

## OFFICE OF POLICY AND LEGAL ANALYSIS

**Date:** January 28, 2022  
**To:** Veterans and Legal Affairs Committee  
**From:** Janet Stocco, Legislative Analyst  
**LD 1643** **An Act To Correct Errors, Inconsistencies and Conflicts in and To Revise the State's Liquor Laws (Sen. Luchini)**

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## LEGISLATIVE HISTORY

[Resolve 2019, chapter 15](#) directed the Office of Policy and Legal Analysis (OPLA) to “prepare an analysis regarding inconsistencies, duplications and ambiguities contained within the text” of Title 28-A of the Maine Revised Statutes and to submit a report to the VLA Committee by January 1, 2020.

In the fall of 2019, a five-member “Title 28-A Revision Subcommittee” of the VLA Committee, comprised of Senator Luchini, Representative Schneck, Senator Cyrway, Representative Strom and Representative Hickman, held six public meetings to review many of the inconsistencies, duplications and ambiguities within Title 28-A that were identified in a draft version of the OPLA report. Representatives from BABLO and from stakeholder groups attended and participated in these meetings. The subcommittee’s meeting materials, as well as copies of the draft and final versions of OPLA’s report, are posted on the VLA Committee’s website at the following link: <http://legislature.maine.gov/opla/joint-standing-committee-on-veterans-and-legal-affairs/9443>.

While the Title 28-A Revision Subcommittee did not have time to review and address all of the topics in the OPLA draft report and, with respect to the topics it did review did not believe that every item identified in the draft report necessitated legislative action, the subcommittee did unanimously propose extensive amendments to Title 28-A. The subcommittee’s recommendations were encapsulated in three bills, two of which included proposals to clarify Title 28-A in ways that the Subcommittee characterized as potentially significant substantive changes to the law that should be considered on their own merits:

- [LD 2088](#), *An Act To Clarify the Laws Governing Financial Relationships between Entities within the Three-tier System for Distribution of Alcohol*, which clarified that the three-tier prohibitions apply to manufacturers, out-of-state distributors and retailers of spirits and was enacted as [P.L. 2019, ch. 665](#).
- [LD 2089](#), *An Act To Clarify Certificate of Approval Requirements under the State's Liquor Laws*, which clarified that out-of-state spirits suppliers (including out-of-state manufacturers and out-of-state distributors) must obtain certificates of approval before exporting their spirits products to Maine and was enacted as [P.L. 2019, ch. 615](#) (effective September 1, 2020).

The bulk of the subcommittee’s recommendations for clarifying and revising the State’s liquor laws were presented in [LD 2131](#), which was introduced in the Second Regular Session of the 129th Legislature. The VLA Committee held a hearing and single work session on LD 2131 before the Legislature adjourned due to the COVID-19 pandemic. In July 2020, the VLA Committee held a remote work session and unanimously voted in favor of [an amendment](#) to LD 2131 that incorporated several suggestions made by BABLO, corrected several technical issues, and harmonized the text of the bill with the newly enacted laws governing the three-tier system and certificates of approval. LD 2131 ultimately died, however, when the Legislature did not reconvene.

## BILL SUMMARY

This bill standardizes the language, corrects errors, conflicts, ambiguities, omissions and inconsistencies in and revises the State’s liquor laws. The bill represents the proposal in LD 2131, as amended by the VLA Committee.

The tables below reproduce the language of the LD 1643 summary and explain where these provisions are located in the bill. Unfortunately, some provisions of the LD 1643 summary are inaccurate; those inaccuracies in the summary are corrected with ~~strike through~~ & underline text in the tables below.

**Note:** Provisions of the bill that substantively change current law or practice are highlighted. For purposes of this summary, a provision that resolves a conflict or conforms the law to existing practice—as reported by BABLO and stakeholders during the subcommittee meeting process—is not considered substantive.

#### Amendments outside of Title 28-A

<i>Bill page</i>	<i>Statute</i>	<i>Summary</i>	<i>vote</i>
1	17 MRSA §2003-A	Changes the headnote of Title 17, section 2003-A to clarify that this section of law prohibits public drinking.	
93	36 MRSA §1811(1)(D)	Changes the cross-reference to 28-A M.R.S. §1355-A(2)(F), the sales tax on liquor samples sold by in-state manufacturers, which is moved to §1355-A(2)(B)(2) on the top of p. 65 of the bill.	

#### Amendments to Title 28-A.

<i>Summary</i>	<i>Cite</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
1. It makes a number of changes to address ambiguities, inconsistencies and conflicts in the laws governing <b>certificates of approval (COAs)</b> :				
<del>A. It resolves a conflict in the law by removing in-state manufacturers, that receive licenses, from a provision requiring persons engaged in certain activities to obtain certificates of approval.</del>	This was an amendment to §1351 in LD 2131 but is not in LD 1643 as the change was made by <a href="#">P.L. 2019, ch. 615, §2</a> .			
B. It changes from a [COA] to a license the type of authority that a person that operates a special warehouse storage facility must obtain because the laws specific to certificate of approval holders generally do not apply to special warehouse storage facilities. It further clarifies which laws are applicable to licensed special warehouse storage facilities.	§1371 §1403(1), (2)	p. 76 p. 78	p.137 p.141	
C. It removes ambiguities by clarifying which of the general qualification and application requirements for liquor licenses apply to applicants for a certificate of approval and	§601, §602, §604, and §651, §652	p.22-23 p.25-27	p.49-51 p.55-56	
by specifying that persons that have been issued [COAs] are subject to administrative discipline for violating liquor laws and rules under Title 28-A, chapter 33 to the same extent as persons that have been issued licenses.	§§801-805	p.32-37	p.74-78	
D. It removes a conflict in the law by repealing a provision requiring [BABLO] to deposit the yearly fees paid by [persons with COAs] into the General Fund because, under Title 28-A, section 83-B, the bureau is directed to deposit its net revenues in the General Fund.	<i>Repeal</i> §1362 <i>Compare:</i> §83-B(10)	p.75	p.134	
2. It removes ambiguous language from the Title 28-A definitions section stating that only “responsible persons” or “persons of good reputation” may obtain certain types of liquor licenses but retains the general character requirements for licensure set forth in section 654.	§2(15) <i>Compare:</i> §654	p.3-6 n/a	p.4-6 p.59	
3. It clarifies that agency liquor stores sell not only spirits but also malt liquor and wine.	§2(1)	p.1	p.1	

