application process by a specific deadline, getting the proposed location inspected by the Bureau's licensing staff and conducting a public hearing to hear testimony and take evidence in support of the applications being considered.

Once licensed, there are on-going requirements for agency liquor stores that include maintaining on-hand inventory of spirit products based on the population of the municipality. If the population is over 1,000, the inventory is at least \$10,000 and 100 SKUs and if under 1,000, the inventory is at least \$5,000 and 50 SKUs.

For those interested in becoming an agency liquor store, an email of interest can be sent to the Bureau at MaineLiquor@Maine.gov. Your interest will be noted for the future and if the municipality that you are seeking to be licensed in is opened, you will be automatically notified of the application process.