<i>Summary</i>	<i>Cite</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
<p>It moves the definitions of “pool hall” and “minibar” into and the definitions of “club member,” “hotel guest,” “dining car,” “passenger car” and “vessel” out of the subsection of law that provides definitions for the types of establishments eligible to obtain retail liquor licenses.</p> <ul style="list-style-type: none"> <li>• See bill p.4-6: repeal of §2(19-A) (“minibar”); §2(23-A) (“pool hall”) and relocated definitions in §2(L-1) and (N-1).</li> <li>• See bill p. 2-8: new §2(9-B) from §2(15)(D)(1) (“club member”); new §2(12-B) from §2(15)(H)(3) (“hotel guest”); new §2(10-B) from §2(15)(E) (“dining car” or “passenger car”); new §2(33-A) from §2(15)(V) (“vessel”). Note: railroad and vessel corporations in new §2(15)(P-1 &amp; V) receive public service corporation licenses under §1077 (bill p. 60), not each dining &amp; passenger car or vessel.</li> </ul>			p.4-6	
<u>It streamlines the “hotel guest” definition and adds a new, similar definition of “bed and breakfast guest.”</u>	§2(2-C) and §2(12-B)	p.1-2	on p.5 currently	
It also ensures consistent use of these defined terms throughout the Title.	<i>Examples:</i> §705(1-B) §1051(3) §1072	p.27 p.41 p.54	p.62 p.89 p.107	
4. It replaces the word “club” with the word “center” in the statutes describing the requirements for licensure of indoor racquet centers (§2(15)(K)), indoor ice skating centers (§2(15)(J)) and curling centers (§2(15)(D-1)) to dispel confusion regarding whether the licensure requirements applicable to clubs apply to these centers.	§2(15); §1001-§1005 <i>Compare:</i> §§ 1072 vs. 1073	p.3-4 p.37-39  p.54-55	p.4-5 p.79-83  p.107-8	
It also corrects several errors in the law that, in combination, suggest curling centers may be licensed to sell only wine and not spirits or malt liquor. <i>But see</i> §1073(1) (may be licensed to sell spirits, wine & malt liquor); bill p.55.	§1001-§1005	p.37-38	p.79-83	
5. It makes a number of changes to the laws requiring that certain <b>on-premises retail licensees either offer food to the public or sell a specific amount of food to the public</b> to maintain their eligibility for a liquor license. See OPLA <a href="#">Handout</a> on Food-Sales Requirements in Title 28-A.				
<p>A. Replacing several duplicative definitions of “full course meal” with the substantively identical definition of “full meal” that also appears in current law and ensuring consistent use of this defined term throughout the Title;</p> <ul style="list-style-type: none"> <li>• See repeal of “full [course] meal” definitions in §2(15)(R-1) &amp; (R)(1) on bill p.5 and §1208(2)(C) on bill p.63.</li> </ul>	§2(11-E) §10(2-B)(B) §1051(4)	p.2 p.11 p.41	n/a p.14 p.89	
B. Removing language regarding the service of meals from the definition of “hotel,” because hotels are not required to sell <i>meals</i> to the public under existing law — instead, they are only required to sell <i>food</i> ;	§2(15)(H) <i>See</i> §1061(3)	p.4 p.50	p.5 p.100	
C. Removing a conflict in current law by specifying that a hotel with a Class I-A license is <i>not</i> required to have 10% of its gross annual income from the sale of food;	§1061(3) <i>See</i> §1002(3)	p.50 n/a	p.100 p.80	
D. Clarifying that, to calculate whether a hotel that does not have a Class I-A license has satisfied the requirement that at least 10% of its gross annual income be from the sale of food, the hotel's income from the rental of rooms or from the sale of liquor in separately licensed minibars is not included. This new provision matches current practice and mirrors an existing provision of law that excludes income from the bowling business in calculating whether [a] bowling center has satisfied the requirement that at least 10% of its gross annual income be from the sale of food;	§1061(3) <i>Compare:</i> §1062(3)(B) & §1073(2) <i>moved to new</i> §1073-A(3)	p.50  p.51 p.55 p.55	p.100  p.101 p.108 n/a	
E. Clarifying that qualified catering services may be located in unincorporated places and filling an omission in current law by specifying that a licensed part-time qualified catering service that operates for no more than 3 months in a year in a municipality having a population of 20,001 to 30,000 persons must have a minimum annual gross income of \$10,000 from the sale of food to the public. See <a href="#">Title 28-A Report, Appendix F</a> (on p. 60 of report);	§1076(2) & new §1076(3)(C) (2)(a) - (b)	p.58  p.59	p.110  n/a	

<i>Summary</i>	<i>Cite</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
F. Standardizing language regarding [BABLO's] assessment of whether an applicant for an initial on-premises retail license is likely to meet or an applicant for renewal of an on-premises retail license has met any applicable food-sales requirements; and	§1061(3-A), (3-B): hotels; §1062(4), (5): restaurant; §1063(3), (4): Class A rest/lounge; <i>new</i> §1073-A(4), (5): bowling center Bill p. 50-55; binder p.100-102			
G. Establishing a new one-year grace period for an on-premises retail establishment that applies for license renewal but did not meet an applicable food-sales requirement during the previous year.	See all sections cited in row above.			
6. It corrects an error in current law indicating that licensed Class A restaurants and Class A restaurants/lounges must purchase spirits that they will offer to customers as complimentary samples <i>from the bureau</i> and instead provides that those spirits must be purchased <i>from reselling agents</i> . <i>Note: this change is similar to summary item #22(B) below.</i>	§1055(1)(G) <i>Compare</i> §606(1-A)	p.49  p.24	p.98  p.53	
7. It defines “spirits supplier,” a previously undefined term, and standardizes the statutory language used to describe spirits suppliers throughout the State's liquor laws, including by removing references to spirits brokers that are now included in the “spirits supplier” definition and removing statutory language made redundant by the new terms.	§2(31-C) <i>Examples:</i> §2(31-B), §85, §90 §1052-D	p.8  p.8 p.14-17 p.45-48	n/a  p.9 p.23-26 p.93-96	
It also newly authorizes spirits suppliers to offer sweepstakes, games and contests inside packages of spirits under the same conditions that licensed Maine manufacturers, wholesale licensees and retail licensees may offer sweepstakes, games and contests inside packages of liquor.	§708-A	p.29-30	p.68	
<u>It aligns the definition of “out of state spirits supplier,” enacted in P.L. 2019, ch. 665, §10 (bill about three-tier ownership prohibitions) with the provisions of P.L. 2019, ch. 615 (requiring COAs for importing spirits to Maine).</u>	§707(8)(B)	p.27	p.65	
8. It replaces the term “liquor,” which is defined for purposes of the State's liquor laws to mean malt liquor, wine and spirits, with more specific terms in several statutes when all 3 types of alcohol are not intended to be included.	<i>Examples:</i> §90, §455(1) §1074(2), (3)	p.15-16 p.20 p.56	p.24-26 p.45 p.108	
9. It removes unnecessary statutory references to fortified wine in statutes that govern wine generally, because “wine” is defined for purposes of the State's liquor laws to include fortified wine.	§83-B(8) §708-C(2) §1071(6) §1401(1), (9)	p.12-13 p.30 p.53 p.77	p.20 p.68 p.106-7 p.138-9	
<u>It also removes references to “fortified wine” from spirits-regulation statutes, because fortified wine was removed from the laws controlling the sale and distribution of “spirits” via P.L. 2013, ch. 269, Part C. Fortified wine is now regulated as a type of wine.</u>	§3-B(1)(A) §123(2), (4) §353	p.9 p.18 p.19	p.10 p.28 p.38	
10. It resolves an inconsistency by providing that public service corporation licenses are issued to airline corporations, railroad corporations and vessel corporations and not the individual aircraft, dining cars, passenger cars and vessels that those corporations operate in the State. It also removes a duplicative statute governing public service corporations and standardizes the language used throughout the Title regarding public service corporations.	§2(15)(A), (P-1), (W)  §652(6)  §1077	p.3-6  p.27 p.60-61	p.4-6  p.p.56 p.113-4	

Summary	Cite	Bill	Binder	vote
11. It clarifies an ambiguity in the law by specifying that the term “wholesale licensee” as used in the State's liquor laws means only a licensed in-state wholesaler of malt liquor or wine and not an out-of-state wholesaler of malt liquor or wine that has been issued a certificate of approval. See <a href="#">Title 28-A Report, Appendix J</a> (on p. 67-72 of report).	§2(34) §1401(1) <i>Example:</i> §707-A(2)(C)	p.8 p.77  p.27	p.9 p.138  p.66	
It also extends the prohibition against a wholesale licensee selling to another wholesale licensee any malt liquor or wine that has not been purchased from a certificate of approval holder or a licensed special warehouse storage facility to a prohibition against a wholesale licensee selling such products to any purchaser, including a retail licensee.	§1403(2)	p. 78	p.141	
12. It replaces the phrase “wholesale liquor provider” with the phrase “wholesale spirits provider” throughout the State's liquor laws to more accurately describe the scope of that entity's authority in the State. <ul style="list-style-type: none"><li><i>Examples of uniform use of this term:</i> §708-C (replace “State’s wholesale liquor provider” on bill p.30, line 32); §1355-A(5)(G) (replace “wholesaler contracted by the bureau under section 90” on bill p.72, lines 2-3).</li></ul>	Repeal §501 & enact new §2(34-A)	p.21  p.8-9	p.48  n/a	
It also removes an inconsistency in the law by specifying that the wholesale spirits provider and the principal officers of the wholesale spirits provider may not hold or have a direct financial interest in an agency liquor store license or a license to manufacture <del>any type of liquor</del> <u>spirits</u> in this State or another state.	§90(2), (3) §502	p.15 p.21	p.24 p.49	
13. It makes several changes to the <b>laws governing hard cider</b> to address ambiguities and omissions in those laws in a manner that matches current practice, including by making the following changes. See <a href="#">Title 28-A Report, Appendix B</a> (on p. 49 of report).				
A. Although hard cider technically meets the definition of “wine” under existing law, it adds clarifying language expressly stating that hard cider is considered “wine” for purposes of the Title.	§2(12-A) §2(36)	n/a p.9	p.3 p.9	
B. It clarifies that hard cider may be sold by retailers licensed to sell either malt liquor or wine for on-premises or off-premises consumption.	§14(1)	p.12	p.15	
C. It provides that hard cider may be sold and distributed within the State by wholesale licensees authorized to sell and distribute either malt liquor or wine within the State.	§14(2)	p.12	p.15	
<del>D. It clarifies that hard cider is not subject to the general 60¢ per gallon excise tax on wine set forth in Title 28-A, section 1652, subsection 2. Hard cider products are instead subject only to the 35¢ per gallon excise tax on hard cider set forth in the same subsection.</del>	This was an amendment to §1652(2) in LD 2131 but is not in LD 1643 as the change was made by <a href="#">P.L. 2021, ch. 8, §9.</a>			
14. It makes several changes to the laws governing <b>low-alcohol spirits products</b> to address ambiguities, inconsistencies and omissions in those laws, including by making the following changes. See <a href="#">Title 28-A Report, Appendix B</a> (on p. 50 of report).				
A. It clarifies that products containing less than 1/2 of 1% of alcohol by volume are not considered low-alcohol spirits products, just as all products containing less than 1/2 of 1% of alcohol by volume are not considered liquor and thus not subject to regulation under the Title.	§2(16-A) <i>Compare</i> §2(16)	p.6  n/a	p.6  p.6	
B. It newly specifies that licensed Maine distilleries, small distilleries, <del>tenant breweries</del> and rectifiers are authorized to produce low-alcohol spirits products and	§2(11)(B), (29-A)(B), (25) & new §1355- A(5)(J) on p.2, 6, 7 & 72		p.3, 7, 8 & n/a	

<i>Summary</i>	<i>Cite</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
that licensed Maine breweries, small breweries and tenant breweries are authorized to produce low-alcohol spirits products containing malt liquor.	§2(5)(B), 29(B), (32-A), §1355-A(6) & new (3)(E) on p.1, 7-8, 70, 72-3	p.2, 8, 9, 130 & n/a		
Current law already authorizes licensed Maine wineries and tenant wineries to produce low-alcohol spirits products that contain wine, because these products are included in the definition of “fortified wine.”	§2(11-B)(B)	n/a	p.3	
C. It specifies that, as is current practice, low-alcohol spirits products may be sold and distributed within the State by wholesale licensees authorized to sell and distribute wine within the State.	§13(2)	p.12	p.15	
<del>D. It clarifies that, as is current practice, low alcohol spirits products that qualify as fortified wine are not subject to the general 60¢ per gallon excise tax on wine under Title 28-A, section 1652, subsection 2. All low alcohol spirits products are instead subject to a \$1.24 per gallon excise tax under section 1652, subsection 1-A and a 30¢ per gallon low alcohol spirits product tax under section 1365.</del>	This was an amendment to §1652(2) in LD 2131 but is not in LD 1643 as the change was made by <a href="#">P.L. 2021, ch. 8, §9.</a>			
<u>E. It repeals a duplicative provision requiring certificate of approval holders that manufacture low-alcohol spirits to report the number of gallons of low-alcohol spirits products sold to wholesale licensees on a monthly basis.</u>	<i>Repeal</i> §1364(4) <i>but keep</i> §1365	p.75 p.75-76	p.135 p.135	
15. It replaces the phrase “alcoholic beverages,” which is not defined for the purposes of the State's liquor laws, with the appropriate defined terms throughout the liquor laws.	<i>Example:</i> §708(2)	p.28	p.66	
16. It combines in a single section of statute the licensing fees for agency liquor stores. (In doing so, it repeals §453-B on p.43 of the binder, which duplicates the \$2,000 initial fee and provides for a \$300 renewal fee that conflicts with the \$700 fee in §1010-A(2)(A).)	Initial fee \$2,000 Renewal fee \$700 Transfer fee \$2,000	§1010-A(2)(A) §1010-A(2)(B) §1010-A(2)(C)	p.39	p.85-86
It also removes an ambiguity in the law by clarifying that, as is the current practice, agency liquor store licenses grant authority to sell not only spirits but also malt liquor and wine for off-premises consumption.	§2(1) §453(1)(A)	p.1 p.19	p.1 p.40	
17. It clarifies that an applicant for a liquor license must possess all licenses, permits or approvals required under Title 22 for the applicant's underlying business before applying for the liquor license.	<i>New</i> §601(1)(D)	p.22	n/a	
18. It removes inconsistencies in several provisions of the liquor laws regarding the types of establishments eligible to obtain auxiliary licenses (§1012(2) & §1075(1)) off-premises catering licenses (§1012(3) & 1052(1)) and mobile service bar licenses (§1012(4) & §1075-A(2)).	§1012 (2), (3) & (4) <i>compared to:</i> §1075(1) §1052(1) §1075-A(2)	p.40  p.56 p.44 p.56-57	p.87  p.108 p.92 p.109	
It also specifies that, as is current practice, when an on-premises retail licensee obtains an off-premises catering license, that license authorizes the licensee to conduct off-premises catering of only the same type or types of liquor that the licensee may sell pursuant to the licensee's underlying on-premises retail license.	<i>New</i> §1052(3-A)	p.44	n/a	
19. It makes a number of changes to the laws governing liquor <b>taste-testing events and product sampling activities</b> to address ambiguities, inconsistencies and omissions in those laws, including the following. See <a href="#">Title 28-A Report, Appendix E</a> (on p. 55-59 of report).				



<i>Summary</i>	<i>Cite</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
A. It clarifies that the prohibitions against serving liquor to minors or to visibly intoxicated persons apply to all authorized liquor taste-testing and product sampling events. (Many current laws already have these prohibitions.)	§1051(6)(E) §1355-A (2)(B)(7) §1402(3)(E) §1402-A(4-A) §1504(4) §1553(3)(B)	p.42 p.65  p.77 p.78 p.82-83 p.83	p.89 p.124  p.139-40 p.140 p.153-4 p.156-7	
B. It removes a requirement that retailers that seek written permission from the bureau to conduct spirits, wine or malt liquor taste-testing events provide the names of any licensed sales representatives who will be pouring samples at those events. <i>Note:</i> this change was already made to §460, §1205 & §1207 via <a href="#">P.L. 2019, ch. 79</a> .	§1051(8)(K)	p.43	p.90-91	
C. It newly specifies who, other than a licensed sales representative, may pour samples at taste-testing and product sampling events. Under the bill, samples may also be poured by an employee of the off-premises or on-premises retailer where the taste-testing or product sampling event takes place or, where applicable, by the owner or employee of the licensed Maine manufacturer that produced the product being tasted or sampled.	§460(2)(P) §1051(8)(S) §1205(2)(N) §1207(2)(N)	p.21 p.44 p.63 p.63	p.47 p.91 p.118-9 p.118-9	
D. It clarifies an ambiguity by specifying that, other than during an authorized taste-testing or product sampling event, an off-premises retail licensee has a duty to prevent the consumption of liquor on [its] premises.	§1206	p.63	p.119	
E. It resolves a conflict in current law by providing that, when an authorized taste-testing event is held on a portion of the premises of an on-premises retail licensee, the bureau must temporarily suspend the authority of the on-premises retail licensee to sell liquor for on-premises consumption in the area designated for the taste-testing event. The on-premises retail licensee may nevertheless continue to sell liquor for on-premises consumption on the portion of its premises that falls outside the area designated for the taste-testing event.	§1052-D (7)(A), (B)	p.46	p.74	
<del>F. It fills an omission in the law by specifying that an out-of-state manufacturer that is sponsored by a certificate of approval holder, wholesale licensee or spirits supplier to participate in a taste-testing event may provide for taste testing any spirits, wine or malt liquor produced by the sponsored manufacturer, even though those products are not currently listed for sale in the State.</del>	<del>Not part of bill because already in §1052-D (7)(J)</del>	<del>p.47</del>	<del>p.95</del>	
G. It moves the statutory language granting licensed Maine liquor manufacturers the authority to sell their products at certain taste-testing events from the manufacturer licensing statute to the relevant taste-testing event statute for clarity and grants small distilleries new authority to self-distribute their spirits products for sale at these taste-testing events. <i>This new self-distribution authority appears in new §1052-D(9)(B) and is not in current §1355-A(5)(I).</i>	<i>From:</i> §1355-A (3)(D), (4)(D) & (5)(I) <i>Moved to new:</i> §1052-D(9)	p.69-72  p.48	p.126-130  n/a	
H. It restricts the types of individuals who may receive partial-bottle samples of spirits or wine under statutes authorizing sampling by retail licensees to the owner and supervisory or managerial employees of the retail licensee. This restriction exists in current law only for the receipt of partial-bottle samples of spirits by employees of agency liquor stores.	§1402-A (3-A) §1504(6)(B)	p.77  p.83	p.140  p.154	

<i>Summary</i>	<i>Cite</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
20. It corrects an error in current law that suggests on-premises retail licenses are issued to international air terminals and instead specifies that on-premises retail licenses may be issued to qualified establishments located within international air terminals.	§2(15)(K-1) §2(12-C) §4(1)(E) §1079	p.4 p.2 p.10 p.61	p.5 n/a n/a p.114	
21. It streamlines the process for disposal of spirits subject to a court's forfeiture order by newly authorizing [BABLO] or a wholesale spirits provider to choose, without obtaining an additional court order, to destroy the forfeited spirits rather than to restock and resell the forfeited spirits in agency liquor stores.	§2229(2)	p.92	p.182	
22. It makes a number of changes to the laws governing the <b>administration and sale of spirits in the State</b> to address errors and inconsistencies in those laws:				
A. It amends conflicting provisions of law regarding the pricing of spirits to clarify that, as is current practice, the State Liquor and Lottery Commission establishes the retail price of spirits and [BABLO] establishes the wholesale price of spirits, which is the price that agency liquor stores pay to purchase spirits from the bureau. It makes it clear that the bureau makes recommendations to the commission regarding the retail price of spirits sold in the State before the bureau establishes the wholesale price.	§83-C(2) §90(7) §606(4-A)	p.13 p.17 p.25	p.20-21 p.26 p.54	
B. It resolves a conflict in the laws governing the purchase of spirits by removing statutory language suggesting that agency liquor stores may purchase spirits from a wholesale spirits provider and retaining provisions of law correctly stating that agency liquor stores purchase spirits only from the bureau.	§453-C(1) §503 §606(8)	p.19 p.21 p.25	p.43 p.49 p.54	
C. It amends statutory provisions incorrectly suggesting that any agency liquor store may sell or deliver spirits to on-premises retailers and clarifies that only agency liquor stores that are licensed as reselling agents may make these sales and deliveries.	§459 §606(1-A)	p.20 p.24	p.46 p.53	
23. It makes a number of additional changes to Title 28-A, section 1355-A, the statute governing the licensure of <b>Maine liquor manufacturers</b> :				
A. It restores the statutory authority of Maine bottlers and rectifiers to obtain licenses, which authority was unintentionally repealed through <a href="#">P.L. 2019, ch. 529, §4</a> . It also newly specifies the types of sampling activities that may occur on the premises of a licensed Maine bottler or rectifier under current practice.	§1355-A(1) & (1-B)	p.64	p.124	
B. It combines in one location several scattered provisions describing the authority of licensed Maine breweries, small breweries, wineries, small wineries, distilleries and small distilleries, at the manufacturing facility where their products are produced, to sell samples of those products to the public or offer samples of those products to the public at no cost and newly clarifies, as is current practice, that samples may not be served to minors or visibly intoxicated persons.	§1355-A (2)(B) <i>Includes:</i> (2)(A)(3), (2)(E) & (F)	p.64-66	p.124-5	
It newly provides that the area of the manufacturing facility where these samples are sold or offered need not be separate from and may be accessed by the same entrance as the area of the manufacturing facility that is licensed for on-premises retail sales.	§1355-A (2)(B)(5)	p.65	n/a	
C. It combines in one location several scattered provisions describing the authority of licensed Maine breweries, small breweries, wineries, small wineries, distilleries and small distilleries, at the manufacturing facility where their products are produced, to sell their products for off-premises consumption. <i>See</i> <a href="#">Title 28-A Report, Appx. G</a> (p.61).	§1355-A (2)(D) <i>Includes:</i> (2)(C) & (E)	p.65-66	p.124-5	



<i>Summary</i>	<i>Cite</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
D. It moves the provision authorizing Maine breweries and small breweries to sell malt liquor for off-premises consumption in kegs from a generally applicable subsection of the statute to the subsection of the statute specifically applicable to breweries and small breweries.	§1355-A (3)(C-1) <i>Formerly:</i> (2)(G)	p.69 p.66	n/a p.125	
E. It moves the provision requiring Maine small breweries and small wineries to keep and maintain records of their sales to retail licensees from a generally applicable subsection of the statute to the 2 subsections of the statute specifically applicable to small breweries and to small wineries.	§1355-A (3)(B)(2) (4)(B)(1) <i>Formerly</i> (2)(H)	p.68 p.70 p.66	n/a n/a p.125	
F. It clarifies that, as is current practice, when calculating whether a licensed Maine manufacturing facility's one statutorily authorized establishment for on-premises sales has satisfied any applicable statutory requirement that 10% of its gross annual income be from the sale of food, income from the Maine manufacturer's sale of liquor samples or sale of liquor for off-premises consumption is not included.	§1355-A (2)(I)(3)	p.66-67	p.125	
G. It clarifies the language [through some reorganization of the language] of the provision authorizing each licensed Maine brewery, small brewery, winery, small winery, distillery and small distillery to obtain one license to conduct on-premises retail sales per licensed manufacturing facility.	§1355-A (2)(I)	p.66-67	p.125	
It relaxes the requirements applicable when a distillery or small distillery obtains this type of on-premises retail license by eliminating the requirements that the on-premises retail establishment be a Class A restaurant or Class A restaurant/lounge owned by the same person who owns the distillery or small distillery. Instead, under the bill a distillery or small distillery may obtain any type of on-premises retail license as long as the same person or persons holds a majority ownership interest in the on-premises retail license and the distillery or small distillery. These relaxed requirements match the requirements applicable under current law when a licensed brewery, small brewery, winery or small winery obtains this type of on-premises retail license.	<i>Repeal of</i> §1355-A (5)(E)  <i>Instead apply</i> §1355-A (2)(I)(1-A)	p.71  p.66	p.129  n/a	
H. It newly authorizes a licensed Maine manufacturer that has its one statutorily authorized licensed establishment for on-premises sales at a location separate from its manufacturing facility to conduct sales of its products for off-premises consumption at that separate licensed location. Under current law, a Maine manufacturer may conduct sales of its products for off-premises consumption at its one licensed establishment for on-premises sales only if the on-premises establishment is located at the manufacturing facility.	§1355-A (2)(I)(4-A)  <i>Compare</i> §1355-A (2)(D)	p.67  p.65	p.125  p.124-5	
Similarly, the bill newly specifies that the products that may be sold for off-premises consumption at the separate licensed location include, when the licensed Maine manufacturer is a brewery or a small brewery, malt liquor packaged in refillable containers, commonly referred to as growlers. Under current law, a brewery or small brewery may sell growlers at its one licensed establishment for on-premises sales only if that on-premises establishment is located at the brewery or small brewery.	§1355-A (3)(C) lead-in sentence & (3)(C)(1)	p.68-69	p.127	

Summary	Cite	Bill	Binder	vote
I. It resolves a conflict in current law and conforms the law to current practice by specifying that, when a small distillery serves samples of its products at its manufacturing facility, it need not first send those products through the State's spirits warehouse and distribution system.	§1355-A (2)(B)(6) <i>Compare to</i> old (2)(C) & (5)(F), (H)	p.65  p.65 p.71-72	n/a  p.124 p.129	
<u>Similarly, it clarifies that, as is current practice, a small distillery that sells its own products at its one statutorily authorized licensed establishment for on-premises sales may self-distribute those products to that establishment.</u>	§1355-A (2)(I)(4)	p.67	p.125	
J. It clarifies an ambiguity in the law by explicitly stating that a licensed Maine small winery, which may under current law obtain licenses to conduct off-premises retail sales at up to 2 additional locations other than the manufacturing facility, must pay a \$50 license fee for each of those additional locations.	§1355-A (4)(B)(2) <i>Fee from:</i> §1551(3)(F)	p.70  not in bill	p.128  p.156	
It similarly clarifies that a licensed small distillery, which may under current law also obtain licenses to conduct off-premises retail sales at up to 2 additional locations other than the manufacturing facility, must pay a \$100 license fee for each of those additional locations.	§1355-A (5)(B)(3) <i>Fee from:</i> (5)(B)(1)	p.71  p.71	p.128  p.128	
<u>It also clarifies that a small winery or small distillery may transport its products from the manufacturing facility to these 2 additional locations for off-premises sales, as long as the same person owns a majority interest in the manufacturing facility and off-premises consumption licenses.</u>	§1355-A (2)(K)(2)	p.67-68	p.126	
K. It corrects an omission in the law and matches current practice by specifying that a tenant brewery or tenant winery seeking licensure may pay the reduced license fee for a small brewery or small winery if it qualifies as a small brewery or small winery. Otherwise, the tenant brewery or tenant winery must pay the higher brewery or winery license fee.	§1355-A (6)(A) and (7)(A)	p.72-74	p.130-1	
24. It reorganizes, clarifies and removes inconsistencies in the laws governing <b>importation of liquor into and transportation of liquor within Maine</b> . In addition to this reorganization, explicit and implicit statutory authority scattered throughout Title 28-A of different entities to import into or transport within Maine spirits, wine or malt liquor are also specifically stated in the newly rewritten importation and transportation provisions of the bill.				
<i>Transportation of liquor for illegal sale</i>	<b>Current law - binder page</b> §2073(1)-(2) - p. 167	<b>Bill location and page</b> Same location but remove redundant <i>mens rea</i> - p.85		
<i>Import &amp; transport of spirits</i>	§2075 - p.169-70	New §2073-A (import) & §2073-B (transport) - p.86-88		
<i>Import &amp; transport malt liquor &amp; wine</i>	§2077 - p. 170-71	New §2073-C (import) & §2073-D (transport) - p.88-90		
<i>Special liquor import privileges</i>	§2073(3) - p. 168	} Combined in new §2073-E - p.91		
<i>and special spirits import privileges</i>	§2075(3) - p.169-70			
It clarifies that wineries, small wineries and tenant wineries may import spirits or purchase spirits manufactured in the State for the purpose of producing fortified wine and that breweries, small breweries and tenant breweries may import spirits or purchase spirits manufactured in the State for the purpose of producing low-alcohol spirits products containing malt liquor.	§2073-B (2)(C)(3), (4)	p.87		

Summary	Cite	Bill	Binder	vote
It also changes the units of measurement applicable to spirits and wine in these provisions from quarts and gallons to liters, which is the unit of measurement typically used when referring to spirits and wine products, and it changes the unit of measurement applicable to malt liquor from gallons to fluid ounces, which is the unit of measurement typically used when referring to malt liquor products.				
	Current law (binder page) & unit	Conversion	Bill location (page) and unit	
Personal importation spirits	§2075(1-B) on p.169 — 4 quarts	4 quarts = 3.78 liters	§2073-A(2)(A) p.86 — 4 liters	
Personal importation malt liquor	§2077(1-A) on p.171 — 3 gallons	3 gallons = 384 fluid ounces	§2073-C(2)(A) p.88 — 400 fluid ounces	
Personal importation wine	§2077(1-A) on p.171 — 4 quarts	4 quarts = 3.78 liters	§2073-C(2)(A) p.88 — 4 liters	
25. It corrects scattered typographical, cross-reference and drafting errors in the Title, including by removing all gendered pronouns as required by. Examples of some of these changes are set forth below (but many more exist):				
a) Removing all gendered pronouns as required by <a href="#">P.L. 2019, ch. 475, §52</a> .	§1452(1)(C)	p.81	p.147	
b) Changing the word “premise” to the word “premises” and restructuring phrases in the following format: “consumed on the premises” to the following format “on-premises consumption.”	§1201(6) §1062(1)	p.61 p.50	p.116 p.101	
c) Removing the unnecessary word “general” from the phrase “general public.”	§2(15)(K)	p.4	p.5	
d) Changing the words “brewer” and “distiller” to “brewery” and “distillery”	§2(5), §2(11)	p.1-2	p.2-3	
e) Changing the word “beer” to “malt liquor,” the appropriate term as defined in §2(18). See binder p.7.	§1012(6)(C)	p.40	p.87	
f) Changing the phrase “table wine” to “wine,” the appropriate term as defined in §2(36). See bill p.9, binder p. 9.	§1051(4), (5)	p.41	p.89	
g) Changing the word “foreign” to “out-of-state” unless another country is intended. (example of the use of “foreign” that is retained because another country is intended: §2(15)(S) on bill p.5)	§1405(1)(C)	p.79	p.144	
h) Removing the word “judge” from the phrase “District Court judge” because “District Court” is correct!	§§801-805	p.32-36	p.74-79	
i) Replacing phrases stating “no person may do X” with “a person may not do X” as required by the Maine Legislative Drafting Manual (p. 101-02)	§1072(6)	p.54	p.107	

**PROPOSED AMENDMENTS** (through Jan. 23, 2022)

- **“Fruit Beers”:** DAFS, Senator Sanborn and the [Maine Brewer’s Guild](#) propose amending the definitions of “malt liquor” (binder p. 7) and “wine” (bill p. 9) to clarify that beers containing fermented fruit are not “wine” and are instead “malt liquor” as long as barley malt comprises at least 51% of the fermentable material used to produce the product. Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations similarly authorize the use of non-malt sources of alcohol in “malt beverages,” as long as those sources contribute to “no more than 49% of the overall alcohol content for the finished product.” [27 C.F.R. §7.11\(a\)\(1\)](#); *see also* [27 C.F.R. §25.15\(a\)](#). This request could be accomplished by the following amendments:

**28-A M.R.S. §2(18) definition of “malt liquor” (from binder p.7)**

"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 and for which no more than 49% of the overall alcohol content of the finished product derives from ingredients other than malt. "Malt liquor" includes, but is not limited to, ale, beer, porter and stout. "Malt liquor" ~~includes~~ does not include beverages made with malt liquor, ~~but to which no spirits are have been~~ added.

**28-A M.R.S. §2(36) definition of “wine” (from bill p.9) - suggested change to bill highlighted**

**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% alcohol by volume. "Wine" includes, but is not limited to, hard cider, wine coolers, table wine, still wine, sparkling wine, champagne and fortified wine, ~~provided that the alcohol content is not above~~ do not contain more than 24% alcohol by volume. “Wine” does not include any product that contains fermented malt.

If adopted, these amendments will:

- Authorize Maine breweries but not Maine wineries to produce part-malt, part-fruit products;
  - Authorize malt liquor retailers and wholesalers to sell and distribute such products; and
  - Subject such products to a 35¢/gallon malt liquor excise tax under [28-A M.R.S. §1652\(1\)](#) but not the \$1.24/gallon excise tax on “sparkling wine” or the 60¢/gallon excise tax on “wine” under [§1652\(2\)](#).
- **“Small brewery” definition.** The Maine Brewer’s Guild [requests](#) that the definition of “small brewery” (bill p.7) be amended to clarify which of the activities—brewing, lagering, kegging, bottling and packaging—under ¶A of that definition must be performed by a small brewery. Identical language appears in ¶A of the definition of “brewery” (bill p.1). The relevant definitions in LD 1643 provide:

**5. Brewer Brewery.** "~~Brewer Brewery~~" means a person ~~who produces malt liquor by fermentation of malt, wholly or partially, or from any substitute for malt.~~ that engages in the activities under either paragraph A or B, or both:

A. Brewing, lagering and kegging, bottling or packaging the person’s own malt liquor; or

B. Producing or bottling low-alcohol spirits products consisting of malt liquor to which spirits have been added.

**29. Small brewery.** "Small brewery" means a ~~facility that brews, lagers and kegs, bottles or packages its own malt liquor, not to exceed 30,000 barrels per year.~~ person that engages in the activities under either paragraph A or B, or both:

A. Brewing, lagering and kegging, bottling or packaging the person’s own malt liquor; or

B. Producing or bottling low-alcohol spirits products consisting of malt liquor to which spirits have been added.

“Small brewery” does not include a person that engages in the activities described in paragraph A or B that produces in total more than 30,000 barrels per year of malt liquor and low-alcohol spirits products consisting of malt liquor to which spirits have been added.

The confusion caused by the highlighted language in the two definitions above could be eliminated by replacing those paragraphs with the following: “A. Produces the person’s own malt liquor by the process of fermentation.” Compare the definition of “distillery” in §2(11) on page 2 of the bill.

➤ **Low-alcohol spirits products.** Senator Farrin’s bill, [LD 1492, An Act To Provide More Choice for Maine Consumers in the Purchase of Spirits](#), would have:

- **Definition:** Expanded the definition of “low-alcohol spirits products” to include products containing spirits that have up to 15% alcohol by volume.

By contrast, under current law and LD 1643 low-alcohol spirits products include only products containing spirits that have up to 8% alcohol by volume. See §2(16-A) on bill p.6;

- **Production:** Authorized Maine manufacturers—breweries, small breweries, tenant breweries, wineries, small wineries, tenant wineries, distilleries, small distilleries, bottlers and rectifiers—to produce low-alcohol spirits products.

LD 1643 similarly authorizes all Maine manufacturers to produce low-alcohol spirits products, albeit through different statutory language. See Item #14 and the associated citations in the table above; and

- **Distribution:**
  - Authorized a Maine wholesale licensee (of malt liquor or wine) to distribute all low-alcohol spirits products imported by an out-of-state manufacturer or wholesaler of malt liquor or wine;
  - Required that any low-alcohol spirits product imported by an out-of-state spirits supplier that has previously been distributed in Maine continue to be distributed within Maine by the entity with the spirits administration contract; and
  - Authorized BABLO to decide by rule who may distribute any other low-alcohol spirits product imported by an out-of-state spirits supplier.
  - *However, LD 1492 did not explain what entity would have the authority to distribute a low-alcohol spirits product produced by a Maine manufacturer.*

By contrast, under LD 1643, all low-alcohol spirits products—regardless of who produces them and where—may be distributed by a wholesale licensee of wine. See §13(2) on bill p.12.

## TECHNICAL DRAFTING ISSUES

### A. Amendments to eliminate conflicts with laws enacted in First Regular and Special Sessions

1. **Liquor-to-go:** P.L. 2021, ch. 3, [An Act To Extend the Ability of Restaurants and Bars To Serve Alcohol To Go](#), enacted new §1056, which authorizes on-premises retailers to sell liquor-to-go and which will be automatically repealed on September 10, 2021. [LD 1751](#) would make this authority permanent. Although it is not necessary to include §1056 in LD 1643, several of its provisions conflict with the terminology changes in LD 1643. If the committee is not certain whether to extend this liquor-to-go authority, and for how long, it may make sense to have LD 1751 proceed separately from LD 1643 and resolve any conflicts in a later Judiciary Committee errors bill. The conflicts and drafting issues are:

- **Conflict - definition of “full course meal”:** LD 1643 changes the phrase “full course meal,” which is cross-referenced in §1056(1)(C), to “full meal” and relocates its definition to §2(11-E).
- **Drafting issue - different food requirements in Title 28-A.** The type of “food order” that must accompany a liquor-to-go sale by an on-premises retailer appears to match the type of food that must

accompany an on-premises sale of liquor by a restaurant or a Class A restaurant that shares space with an off-premises retail establishment. It may make sense to define “food order” for the title globally, so that these long definitions don’t appear in different places with slightly different wording. See comparison below:

§10(2-B)(B) - LD 1643	§1056(1)(C) - P.L. 2021, ch. 3
<ul style="list-style-type: none"> <li>• “A full meal” <b>or</b></li> </ul>	<ul style="list-style-type: none"> <li>• “a full course meal” (as stated above, will be changed to a “full meal” by LD 1643) <b>or</b></li> </ul>
<ul style="list-style-type: none"> <li>• “a ‘hot or cold meal’ . . . consisting of food items that customarily appear on a restaurant menu, including, but not limited to, sandwiches, salads, hamburgers, cheeseburgers, hot dogs and pizza.”</li> </ul>	<ul style="list-style-type: none"> <li>• “a cold or hot meal including but not limited to a sandwich, salad, hamburger, cheeseburger, hot dog, pizza or other food item that customarily appears on a restaurant menu.”</li> </ul>
<ul style="list-style-type: none"> <li>• Exclusion: “A meal consisting solely of prepackaged snack foods such as popcorn, chips or pretzels is not a ‘hot or cold meal’ within the meaning of this subparagraph.”</li> </ul>	<ul style="list-style-type: none"> <li>• Exclusion: “‘Food order’ does not include an order consisting solely of a prepackaged snack food or foods such as popcorn, chips or pretzels.”</li> </ul>

- *Conflict - cross-references to §1355-A*: LD 1643 relocates several of the provisions cross-referenced in the definition of “qualified distillery” that appears in §1056(1)(E)(1) of the liquor-to-go statute.
- *Transportation*: If P.L. 2021, ch. 3 is incorporated in LD 1643, the committee probably should amend §2073-D in LD 1643, which governs transportation of malt liquor and wine, to authorize a reselling agent to deliver wine to a distillery or small distillery for P.L. 2021, ch. 3 purposes.

2. **Direct sales by Maine manufacturers to out-of-state customers:** [P.L. 2021, ch. 8, \*An Act To Expand the Market for Maine Liquor Manufacturers\*](#) enacted and amended several provisions of law that conflict with the revisions to Title 28-A contained in LD 1643:

- *Producers of low-alcohol spirits products*: As amended by P.L. 2021, ch.8, 28-A M.R.S. §1652(2-A) and (2-B) (binder p.159), which govern excise taxes on malt liquor, wine and low-alcohol spirits products, are drafted with the assumption that only breweries and wineries manufacture low-alcohol spirits products. But, LD 1643 also authorizes a small or tenant brewery, small or tenant winery and a small or regular distillery to produce these products. To eliminate this conflict, it may make sense to replace the phrases “winery and brewery,” or “brewery or winery” and “winery or brewery” in these paragraphs of §1652 with the phrase “in-state manufacturer”.
- *Tax exemptions*: P.L. 2021, ch. 8 exempts Maine manufacturers from paying excise taxes otherwise due under §1652 on products that are shipped directly to out-of-state consumers. Should there be a similar exemption from the second tax on low-alcohol spirits products that appears in §1365 (bill p.75-6) if those products are shipped out of State?
- *Terminology*: The text of new §707(7)(C), enacted by P.L. 2021, ch. 8, does not match LD 1643’s terminology for licensed Maine manufacturers. That provision should probably be amended to read:

C. A An in-state manufacturer licensed under section 1355-A . . .

3. **Tasting room cocktails:** [P.L. 2021, ch. 91, \*An Act To Support the Recovery of Maine's Distilleries by Allowing the Sale of Cocktails for On-premises Consumption\*](#), added §1355-A(5)(F-1) and amended §1355-A(5)(H) to authorize the sale of cocktails for on-premises consumption at Maine distilleries (binder p.129). This authority will be automatically repealed on September 10, 2021. [LD 1751](#) would make this authority permanent.

- *Conflicts*: Because all of §1355-A appears in LD 1643, failing to incorporate new §1355-A(5)(F-1) and the revision to §1355-A(5)(H) in LD 1643 will create conflicts in these paragraphs of the statute.



However, if there is doubt about whether or for how long to extend the authority in P.L. 2021, ch.91, it may make sense to have LD 1751 proceed separately from LD 1643 and resolve any conflicts in a later Judiciary Committee errors bill.

- *Transportation*: If the provisions of P.L. 2021, ch. 91 are incorporated in LD 1643, the committee probably should amend §2073-D in LD 1643, which governs transportation of malt liquor and wine, to authorize a reselling agent to deliver wine to a distillery or small distillery for P.L. 2021, ch. 91 purposes.
4. **Off-premises catering licenses**: *P.L. 2021, ch. 276, An Act To Support Maine Theaters by Expanding Eligibility for Off-premises Catering Licenses*, authorized auditoriums, civic auditoriums and performing arts centers to obtain off-premises catering licenses.
- These changes should be incorporated into both §1012(3) as amended on p. 40 of the bill and §1052(1) and (3) as amended on p. 44 of the bill.

### **B. Other Suggested Technical Amendments to LD 1643**

5. Definition of “Indoor racquet center” in §2(15)(K) (bill p.4): should pickleball listed as a racquet sport?
6. LD 1643 clarifies, within §606(4-A) (bill p.25), that BABLO establishes the “wholesale price” of spirits—*i.e.*, the price paid by agency liquor stores—as a certain discount off of the retail price.
  - Should “wholesale” also be added before “price” in §606(4-B) (bill p.25) with respect to the price established by BABLO that is paid by small distilleries to repurchase their products from the State?
7. *P.L. 2019, ch. 665*—the three-tier bill that arose out of the Title 28-A Subcommittee’s work—created a definition of “business entity” in §707(8)(A) (binder p.65).
  - The term “business entity” is also used in §83-B(8) (bill p.13); §90(2), (3) (bill p.15); and §502 (bill p.21). It may therefore make sense to move the definition of “business entity” to the general Title 28-A definitions section and to remove these separate definitions of that phrase.
8. Under LD 1643, special warehouse storage facilities obtain COAs instead of licenses.
  - Yet, §753(1) and (2) (binder p.74) refer to special warehouse storage facilities as being operated by a “certificate of approval holder”, a term defined in §2(8) (binder p.2) in a way that does not include special warehouse storage facilities. Thus, §753(1) and (2) should probably be amended.
9. The headnote of §1055 (binder p.97) incorrectly refers to “restaurants” (a defined term), although §1055 actually applies only to “Class A restaurants” and “Class A restaurant/lounges” and not “restaurants.”
10. “Liquor enforcement officer” appears twice in Title 28-A; however, according to BABLO, the correct term is “liquor inspector.” *See* §1072(4) (bill p.54) and §2519(2)(B) (binder p. 189).
11. The headnote of §1073 (bill p.55) is missing the word “indoor” before “skating center.”
12. Under §1075-A(4) (bill p.57-8), if a license violation occurs at a mobile service bar, all of the licensee’s on-premises licenses may be suspended or revoked concurrently. This matches current law but, because it differs from the general rule in §803(4) (bill p.34) that suspensions are license-specific, the phrase “Notwithstanding section 803, subsection 4” should probably be added to §1075-A(4).
13. In the in-state manufacturer statute, authority from the federal Alcohol and Tobacco Tax and Trade Bureau (TTB) is listed as a requirement to obtain a distillery or small distillery license under

§1355-A(5)(C), a tenant brewery license under §1355-A(6)(A) and a tenant winery license under §1355-A(7)(A). *See* bill p.64-74.

- Should similar TTB authority be required to obtain a brewery or small brewery license under §1355 A(3) and a winery or small winery license under §1355-A(4)?
14. Should a cross-reference to the new authority of an in-state manufacturer to engage in off-premises sales at its one chapter 43 licensed location—located in new §1355-A(2)(I)(4-A) on bill p.67—be included in §1355-A(5)(H), the self-distribution provision for small distilleries?
  15. In §1402(3)(E) (bill p.77), should the phrase “wine or malt liquor” be changed to “malt liquor or wine” to match the order in which those words appear everywhere else in the title?
  16. In the first paragraph of §1504 (bill p.82) the phrase “a spirits manufacturer or spirits supplier” is redundant, because the new definition of “spirits supplier” (bill p.8) includes spirits manufacturers.
    - Similar redundant phrases are corrected in the bill—*e.g.*, §83-C(2-A)(C) (bill p.13). Failure to correct this phrase in §1504 was a drafting oversight.
  17. Section 1652(4) (bill p.159) provides for adjustments of the excise tax due by certificate of approval holders if, for example, the products for which they have paid excise tax are later destroyed.
    - Excises taxes under §1652 are imposed on malt liquor, wine and low-alcohol spirits products, but the credits in §1652(4) only apply to malt liquor and wine. Should §1652(4) (lead-in sentence), ¶B and ¶D(1-3) be amended to include low-alcohol spirits products?
  18. Do we need a statute(s) authorizing the importation or transportation of low-alcohol spirits products?
    - These products are not covered by either current law or new §2073-A and §2073-B (importation and transportation of spirits) or §2073-C and §2073-D (importation and transportation malt liquor and wine) in the bill (p.86-90), except to the extent that a particular low-alcohol spirits product qualifies as “fortified wine.” *See* [OPLA handout Basic Terminology in Maine’s Liquor Laws](#).

## FISCAL INFORMATION

Not yet determined.